

## DOCKETED

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# MEMORANDUM

## TOWN OF PORTOLA VALLEY

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**TO:** Mayor and Members of the Town Council

**FROM:** Brandi de Garneau, Sustainability and Special Projects Manager

**DATE:** January 11, 2017

**RE:** Adoption of an Ordinance Amending Chapter 15.10 – Green Building

At its December 14, 2016 meeting, the Town Council considered and voted to approve the amendment of to Chapter 15.10 [Green Building] of the Portola Valley Municipal Code and related findings, including the provisions that amend the 2016 California Energy Code, Title 24, Chapter 6, of the California Code of Regulations and the 2016 California Green Building Standards Code, Title 24, Chapter 11, of the California Code of Regulations (Attachment 1).

This matter has come before the Council for second reading of the ordinance title, waiving further reading and adoption of the ordinance. If approved, the ordinance shall become effective upon formal adoption by the California Energy Commission.

### **RECOMMENDATION**

It is recommended that the Town Council adopt the attached ordinance amending Chapter 15.10 [Green Building] of the Portola Valley Municipal Code.

Approved by: Jeremy Dennis, Town Manager

**ORDINANCE NO. 2016 –**

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY AMENDING CHAPTER 15.10 [GREEN BUILDING] OF TITLE 15 [BUILDINGS AND CONSTRUCTION] OF THE PORTOLA VALLEY MUNICIPAL CODE**

**WHEREAS**, the Town Council of the Town of Portola Valley desires to amend Chapter 15.10 [Green Building] of Title 15 [Buildings and Construction] of the Portola Valley Municipal Code to implement goals and objectives set forth in the Sustainability Element of the Portola Valley General Plan for reducing greenhouse gas (GHG) emissions, conserving water and energy, encouraging green building, protecting the natural environment, and protecting the health of residents and visitors;

**WHEREAS**, green building design, construction, restoration, operation and maintenance can have a significant positive effect on energy, water and resource conservation, waste management and pollution generation, and the health and productivity of a property's residents, workers and visitors over the life of a building and/or site;

**WHEREAS**, green building regulations comprise a significant component of a whole systems approach to the Town's sustainability program related to building and land use, other components of which include, but are not limited to, requirements for recycling of construction and demolition debris, storm water quality and flood protection, water conservation, protection against unstable slopes and earthquake faults, preservation of trees and natural landforms on building sites and open space conservation; and,

**WHEREAS**, the 2016 California Building Standards Code adopted by the California Building Standards Commission has set minimum Green Building Standards and, within the code, has expressly stated that the standards are viewed as "minimal" and that local government entities retain discretion, pursuant to Health and Safety Code Section 17958 to exceed the standards established by the code based on express findings relative to local climatic, topographical or geological conditions.

**WHEREAS**, the provisions of California Assembly Bill 32 (Global Warming Solutions Act) require action on the part of state and local governments to significantly reduce GHG emissions within prescribed time periods and the Town Council has taken actions to commit the town to pursue the requirements of AB 32;

**WHEREAS**, the Town Climate Protection Task Force, at the request of the Town Council, considered how best to achieve AB 32 objectives, and the Building, Energy and Efficiency and Transportation (BEET) Committee of the Task Force concluded that a building evaluation and rating system was appropriate for new buildings and major additions and remodeling of existing buildings to ensure these projects would make necessary contributions to the overall local program for meeting AB 32 objectives;

**WHEREAS**, based on the findings of the BEET Committee, the Town Council appointed a Planning Commission and Architectural and Site Control Commission subgroup to study, test and inform the community of appropriate green building regulations and this subgroup completed its work, including public workshops, and forwarded its recommendations to the Town Council in the March 4, 2010 report to Town Council from the Deputy Town Planner; and

**WHEREAS**, the Town Council held a duly noticed public hearing on October 23, 2016 and December 14, 2016 to review and consider the amendments to the Town's Green Building Ordinance; and

**WHEREAS**, the Town Council adopted Chapter 15.10 [Green Building] of Title 15 [Buildings and Construction] of the Municipal Code on May 12, 2010 and now seeks to amend Chapter 15.10 to reflect changes to the 2016 California Building Standards Code and add additional provisions to continue to meet AB 32 objectives.

