

ORDINANCE NO. 1048

AN ORDINANCE OF THE CITY OF BELMONT ESTABLISHING GREEN BUILDING REQUIREMENTS AND AMENDING CHAPTER 7 OF THE BELMONT MUNICIPAL CODE

WHEREAS, green building design, siting, construction, and operation can have a significant positive effect on energy and resource efficiency, reduction of waste and pollution generation, and the health and productivity of a building's occupants over the life of the building.

WHEREAS, green building is a critical component of sustainable construction that meets the needs of the present without compromising the ability of future generations to meet their own needs.

WHEREAS, green building design, construction and operational techniques have become increasingly widespread in commercial and residential building construction. National and regional systems have been established to serve as guides and objective standards for green building practices. At the national level the US Green Building Council has established the Leadership in Energy and Environmental Design (LEED), a Green Building Rating System for new construction and major renovation of commercial projects. At the State level, the Building Standards Commission has adopted a Green Building Code. At the regional level, Build It Green (BIG), a non-profit organization headquartered in the Bay Area, has developed Home Remodeling, New Home Construction, and Multifamily Green Building Guidelines and a Green Point Rating System for single-family, multi-family, and existing home residences.

WHEREAS, California Health and Safety Code Sections 18938 and 17958 provide that the California Building Standards Code establishes building standards for all occupancies throughout the State.

WHEREAS, Health and Safety Code Section 17958.5 provides that a city may establish more restrictive building standards if they are reasonably necessary due to local climatic, geological or topographical conditions and findings are made based on these criteria during adoption.

SECTION I. FINDINGS. To the extent the proposed Green Building Ordinance effects changes to the California Building Standards Code as adopted by the City, the City Council finds the provisions herein to be reasonably necessary due to local climatic, geologic and topographic conditions, specifically:

a. Climatic

Belmont is located in a climate zone with precipitation averaging approximately 20 inches per year. Most precipitation falls during the months of November through April, leaving a relatively dry period of approximately six months each year. Belmont potable water, storm water collection, and waste collection and

treatment systems are designed to accommodate and make use of historically consistent weather patterns and supplies, which may, in fact, be unreliable, as evidenced by recent periods of drought. Green building practices encourages water conservation and sustainable efforts that lower the carbon footprint.

b. **Geologic**

Belmont is located in an active seismic area. The San Andreas Fault is located within 3 miles of the geologically active San Juan Canyon and Western Hills. Green building practices encourage development away from these areas and the fault zone; locating the development near existing public transportation and services that are found, in part, on the east side of the Community.

c. **Topographic**

Belmont can be characterized as a hillside community that is substantially built-out. The remaining open space is generally located in steep terrain. New development often requires substantial grading, which impacts the topography of the adjacent land and results in unintended consequences, such as run-off and drainage issues. Green building practices encourages minimal grading and the siting of buildings in harmony with the natural topography, rather than attempting to alter it. In addition, Belmont is a community that values its trees. Green building practices encourages minimal disruption of the natural flora and strategic placement of trees for shading.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Belmont that Chapter 7 of the Belmont Municipal Code be hereby amended to read as follows:

ARTICLE XV. GREEN BUILDING REQUIREMENTS

Sec. 7-801. Purpose.

The purpose of this chapter is to enhance public health and welfare by encouraging green building practices in the design, construction, and maintenance of buildings. The green building practices referenced in this chapter are intended to achieve the following goals:

- a) To encourage the conservation of natural resources;
- b) To reduce waste in landfills generated by construction projects;
- c) To increase energy efficiency and lower energy usage;
- d) To reduce the operating and maintenance costs for buildings; and
- e) To promote a healthier indoor environment.

Sec. 7-802. Definitions

- A. “3rd Party Inspection” means an inspector having a GreenPoint Rater Certification by the organization Build It Green or a LEED AP Credential.

