

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: April 1, 2013
Reviewed by: BP

SUBJECT: Amendments to Chapter 20.68 “Green Building & Bay Friendly Landscaping” Regulations of the Albany Municipal Code and Approval of Amendments to Green Building Thresholds

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SUMMARY

In 2006, the City of Albany adopted a green building program that required construction projects that are required to go through design review to use green building checklists and achieve a specific level of green building points. The proposal before the City Council is to make changes to the City’s requirements to advance green building practices in the Albany.

STAFF RECOMMENDATION

The Planning and Zoning Commission and the Sustainability Committee recommends that the City Council:

- a) Approve First Reading of Amendments to the Green Building & Bay Friendly Landscaping” Regulations of the Albany Municipal Code
- b) Approve Amendments to the Green Building Thresholds

BACKGROUND

In 2006, the City of Albany adopted a green building program that required construction projects that are required to go through design review to use green building checklists and meet achieve a specific level of green building points. At the time of initial approval, green building materials and practices were emerging into mainstream use, and the requirement that nearly all planning applications need to incorporate green building features at the planning stage was innovative.

Since 2006, green building materials and practices have improved dramatically and currently the City’s standards no longer challenge applicants to consider innovation in their projects. Per the policy direction in the City’s Climate Action Plan (CAP), the City of Albany, in collaboration with the cities of El Cerrito, Piedmont, and San Pablo, received the Small Cities Climate Action Partnership Grant through the Environmental Protection

Agency. The four cities have been working together to share our work, processes, and best practices as we implement various energy efficiency projects and policies. In addition, a joint sub-committee of the Sustainability Committee and the Planning and Zoning Commission met a number of times in 2011 and 2012 with Wes Sullens from Stopwaste.org and Mike Gabel, of Gabel Associates, LLC, a building energy consultant, to explore a range of policy initiatives.

DISCUSSION

Green building is a construction process that strives to protect vulnerable natural resources, reduce waste and pollution, maximize energy efficiency, and create a healthier environment for building occupants. The City regulates the implementation of green building practices at the planning and zoning review phase by mandating that applicants submit green building checklists with their plans. Currently, there are two well-respected sources for the checklists: 1) US Green Building Council, which has developed the Leadership in Energy and Environmental Design (LEED) rating system; and 2) Alameda County's Stopwaste.org, which has developed the Green Points rating system. The type of project determines which checklist is used.

Leadership in Energy and Environmental Design (LEED)

LEED checklists are written to rate the environmental attributes and sustainable features of new and renovated commercial and institutional buildings. The LEED system utilizes a list of performance criteria, divided into six categories:

- Sustainable Sites
- Water Efficiency
- Energy and Atmosphere
- Materials and Resources
- Indoor Environmental Quality
- Innovation and Design Process

Four levels of LEED certification are possible, depending on the number of criteria met. The base level is *certified*, with *silver*, *gold*, and *platinum* levels awarded for projects with a higher level of attainment of environmental design and construction.

Stopwaste.org

StopWaste.Org checklists are intended for use in the construction and remodeling of residential projects. The checklists are similar to the LEED system in that they use six categories of potential performance-based credits and prerequisite criteria. Unlike LEED, the Green Points checklists are simply points based.

With either system, common ways to earn points include:

- Design of a project to minimize grading of a site and maximize use of natural drainage;
- Use of native fire resistant landscaping with efficient irrigation systems;
- Use of engineered framing to reduce amount of lumber or steel used;
- Use of recycled building materials;
- Use of lumber from forests managed in sustainable manner;
- Use of energy efficient appliances;
- Careful design and construction of heating, ventilation, and air conditioning systems along with enhanced insulation;
- Installation of solar water heating and photovoltaic panels; and
- Use of natural or low emission paints, flooring, and other finish materials.

The proposed changes to the ordinance are relatively minor, codifying the reference to standards of compliance and checklists. The substantive changes are in the Standards of Compliance, in which the point threshold has been raised, checklists have been updated, and more stringent compliance verification will be required.