**NOW, THEREFORE**, the Town Council of the Town of Portola Valley does **ORDAIN** as follows:

1. Findings. The Town Council of the Town of Portola Valley hereby finds and declares as follows:
  - A. CEQA Findings. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15308 because it is an action taken by a regulatory agency for the protection of the environment.
  - B. General Findings.
    - a. The California Building Standards Code is contained in Title 24 of the California Code of Regulations, and consists of several parts that are based upon model codes with amendments made by various State agencies. The California Green Building Standards Code, also known as the CALGreen Code, is Part 11 of Title 24 of the California Code of Regulations, and the Town of Portola Valley has enacted the Portola Valley Green Building Ordinance as amendments to the California Green Building Standards Code.
    - b. Local jurisdictions are required to enforce the California Green Building Standards Code, but they may also enact more stringent standards when reasonably necessary because of local conditions caused by climate, geology, or topography.

C. Findings Regarding Local Conditions Required by the California Health and Safety Code.

- a. Section 17958 of the California Health & Safety Code provides that the Town may make changes to the provisions in the uniform codes that are published in the California Building Standards Code. Sections 17958.5 and 17958.7 of the Health & Safety Code require that before making any changes or modifications to the California Green Building Standards Code and any other applicable provisions published by the State Building Standards Commission, the governing body must make an express finding that each such change or modification is reasonably necessary because of specified local conditions, and the findings must be filed with the State Building Standards Commission before the local changes or modifications go into effect.
- b. The Town Council expressly declares that the following amendments to the Portola Valley Green Building Ordinance are reasonably necessary due to local climatic, geological and topographic conditions as listed below.
- c. The Town is located within the southern hillside portions of San Mateo County with elevations ranging from just below 300 feet to over 1,800 feet above sea level. The Town occupies approximately 5,785 acres consisting largely of a natural valley containing steep, rugged tree-covered slopes and open mountains on the west and lower more gently rolling hills on the east. The San Andreas Rift Zone, an area of past and probably future earth movement, follows the floor of the valley. Much of the land southwest of the San Andreas Rift Zone consists of active or geologically recent landslides. The Town has mapped the complex geology of the area and adopted land use regulations based on this mapping to reduce risk to residents and private and public improvements.
- d. Due to its hillside location, the Town is in a climate zone that has precipitation averaging approximately 15 inches per year. Most precipitation falls during the months of November through April, with a relatively dry period extending over six months of the year in a non-drought year. Due to the amount of open space, the reliance upon potable water for irrigation, and vulnerability to wildfire, Portola Valley experiences the effects of the drought more than other communities. Efficient use of potable water and local storm water management are essential to ensuring against loss of natural vegetation and minimizing the impacts associated with erosion, sedimentation and ground-water pollution as well as protecting against unstable slopes.

