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ORDINANCE #06-016
AN ORDINANCE OF THE ALBANY CITY COUNCIL REGARDING
GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING
REGULATIONS.

WHEREAS, the City of Albany's (City) General Plan sets forth goals for preserving and improving the City's natural and built environment, protecting the health of its residents and visitors, and fostering its economy; and

WHEREAS, the City finds that the design, construction, and maintenance of buildings and landscapes within the City can have a significant impact on the City's environmental sustainability, resource usage and efficiency, waste management, and the health and productivity of residents, workers, and visitors to the City; and

WHEREAS, the City finds that green building and Bay-Friendly landscape design, construction, operation and maintenance can have a significant positive effect on energy, water and resource efficiency, waste and pollution generation, wildlife habitat and the health and productivity of a property's occupants over the life of the building and/or landscape; and

WHEREAS, the City finds that green building and Bay-Friendly landscaping benefits are spread throughout the systems and features of the building and the landscape, the larger San Francisco Bay Area ecosystem and the community. Green buildings use recycled-content materials, consume less energy and water, have better indoor air quality, and use much less natural resources than conventional buildings. Construction waste is often recycled and remanufactured into other building products. Bay-Friendly landscaping is a whole systems approach to the design, construction and maintenance of the landscape in order to support the integrity of the San Francisco Bay watershed. Key components of Bay-Friendly landscaping include reducing waste and using materials that contain recycled content; nurturing healthy soils while reducing fertilizer use; conserving water, energy and topsoil; using Integrated Pest Management (IPM) to minimize chemical use; reducing stormwater runoff; and creating wildlife habitat; and

WHEREAS, the City finds that green building and Bay-Friendly landscape design and construction decisions made by the City in the construction and remodeling of City buildings and/or landscapes can result in significant cost savings to the City over the life of the projects; and

WHEREAS, the City finds that it is critical to both the economic and environmental health of the City that the City provide leadership to both the private and public sectors in the area of green building and Bay-Friendly landscaping; and

WHEREAS, the most immediate and meaningful way to do so is to include green building and Bay-Friendly landscaping elements in City projects and in projects

1 built as public-private partnerships, and to encourage private projects to include green
2 building and Bay-Friendly landscaping elements; and
3

4 **WHEREAS**, green building and Bay-Friendly landscaping design,
5 construction, operations and maintenance techniques are increasingly widespread in
6 residential and commercial building construction; and
7

8 **WHEREAS**, at the national level, the U.S. Green Building Council has taken
9 the lead in promoting and defining commercial green building by developing the
10 Leadership in Energy and Environmental Design (LEED)™ Rating System; and
11

12 **WHEREAS**, in Alameda County, StopWaste.Org has taken the lead in
13 defining and promoting residential green building by developing the Alameda County
14 Residential Green Building Guidelines (New Home Construction, Home Remodeling,
15 Multifamily).; and
16

17 **WHEREAS**, the Planning and Zoning Commission held duly-noticed public
18 hearings and heard public testimony on green building and bay friendly landscaping
19 regulations on March 28 and April 25, 2005; and
20

21 **WHEREAS**, the City Council held a study session on the green building
22 proposals on July 24, 2006; and
23

24 **WHEREAS**, the proposed ordinance is categorically exempt from the
25 requirements of California Environmental Quality Act (“CEQA”) per Section 15308,
26 “Actions by Regulatory Agencies for Protection of the Environment” of the CEQA
27 Guidelines, which exempts actions taken by regulatory agencies for protection of the
28 environment; and
29

30 **WHEREAS**, the Albany City Council, on November 20, 2006, after due
31 public notice, held a public hearing on the proposed amendment to Chapter 20
32 regarding green building and Bay-Friendly landscaping and introduced this
33 Ordinance for First Reading.
34

35
36 **NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY**
37 **ORDAIN AS FOLLOWS:**
38

39 **SECTION 20-64 GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING**
40 **REGULATIONS**
41

42 **20.68.010 Purpose.**
43

44 To promote economic and environmental health in the City, it is essential that
45 the City itself, through the design, construction, operation and deconstruction of its
46 own facilities and facilities it funds, provide leadership to both the private and public

1 sectors by incorporating green building and Bay-Friendly landscaping practices. The
2 most immediate and meaningful way to do this is to require the integration of green
3 building and Bay-Friendly landscaping strategies in City and public-private
4 partnerships buildings and landscapes.