It should be noted that the Climate Action Plan Measure BE 3.1 specifies that the City's Green Building Ordinance be amended to incorporate the optional "Tier 2" energy efficiency standards contained in the California Green Building Code as the required standards for energy efficiency for new construction. Upon further research and discussion with the consultant supporting the subcommittee, it was concluded that the Tier 2 standards are more applicable to communities with higher utility loads, particularly communities with air-conditioned residences, and not practical for temperate climates such as Albany's.

The CAP also refers to range of policy initiatives beyond the proposed updating of construction-related requirements. For example, the CAP calls for point-of-sale residential and commercial energy efficiency upgrade requirements, solar energy empowerment districts, financing programs to support investment in energy efficiency, etc. The consideration of a "point of sale" requirement to install energy efficiency measures when a property is purchased was discussed in some detail. Ultimately, the Committee determined that the point of sale requirement requires further study with stakeholders including the real estate brokerage community and would be more effective if implemented in a county-wide or region-wide manner.

SUSTAINABILITY IMPACT

The proposed changes to the City's Green Building program are a key part of achieving the Building and Energy Objectives portion of the Climate Action Plan.

FINANCIAL IMPACT

The proposed changes would have minor negligible impacts on staff time.

NEXT STEPS

Pursuant to the Planning and Zoning Code requirements, if the City Council wishes to proceed with the proposed changes and approve the first reading of the ordinance, a public hearing notice of the second reading will be published in the newspaper.

Attachments

1. Draft Ordinance 2013-01
2. Draft Revisions to Standards of Compliance
3. 2007 Standards of Compliance

1 **WHEREAS**, the Subcommittee made recommendations to amend the minimum
2 thresholds for Build It Green requirements for residential projects, LEED equivalency and LEED
3 certification for commercial and City-sponsored projects; and
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5 **WHEREAS**, the minimum thresholds for review are to be adopted by Council resolution
6 as part of the new amendments to Section 20.68 of the Albany Municipal Code; and
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8 **WHEREAS**, the Planning & Zoning Commission reviewed the staff report and
9 determined that the policy updates are exempt from CEQA pursuant to Section 15060 (c) (2);
10 and
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12 **WHEREAS**, pursuant to the public notice requirements of Planning and Zoning Code
13 Section 20.100.070 and Government Code Section 65090, on February 13, 2013, the Planning
14 and Zoning Commission adopted a Resolution of Intention to adopt amendments to the Green
15 Buildign Cod ; and

16 **WHEREAS**, the Planning & Zoning Commission has held a public hearing, considered
17 all public comments received, the presentation by City staff, the staff report, and all other
18 pertinent documents regarding the proposed amendments, and voted to recommend that the City
19 Council approve the amendments; and

20 **WHEREAS**, the Sustainability Committee discussed revisions to the Green Building
21 program on February 15, 2012, April 18, 2012, November 27, 2012, January 16, 2013, and
22 March 20, 2013; and

23 **WHEREAS**, on March 20, 2013, the Sustainability Committee voted to recommend that
24 the City Council approve the amendments.
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1 **NOW, THEREFORE**, the Albany City Council ordains that Planning and Zoning Code
2 Section 20.68 Green Building and Bay-Friendly Landscaping Regulations be amended as
3 follows:
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6 **20.68.010 Purpose.**
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9 To promote economic and environmental health in the City, it is essential that the City
10 itself, through the design, construction, operation and deconstruction of its own facilities and
11 facilities it funds, provide leadership to both the private and public sectors by incorporating
12 green building and bay-friendly landscaping practices. The most immediate and meaningful way
13 to do this is to require the integration of green building and bay-friendly landscaping strategies in
14 City and public-private partnerships buildings and landscapes. (Ord. No. 06-016)
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17 **20.68.020 Definitions.**
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19 As used in this section:

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21 Compliance Official. The Community Development Director shall be authorized and
22 responsible for implementing this section as the Green Building and Bay-Friendly Landscaping
23 Compliance Official.
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26 **20.68.030 Standard for Compliance.**
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1 The City Council shall establish by resolution, and periodically review and update as
2 necessary, Green Building and Bay-Friendly Landscaping Standards of Compliance. The
3 standards of compliance shall include, but not be limited to, the following elements:
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6 A. Types of projects subject to regulation
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9 B. Guidelines or checklists to be applied to various types of projects:
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11 **1. Residential Projects-residential remodel projects subject to Design**
12 **Review including additions to single family homes, accessory structures**
13 **greater than 120 sq. ft., new single-family construction, and multi-family**
14 **construction shall comply with the following:**
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16 **a. Residential additions and accessory structures applications**
17 **shall be required to complete the Build it Green Green Point Rating**
18 **System for Remodeling Projects**