- e. The Sustainability Element of the General Plan recognizes that emission of GHG may impact weather patterns and sets forth goals that recognize energy and water efficiency in buildings as key components in reducing emissions. The burning of fossil fuels used in the generation of electric power and heating of buildings produces GHG emissions that contribute to climate change, which could result in rises in sea level, flooding, temperature increases, and wildfire that put at risk Portola Valley homes, businesses, public facilities and transportation routes. It is reasonably necessary to require building owners to take steps to reduce the energy and water consumed by building operations and reduce the use of potable water for irrigation in order to reduce GHG emissions and improve resiliency to climate change.
- f. Pacific Gas and Electric Company prepared the September 2, 2016 CALGreen Cost Effectiveness Study to calculate the cost effectiveness of exceeding the 2016 California Building Energy Efficiency Standards, which go into effect January 1, 2017. This study identified the low incremental costs associated with exceeding the state standards as provided for in this proposed Green Building Ordinance for the Town. Based upon the findings of this cost-effectiveness study, the Town Council hereby determines that these local energy standards are cost-effective and will save more energy than the standards contained in the 2016 California Green Building Standards (CALGreen) Code (Title 24 Part 11) and the 2016 California Energy Standards (Title 24 Part 6).
- g. The Portola Valley Green Building Ordinance will require buildings to be designed to consume no more energy than permitted by the 2016 California Energy Standards Title 24 Part 6. All permit applicants will continue to be required to demonstrate compliance with Title 24 Part 6 using the standard forms and calculation methods approved by the California Energy Commission. Nothing in this Ordinance is intended to duplicate, contradict, or infringe upon the provisions of state law, including the California Building Standards Code. The Ordinance and associated checklists provide many opportunities to achieve required points and credits that do not impact areas where the state has established building standards.
- h. The Architectural Site & Control Commission considered the Ordinance at a noticed meeting on March 14, 2016 and recommended minor modifications. The Planning Commission considered the Ordinance with the modifications at a duly noticed public hearing on June 1, 2016 and adopted a resolution recommending approval by the Town Council.

- i. Because the design, restoration, construction and maintenance of buildings and structures within the town can have a significant impact on the Town's environment, greenhouse gas emissions, resource usage, energy efficiency, waste management, and health and productivity of residents, workers, and visitors over the life of the building, requiring commercial, institutional and residential projects to incorporate green building measures is necessary and appropriate to achieve the public health and welfare benefits of green building. The proposed amendments are designed to achieve the following goals:
  - i. Increase energy and water efficiency in buildings;
  - ii. Increase resource conservation;
  - iii. Provide durable buildings that are efficient and economical to own and operate;
  - iv. Promote the health and productivity of residents, workers, and visitors to the town;
  - v. Recognize and conserve the energy embodied in existing buildings; and
  - vi. Reduce disturbance of natural ecosystems, vegetation and environments.

2. Amendment of Code. Chapter 15.10 [Green Building] of Title 15 [Buildings and Construction] of the Portola Valley Municipal Code is hereby amended in its entirety to read as follows:

### **CHAPTER 15.10 - GREEN BUILDING**

**Sections:**

- 15.10.010 Purpose**
- 15.10.020 Applicability**
- 15.10.030 Definitions**
- 15.10.040 Standards for Compliance**
- 15.10.050 Administrative Procedures and Implementing Regulations**
- 15.10.060 Hardship or Infeasibility Exemption**
- 15.10.070 Appeal**

**15.10.010 - Purpose.**

The purpose of this chapter is to enhance the public health and welfare by promoting the environmental health of the town through the incorporation of green building practices in the design, construction, maintenance, operation and deconstruction of buildings and other

site development. The green building provisions in this chapter are designed to achieve the following goals:

- (a) Encourage the conservation of natural resources and reduction of greenhouse gas emissions;
- (b) Increase energy efficiency and lower energy usage;
- (c) Increase water efficiency and lower water usage;
- (d) Reduce waste generated by construction projects;
- (e) Provide durable buildings that are efficient and economical to own and operate;
- (f) Recognize and conserve the energy embodied in existing buildings; and
- (g) Promote the health of residents, workers, and visitors to the town.

#### **15.10.020 - Applicability.**

This chapter applies to all projects defined as "covered projects," as defined in Section 15.10.030, except that it shall not apply to any project for which a planning entitlement application (except preliminary architectural review applications) or building permit application has been submitted prior to the effective date of this chapter.