5
6 **20.68.020** **Definitions.**

7
8 As used in this section:

9
10 **Compliance Official.** The Community Development Director shall be
11 authorized and responsible for implementing this Article as the Green Building and
12 Bay-Friendly Landscaping Compliance Official.

13
14 **20.68.030** **Standard for Compliance**

15 The City Council shall establish by resolution, and periodically review and
16 update as necessary, *Green Building and Bay Friendly Landscaping Standards of*
17 *Compliance*. The Standards of Compliance shall include, but not be limited to, the
18 following elements:

- 19
20 a) Types of projects subject to regulation
21 b) Guidelines or checklists to be applied to various types of projects
22 c) Minimum threshold of compliance for various types of projects; and
23 d) Timing and method of verification of compliance with regulations
24 e) Definitions of terms used in the Standards of Compliance
25

26 The Standards of Compliance shall be based on the recommendation of the Planning
27 and Zoning Commission.

28
29 **20.68.040** **Promulgation of Implementing Regulations.**

30
31 A. Implementation of this section shall commence July 1, 2007. The Community
32 Development Director shall promulgate any rules and regulations necessary or
33 appropriate to achieve compliance with the requirements of this Article. The
34 initial rules and regulations shall be promulgated after securing and reviewing
35 comments from affected City agencies and departments.
36

37 B. The rules and regulations promulgated by the Community Development
38 Department under this section shall provide for at least the following:

39
40 1. The incorporation of the green building and Bay-Friendly
41 landscaping requirements of this Article into the appropriate design,
42 construction, maintenance and development agreement documents prepared for
43 the applicable Projects.
44

45 2. The Compliance Official(s) shall have the responsibility to
46 administer and monitor compliance with the green building and Bay-Friendly

1 landscaping requirements set forth in this Article and with any rules and
2 regulations promulgated thereunder, and to grant waivers or exemptions from
3 the requirements of this Article.
4

5 **20.68.050** **Hardship or Infeasibility Exemption.**
6

7 A. Exemption. If an Applicant for a Covered Project believes that
8 circumstances exist that make it a hardship or infeasible to meet the requirements of
9 this Chapter, they may apply for an exemption as set forth below. In applying for an
10 exemption, the burden is on the Applicant to show hardship or infeasibility.
11

12 B. Application. If an Applicant for a Covered Project believes such
13 circumstances exist, the Applicant may apply for an exemption at the time of
14 application submittal. The Applicant shall indicate the maximum number of credits
15 he or she believes make it a hardship or infeasible to comply fully with this Chapter.
16 Such circumstances may include, but are not limited to, availability of markets for
17 materials to be recycled, availability of Green Building materials and technologies,
18 and compatibility of Green Building requirements with other government
19 requirements and building standards.
20

21 C. Meeting with Compliance Official. The Compliance Official shall review
22 the information supplied by the Applicant, may request additional information from
23 the Applicant, and may meet with the Applicant to discuss the request.
24

25 D. Granting of Exemption: If the Compliance Official determines that it is a
26 hardship or infeasible for the Applicant to meet fully the requirements of this Chapter
27 based on the information provided, the Compliance Official shall determine the
28 maximum feasible number of credits reasonably achievable for the Project. If an
29 exemption is granted, the Applicant shall be required to comply with this Chapter in
30 all other respects and shall be required to achieve, in accordance with this Chapter,
31 the number of credits determined to be achievable by the Compliance Official.
32

33 E. Denial of Exemption. If the Compliance Official determines that it is
34 possible for the Applicant to fully meet the requirements of this Chapter, they shall so
35 notify the Applicant in writing.
36

37 **20.68.060** **Appeal.**
38

39 A. Any aggrieved Applicant or person may appeal the determination of the
40 Compliance Official regarding: (i) the granting or denial of an exemption pursuant to
41 Section 20.68.060; or (ii) compliance with the ordinance pursuant to Section
42 20.68.060.
43

44 B. Any appeal must be filed in writing with the Community Development
45 Department within fourteen (14) days of the determination by the Compliance
46 Official. The appeal shall state the alleged error or reason for the appeal. In