19 **b. New single-family homes shall be required to complete the**
20 **Single-Family Build it Green Green Point Rating System Checklist or**
21 **LEED checklist.**

22 **c. Multi-Family construction shall be required to complete the**
23 **Multi-Family Build it Green Green Point Rating System Checklist or**
24 **LEED checklist.**
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1 **2. Commercial Projects- commercial projects subject to Design Review**
2 **including renovations to existing commercial buildings, new commercial**
3 **construction shall be required to complete a LEED checklist as part of the**
4 **project.**

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8 **3. City Sponsored Projects- City owned facilities subject to Design**
9 **Review including renovation or new construction shall be required to**
10 **complete a LEED checklist as part of the project.**

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13 C. Minimum threshold of compliance for various types of projects

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15 **1. Thresholds for compliance shall be established by City Council**
16 **resolution.**

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18 D. Timing and method of verification of compliance with regulations

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20 **1. Compliance verification shall be established by City Council**
21 **resolution.**

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23 E. Definitions of terms used in the Standards of Compliance

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26 The standards of compliance shall be based on the recommendation of the Planning and
27 Zoning Commission. (Ord. No. 06-016)

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20.68.040 Promulgation of Implementing Regulations.

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

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

1. The incorporation of the green building and bay-friendly landscaping requirements of this section into the appropriate design, construction, maintenance and development agreement documents prepared for the applicable projects.

2. The Compliance Official(s) shall have the responsibility to administer and monitor compliance with the green building and bay-friendly landscaping requirements set forth in this section and with any rules and regulations promulgated thereunder, and to grant waivers or exemptions from the requirements of this section. (Ord. No. 06-016)

20.68.050 Hardship or Infeasibility Exemption.

1 A. Exemption. If an applicant for a covered project believes that circumstances exist
2 that make it a hardship or infeasible to meet the requirements of this section, they may apply for
3 an exemption as set forth below. In applying for an exemption, the burden is on the applicant to
4 show hardship or infeasibility.
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8 B. Application. If an Applicant for a covered project believes such circumstances
9 exist, the applicant may apply for an exemption at the time of application submittal. The
10 applicant shall indicate the maximum number of credits he or she believes make it a hardship or
11 infeasible to comply fully with this section. Such circumstances may include, but are not limited
12 to, availability of markets for materials to be recycled, availability of green building materials
13 and technologies, and compatibility of green building requirements with other government
14 requirements and building standards.
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17 C. Meeting with Compliance Official. The Compliance Official shall review the
18 information supplied by the applicant, may request additional information from the applicant,
19 and may meet with the applicant to discuss the request.
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21 D. Granting of Exemption. If the Compliance Official determines that it is a hardship
22 or infeasible for the applicant to meet fully the requirements of this section based on the
23 information provided, the Compliance Official shall determine the maximum feasible number of
24 credits reasonably achievable for the project. If an exemption is granted, the applicant shall be
25 required to comply with this section in all other respects and shall be required to achieve, in
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1 accordance with this section, the number of credits determined to be achievable by the
2 Compliance Official.

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5 E. Denial of Exemption. If the Compliance Official determines that it is possible for
6 the applicant to fully meet the requirements of this section, they shall so notify the applicant in
7 writing.

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9 (Ord. No. 06-016)

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11 **20.68.060 Appeal.**

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14 A. Any aggrieved applicant or person may appeal the determination of the
15 Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section
16 20.68.060; or (ii) compliance with the section pursuant to subsection 20.68.050.

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18 B. Any appeal must be filed in writing with the Community Development
19 Department within fourteen (14) days of the determination by the Compliance Official. The
20 appeal shall state the alleged error or reason for the appeal. In reviewing the appeal, the City
21 Council may request additional written or oral information from the applicant or Compliance
22 Official. The Planning and Zoning Commission shall hold a public hearing regarding the appeal
23 within forty (40) days of the date when the appeal was filed.