#### **15.10.030 - Definitions.**

For purposes of this chapter, the following terms are defined as follows:

- (a) "Accessory Dwelling Unit" as defined in Chapter 18.04 of the Portola Valley Municipal Code.
- (b) "Addition" means new construction square footage added to an existing structure.
- (c) "Applicant" means anyone that applies to the town for the applicable permits or approvals to undertake any covered project within the town, or any subsequent owner of the site.
- (d) "Applied Water for Turf Calculator" is a tool that uses data and methodology from the California Department of Water Resources to estimate the irrigation water requirements for turf minus any water supplied by effective rainfall and effective ground water seepage. The calculator uses the evapotranspiration of applied water (ETaw) for cool-season and warm-season turf that was calculated based on a six-year period of climate data specific to a 4x4 km grid spacing within the town.
- (e) "Build It Green" is a non-profit membership organization whose mission is to promote healthy, energy- and resource-efficient building practices in California. Build It Green created Green Building Guidelines that are a comprehensive resource of best practices for green building. The Build It Green Checklists are tools used to assess how environmentally friendly a proposed building project will be via the use of a point system.
- (f) "CALGreen" is the California Green Building Standards Code.



- (g) "Compliance threshold" means the minimum number of points or rating level of a green building rating system that must be attained for a particular covered project, as outlined in the standards for compliance in Section 15.10.040.
- (h) "Covered project" means any planning entitlement application(s) or building permit application(s) for new non-residential construction, or for any new residential construction, addition or remodel subject to the standards for compliance outlined in Section 15.10.040.
- (i) "Elements" means a project where a portion of the home is undergoing a remodel or addition (e.g., a kitchen remodel or master bedroom addition).
- (j) "Good faith effort" means a project that has not met the required compliance threshold, but for extenuating reasons or reasons beyond the control of the applicant, the planning director or his/her designee has found that the project meets the good faith effort provisions of Section 15.10.060.
- (k) "Graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers.
- (l) "Green building" means a whole systems approach to the design, construction and operation of buildings that substantially mitigates the environmental, economic, and social impacts of buildings. Green building practices recognize the relationship between the natural and built environments and seek to minimize the use of energy, water and other natural resources and provide a healthy, productive indoor environment.
- (m) "Green building project checklist" means a checklist or scorecard developed for the purpose of calculating a green building rating.
- (n) "Green building rating system" means the rating system associated with specific green building criteria and used to determine compliance thresholds, as outlined in the standards for compliance in Section 15.10.040. Examples of rating systems include, but are not limited to, the GreenPoint Rated systems.
- (o) "GreenPoint Rated" means a residential green building rating system developed by the "Build It Green" organization.
- (p) "GreenPoint Rated verification" means verification of compliance by a certified GreenPoint Rater, resulting in green building certification by Build It Green.
- (q) "Multi-family residential" means a building containing three or more attached dwelling units.
- (r) "New non-residential construction" means the construction of a new or replacement retail, office, institutional, semi-institutional or similar building(s), or additions to such building(s).

- (s) "New residential construction" means the construction of a new or replacement single-family or two-family dwelling unit or new or replacement multi-family residential building(s), or additions to such building(s).
- (t) "Qualified green building professional" means a person trained through Build It Green as a certified green building professional, or similar qualifications if acceptable to the planning director or his/her designee. For projects requiring self-certification, the project architect or designer is considered a qualified green building professional.
- (u) "Rainwater catchment system" means the collected precipitation from rooftops and other above-ground impervious surfaces that is stored in catchment tanks for later use.
- (v) "Remodel" means any rehabilitation, repair, renovation, change, or modification to an existing building, where changes to floor area and the footprint of the building are negligible.
- (w) "Self verification" means verification by the project architect, designer or a qualified green building professional certifying that the project has met the standards and has attained the compliance threshold as indicated for the covered project type as set forth in the standards for compliance outlined in Section 15.10.040.
- (x) "Single-family or two-family residential" means a single detached dwelling unit or two units in a single building or two separate buildings on a single parcel, such as a main residence and second unit.
- (y) "Solar zone" means an allocated space that is unshaded, un-penetrated, and free of obstructions. It serves as a suitable place that solar panels can be installed at a future date.
- (z) "Square footage" means all new and replacement square footage, including basement areas (seven feet or greater in height) and garages, except that unconditioned garage space shall only count as fifty percent of that square footage. Areas demolished shall not be deducted from the total new construction square footage.
- (aa) "Turf" means a ground cover surface of mowed grass. All of the following qualify as turf: annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and tall fescue (cool-season grasses). Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo (warm-season grasses).
- (bb) "Whole House" project means the homeowner is completing a gut remodel and replacing all of the systems. A gut remodel incorporates stripping less than 90% of the walls to the studs (leaving the foundation framing and exterior finish), which enables one to replace all systems and address the thermal envelope and insulate. If a home has removed significant framing and the exterior cladding, leaving very little of the original home, it shall apply under the new residential construction.

### 15.10.040 - Standards for Compliance.

The standards for compliance are as follows:

1. New Residential Construction. New homes shall demonstrate GreenPoint Rated certification using certified professional raters. The number of Build It Green points required pursuant to this section shall be calculated in accordance with the GreenPoint Rated New Home Single Family checklist, with the exception that if California Building Code Title 24, Part 6 is updated after the effective date of this chapter to be more stringent, item J.5. in the GreenPoint Rated Single Family checklist shall not be included in calculating the number of points required until such time as the appropriate cost effectiveness study has been completed.
  - A. For projects up to and including 3,000 sf. A minimum threshold of 75 Build It Green points, with GreenPoint Rated certification prior to building permit sign-off/occupancy.
  - B. For projects over 3,000 sf. A minimum threshold of 75 Build It Green points with one additional point for each 50 sf over 3,000 sf, and with GreenPoint Rated certification prior to building permit sign-off/occupancy.
  - C. Basement floor area. Basement floor area must be included in the total floor area for point calculations.
  - D. Solar Photovoltaic and Solar Thermal “Ready” Infrastructure. “Section 110.10 Mandatory Requirements for Solar Ready Buildings” of the California Energy Code is added as mandatory and amended to read:
    - (1) Solar zone. The solar zone shall be located on the roof or overhang of the building and have a total area of no less than 500 square feet. If the project applicant determines that the entire energy needs of the project can be met with a solar photovoltaic system that occupies less than 500 square feet, the project applicant can demonstrate this with the Title 24 Calculation and solar photovoltaic system plans.
    - (2) Interconnection pathways. New residential construction projects shall provide a pathway for conduit and plumbing to support the installation of future solar photovoltaic and solar thermal infrastructure. The pathway for conduit and plumbing shall be routed from the attic space (or equivalent) to the point of interconnection with the electrical service panel and the water-heating system.
  - E. Electric Vehicle “Ready” Infrastructure. “Section 4.106.4 Electric vehicle (EV) charging for new construction” of the California Green Building Standards Code is added as mandatory and amended with the additional requirements as outlined below.

- (1) Service panel and/or subpanel shall provide, at minimum, capacity to install a 208/240v, 50 amperes grounded AC outlet and dedicated branch circuit.
- (2) Raceway or wiring with capacity to accommodate a 100 ampere circuit; terminating in a listed cabinet box, enclosure, or NEMA receptacle.
- (3) The raceway shall be installed so that minimal removal of materials is necessary to complete the final installation.

F. Graywater "Ready" Infrastructure. Install graywater "ready" systems as outlined below. Additional plumbing piping is installed to permit the discharge from all clothes washers and all applicable fixtures from bathrooms located above grade to allow for future installation of a distributed irrigation system, either subsurface or treated. All graywater "ready" systems must be installed in compliance with Chapter 16 of the California Plumbing Code.

- (1) Identify an appropriate location for possible future installation of a graywater treatment system, including storage tanks.
- (2) Include either a separate multiple pipe outlet or a diverter valve and an outside "stub-out" installation on clothes washing machine hook-ups, to allow separate discharge of graywater direct for irrigation.
- (3) Include a building drain(s) for lavatories, showers, and bathtubs, segregated from drains for all other plumbing fixtures, connected to the black water pipe a minimum of three (3) feet from the building foundation.
- (4) Provide power supply for future graywater treatment system.
- (5) The graywater system shall be comprised of purple piping. The diverter valve on the clothes washing machine system shall be labeled as "LAUNDRY-TO-LANDSCAPE CAPABLE."