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25 (Ord. No. 06-016)

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27 **20.68.070 Severability.**

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If any subsection, subdivision, paragraph, sentence, clause or phrase of this section, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this section or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, and phrase of this section irrespective of the fact that one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or effective. To this end, the provisions of this section are declared to be severable. (Ord. No. 06-016)

Mayor

**EXHIBIT A
REVISED STANDARDS OF COMPLIANCE**

Project Description		Building Improvements		
		Checklist Required	Minimum Threshold	Verification/ Certification
City Sponsored Projects	New construction less than 10,000 sq ft	LEED Checklist	Maximum points practicable	At plan check only
	New construction 10,000 sq ft or greater		LEED Gold Certified (39 points minimum)	US Green Bldg Council
	Renovation less than 10,000 sq ft	LEED Checklist	Maximum points practicable	At plan check only
	Renovation 10,000 sq ft or greater		LEED Gold Equivalency (39 points minimum)	Third Party Verification
Commercial Construction & Renovation Projects	New construction less than 10,000 sq ft	LEED- Checklist	Maximum points practicable	At plan check only
	New construction 10,000 sq ft or greater		LEED Gold Certified (39 points minimum)	US Green Bldg Council
	Renovation less than 10,000 sq ft	LEED- Checklist	Maximum points practicable	At plan check only
	Renovation 10,000 sq ft or greater		LEED Gold Equivalency (39 points minimum)	Third Party Verification
Single Family Residential	New construction or renovations subject to Section 11-2.3 "Fire Extinguishing Systems" of the Albany Municipal Code	Green Points Rating System for New Construction or LEED	75 Points (minimum)	US Green Bldg Council or LEED

	New Construction or Renovations subject to Design Review (Planning & Zoning Commission and Admin Review)	Green Points Rating System for Remodeling projects or LEED	75 Points (minimum)	Checklist at Planning Application + Third Party Verification
Single-Family Residential	All other permits where existing space is being renovated	Green Points Rating System for Remodeling projects	Most Points Practical	Plan Check
Multi-family Residential	New construction of 4 units or more	Multifamily Greenpoint Checklist or LEED	75 Points or Gold	Build It Green Or US Green Building Council
	New construction of 3 units or less	Multifamily Greenpoint Checklist	75 Points	Third Party Verification
	All other permits where existing space is being renovated	Multifamily Greenpoint Checklist	Maximum points practicable	City Staff Review
Mixed Use	All	Green Point Checklist Or LEED	Consult with Planning Division Staff	

City of Albany Green Building Standards of Compliance

Proposed Standards: Effective July 3, 2007

Project Description		Building Improvements		
		Checklist Required	Minimum Threshold	Third-party Verification
City Sponsored Projects	New construction less than 5,000 sq ft	LEED-NC Checklist (Version 2.2)	Maximum points practicable	At plan check only
	New construction more than 5,000 sq ft		Gold (39 points)	US Green Bldg Council
	Renovation less than 5,000 sq ft	LEED-CI Checklist (Version 2.0)	Maximum points practicable	At plan check only
	Renovation more than 5,000 sq ft		Gold (32 points)	US Green Bldg Council
Commercial Construction & Renovation Projects	New construction less than 5,000 sq ft	LEED-NC Checklist (Version 2.2)	Maximum points practicable	At plan check only
	New construction more than 5,000 sq ft		Gold (39 points)	US Green Bldg Council
	Renovation less than 5,000 sq ft	LEED-CI Checklist (Version 2.0)	Maximum points practicable	At plan check only
	Renovation more than 5,000 sq ft		Gold (32 points)	US Green Bldg Council
Single Family Residential	New construction	Single-Family Greenpoint Checklist (2006 Edition)	50 Points	At plan check only
	Renovation subject to Design Review	Green Points Rating System for Remodeling projects (2004 version + City Point Incentives)	50 Points	
Multi-family Residential	New construction or renovation of less than 5 units	Multifamily Greenpoint Checklist (2005 Edition version v.2)	Maximum points practicable	City Staff and/or certified 3rd party inspection
	New construction or renovation of more than 5 units		Minimum Points Standard	
Mixed Use	Consult with Planning Division staff			