G. Reduction of Potable Water Use on Turf. For all projects with landscapes that include the use of turf, install rainwater catchment system. Irrigation needs of turf should be calculated using the Applied Water for Turf Calculator. All rainwater catchment systems must be installed in compliance with Chapter 17 of the California Plumbing Code.

- (1) Rainwater Catchment System Size. The rainwater catchment system size shall be determined by using the Applied Water for Turf Calculator. The rainwater catchment system will need to be sized in order to satisfy 50 percent of the estimated annual water demands for the first 500 square feet of turf installed on the project. The rainwater catchment system will need to be sized in order to satisfy 100 percent of the estimated annual water demands for installed turf that is greater than 500 square feet.

- (2) Alternative. A fully installed graywater system connected to an irrigation system that can satisfy all of the annual water demands of turf as identified in the Applied Water for Turf Calculator can be used as an alternative to installing a rainwater catchment system.
2. Residential construction additions and/or remodel projects 400 square feet or greater. The number of Build It Green points required pursuant to this section shall be calculated in accordance with the GreenPoint Rated Existing Home Single Family checklist.
    - A. For whole house projects. A minimum threshold of 50 Build It Green points, with GreenPoint Rated certification prior to building permit sign-off/occupancy.
    - B. For elements projects. A minimum threshold of 25 Build It Green points, with self-certification allowed.
    - C. Basement floor area. Basement floor area must be included in the total floor area for point calculations.
  3. Small residential additions or remodels. For small residential addition or remodel projects, which are projects less than 400 square feet, completion of the Build It Green GreenPoint Rated Existing Home Single Family (Elements Label) checklist shall be required as a working/learning document, but no minimum points are required and self-certification allowed.
  4. Accessory Dwelling Units. The Town desires to encourage the production of accessory dwelling units and, therefore has identified a simplified process for green building requirements related to all accessory dwelling units. Specifically, although minimum points are required as set forth below, self-certification is allowed.
    - A. Detached. A minimum threshold of 75 Build It Green points in the GreenPoint Rated New Home Single Family checklist is required.
      - a. Solar Photovoltaic “Ready” Infrastructure. “Section 110.10 Mandatory Requirements for Solar Ready Buildings” of the California Energy Code is added and amended as follows: detached accessory dwelling units shall provide a pathway for conduit to support the installation of future solar photovoltaic infrastructure. The pathway for conduit and shall be routed from the attic space (or equivalent) to the point of interconnection with the electrical service panel.
    - B. Attached. A minimum threshold of 50 Build It Green points in the GreenPoint Rated Existing Home Single Family checklist (Whole House Label) is required.

- C. Interior Conversions. An interior conversion occurs when the applicant seeks to convert existing square footage in an existing dwelling into an accessory dwelling unit. A minimum threshold of 25 Build It Green points in the GreenPoint Rated Existing Home Single Family checklist (Elements Label) is required.
  - D. Laundry facilities. If the structure includes laundry hook-ups, include a diverter valve and an outside “stub-out” installation on the clothes washing machine hook-up, to allow separate discharge of graywater direct for irrigation. The diverter valve on the clothes washing machine system shall be labeled as “LAUNDRY-TO-LANDSCAPE CAPABLE.”
5. Non-residential projects. New, non-residential projects shall comply with all mandatory CALGreen measures. The mandatory measures shall be verified by a third party approved by the Town for which the applicant will pay for the review.
- A. Electric Vehicle “Ready” Infrastructure. “Section 5.106.5.3 Electric vehicle (EV) charging for new construction” of the California Green Building Standards Code is added as mandatory and amended with the additional requirements as outlined below.
    - (1) Service panel and/or subpanel shall provide, at minimum, capacity to install a 208/240v, 50 amperes grounded AC outlet and dedicated branch circuit.
    - (2) Raceway or wiring with capacity to accommodate a 100 ampere circuit; terminating in a listed cabinet box, enclosure, or NEMA receptacle.
    - (3) The raceway shall be installed so that minimal removal of materials is necessary to complete the final installation.

**15.10.050 - Administrative Procedures and Implementing Regulations.**

(a) The planning director shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this chapter. The rules and regulations shall provide, at a minimum, for the incorporation of green building requirements of this chapter into checklist submittals with planning entitlement and building permit applications, and supporting design, construction, or development documents to demonstrate compliance with this chapter.

(b) The procedures for compliance documentation shall include, but not be limited to, the following:

- (1) Preliminary documentation. Applicants for a covered project are encouraged, but not required, to meet with the planning director or his/her designee, in advance of submittal of an application, to determine required green building thresholds for compliance and to review the proposed green building program and details to achieve compliance.

- (2) Discretionary planning entitlements. Upon submittal of an application for any discretionary planning entitlement for any covered project, including, but not limited to, architectural review, site development permit, conditional use permit, or variance requests, application materials shall include the appropriate completed checklists, as required by the standards for compliance specified in Section 15.10.040, accompanied by a text description of the proposed green building program and expected measures and milestones for compliance.
- (3) Building plan check review. Upon submittal of an application for a building permit, building plans for any covered project shall include a checklist and green building program description, reflecting any changes proposed since the planning entitlement phase (if a planning entitlement was required). The checklist shall be incorporated onto a separate plan sheet included with the building plans. A qualified green building professional shall provide evidence of adequate green building compliance or documentation to the planning director or his/her designee to satisfy the requirements of the standards for compliance outlined in Section 15.10.040, prior to issuance of a building permit.
- (4) Final building inspection, verification, and occupancy. Prior to final building inspection and occupancy for any covered project, a qualified building professional shall provide evidence of adequate green building compliance or documentation to the director or his/her designee to satisfy the requirements of the standards for compliance outlined in Section 15.10.040. This information shall include, but is not limited to:
  - (i) Documentation that verifies incorporation of the design and construction related credits specified in the project approval for the covered project;
  - (ii) A letter from the qualified green building professional that certifies that the covered project has been constructed in accordance with the approved green building project checklist;
  - (iii) Any additional documentation that would be required by the GreenPoint rated manuals for GreenPoint rated certification (if required); and
  - (iv) Any additional information that the applicant believes is relevant to determining that a good faith effort has been made to comply with this chapter.
- (5) Final determination of compliance and good faith effort to comply. Prior to the scheduling of a final building inspection for a covered project, the planning director or his/her designee shall review the documentation submitted by the applicant, and determine whether the applicant has achieved the required compliance threshold as set forth in the standards for compliance outlined in Section 15.10.040 and/or demonstrate that measures are in place to assure compliance not later than one year after approval of final building inspection. If the planning director or his/her designee determines that the applicant has met the requirements of Section 15.10.040 for the project, the final building inspection may proceed, provided the covered project has received approval of all other inspections required by the chief building official. If the planning director or his/her designee determines that the required green building rating has not been achieved, the planning director or his/her designee shall find one of the following:

- (i) Good faith effort to comply: When an applicant submits a request in writing to the planning director or his/her designee for approval of a good faith effort to comply, the planning director or his/her designee shall determine that the applicant has made a good faith effort to comply with this chapter when finding that either a) the cost for providing green building documentation or assuring compliance is disproportionate to the overall cost of the project, or b) the green building materials and technologies on the green building checklist are no longer available or not yet commercially available, or c) at least eighty percent of the required green point credits have been achieved, and measures are in place to assure full compliance not later than one year after approval of the final building inspection. Determination of a good faith effort to comply shall be made separately for each item on the green building project checklist. Granting of a good faith effort to comply for one item does not preclude the need for the applicant to comply with the other items on the green building checklist.
  - (ii) Non-compliant project. If the planning director or his/her designee determines that the applicant has not made a good faith effort to comply with this chapter, or if the applicant fails to submit the documentation required within the required time period, then the project shall be determined to be non-compliant, and the final inspection and approval for the project shall be withheld. A final inspection shall not take place until the applicant has implemented equivalent alternate measures approved by the planning director or his/her.
- (6) Non-compliance. If, upon inspection, the building official or planning director determines that the covered project does not comply with the approved plans or green building checklist, a stop order shall be issued if the planning director or his/her designee determines that continuation of construction activities will jeopardize the project's ability to meet the required compliance threshold. The stop order shall remain in effect until project has been brought into compliance with the approved plans and/or checklist.

(c) The planning director or his/her designee shall have the responsibility to administer and monitor compliance with the green building requirements set forth in this chapter and with any rules and regulations promulgated.

(d) Compliance with the provisions of this chapter shall be listed as a condition of approval on any architectural and site control review or other discretionary permit approval, and on the building plans for building permit approval, for any covered project.

#### **15.10.060- Hardship or Infeasibility Exemption.**

If an applicant for a covered project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this chapter, the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.



- (a) Application. Any request for an exemption must be included at the time of application submittal. The applicant shall indicate the maximum threshold of compliance he or she believes is feasible for the covered project and the circumstances that he or she believes create a hardship or make it infeasible to fully comply with this chapter. Circumstances that constitute hardship or infeasibility include, but are not limited to, the following:
- (1) There is conflict with the compatibility of the green building rating system with other town goals, such as those requiring historic preservation;
  - (2) There is conflict with the compatibility of the green building rating system and the California Building Standards Code;
  - (3) There is conflict with the compatibility of the green building rating system and the town's zoning ordinance and/or architectural review criteria;
  - (4) The green building compliance standards do not include enough green building measures that are compatible with the scope of the covered project; and/or
  - (5) There is a lack of commercially available green building materials and technologies to comply with the green building rating system.
- (b) Review by Architectural and Site Control Commission. For any covered project for which an exemption is requested and architectural and site control review is required, the Architectural and Site Control Commission shall provide a recommendation to the planning director or his/her designee regarding whether the exemption shall be granted, conditionally granted or denied, along with its recommendation on the project. For any project for which an exemption is requested based on the historic character of the building or site, the town historian shall provide a recommendation to the planning director or his/her designee regarding whether the exemption shall be granted or denied and shall determine whether the project is consistent with the Secretary of the Interior's Standards for Historic Rehabilitation.
- (c) Decision by Planning Director (or his/her designee). The planning director or his/her designee shall make a determination based on the information provided. The planning director or his/her designee shall determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the planning director or his/her designee shall be provided to the applicant in writing.
- (1) If the planning director or his/her designee determines that it is a hardship or is infeasible for the applicant to meet the requirements of this chapter, the request shall be granted. Notwithstanding, the applicant shall be required to comply with this chapter in all other respects and shall be required to achieve, in accordance with this chapter, the threshold of compliance determined to be reasonably achievable by planning director or his/her designee.
  - (2) If the planning director or his/her designee determines that it is reasonably possible for the applicant to fully meet the requirements of this chapter, the request shall be denied. The project and compliance documentation shall be modified to comply with this chapter prior to further review of any pending planning or building application.

**15.10.070 - Appeal.**

(a) Any aggrieved applicant may appeal the determination of the planning director or his/her designee regarding: (1) the granting or denial of an exemption pursuant to Section 15.10.070; or (2) compliance with any other provision of this chapter.

(b) Any appeal must be filed in writing with the planning director or his/her designee not later than fourteen days after the date of the determination by the planning director or his/her designee. The appeal shall state the alleged error or reason for the appeal.

(c) The appeal shall be processed and considered by the planning commission de novo in accordance with the criteria outlined in this chapter.

3. Severability. If any part of this ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

4. Effective Date; Posting. This ordinance is subject to review and approval by the California Energy Commission (CEC). This ordinance shall become effective immediately upon full CEC approval. This ordinance be posted within the Town in three public places.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

\_\_\_\_\_  
Town Clerk

By: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

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Town Attorney