- B. “Build It Green (BIG)TM” means the nonprofit organization that publishes the New Home Construction Green Building Guidelines, the New Home Green Points Checklist, the Existing Home Green Points Checklist, and the Multifamily Green Points Checklist, and any successor entity that assumes responsibility for the programs and operations of Build It GreenTM.
- C. “Commercial and industrial project” means any new construction or tenant improvement of a retail, office, industrial, warehouse, or service building, or portion of a building, which is not a residential project.
- D. “Residential alteration and new construction project” means the alteration or new construction of R2, R3, R3.1, and R4 buildings, except hotels and motels, built to the specifications of the California Building Code (CBC), California Electrical Code (CEC), California Mechanical Code (CMC), California Plumbing Code (CPC), and California Energy Code.
- E. “Green building” means a whole systems approach to the design, construction, location and operation of buildings and structures that helps to mitigate the environmental, economic, and social impacts of construction, demolition, and renovation. 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 promote a healthy, productive indoor environment.
- F. “GreenPoint Rated (GPR)” means the version of the applicable GreenPoint Rated checklist approved by Build It GreenTM, in effect at the time of project application for a City building permit.
- G. “LEED[®] Rating System” means the applicable version of the Leadership in Energy and Environmental Design (LEED[®]) rating system, approved by the U.S. Green Building Council (USGBC), in effect at the time of project application for a City building permit.

Sec. 7-803. Application

- a) This article shall apply to all construction that falls within the scope of work detailed in the matrix below.
- b) This article shall not apply to maintenance, repair, or replacement of existing building elements including, but not limited to: roofs, water heaters, boilers, furnaces, air conditioning equipment, wood decay, and structural repair.

Sec. 7-804 Compliance Thresholds for Green Building Requirements

The following construction projects are subject to this ordinance:

Covered Project Type	Point Level	Verification
Residential alteration projects adding less than 400 ft² with a construction valuation of 0 to \$50,000	One BIG Green Building Practice from the Existing Home Checklist	City review and inspection required
Residential alteration projects adding less than 400 ft² with a construction valuation of \$50,001 to \$99,999	Three BIG Green Building Practices from the Existing Home Checklist	City review and inspection required
Residential alteration projects adding less than 400 ft² with a construction valuation of \$100,000 or more	25 BIG points <i>Elements</i> or 50 BIG points <i>Whole House</i>	City review and inspection required
New residences and residential alteration projects adding 400 ft² or greater	70 BIG points <i>Whole House</i>	City review and 3rd party inspection required
Tenant improvement or new construction commercial projects 10,000 ft² or greater	LEED Silver Certification	3rd party review and inspection required

Sec. 7-805 Undue Hardship Exemption

- a) Exemption. If an applicant for a Covered Project believes that circumstances exist that make it an undue hardship to meet all of 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 undue hardship.
- b) Application. If an applicant for a Covered Project believes such circumstances exist, the applicant may apply for an exemption at the time of the planning application or the building permit submittal. The applicant shall indicate the maximum threshold of compliance he or she believes is feasible and the circumstances that he or she believes create an undue hardship to fully comply with this Chapter. For the purposes of this section, an undue hardship exists if:
 - 1) There is a lack of commercially available green building materials and technologies, or,
 - 2) The green building compliance requirements do not include enough green building measures that are compatible with the scope and cost of the covered project.

- c) Granting of Exemption. If the Building Official determines that it is an undue hardship for the applicant to fully meet the requirements of this chapter, based on the information provided, the Building Official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the Building Official shall be provided to the applicant in writing. If an exemption is granted, 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 achievable by the Building Official.
- d) Denial of Exemption. If the Building Official determines compliance would not constitute an undue hardship, the request shall be denied and the Building Official shall notify the applicant in writing.
- e) All decisions of the Building Official under this section shall be final.

Section 7-806 Severability

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Section 7-807 Effective Date

This Ordinance shall take effect one year after the date of its passage.

Section 7-809 CEQA Exempt

This Ordinance is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100 of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15308, *Actions By Regulatory Agencies for the Protection of the Environment* of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

Section 7-810

The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this 11th day of May, 2010.

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PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the 25th day of May, 2010.

AYES, COUNCILMEMBERS: Lieberman, Feierbach, Braunstein, Warden, Wozniak

NOES, COUNCILMEMBERS: None

ABSENT, COUNCILMEMBERS: None

ABSTAIN, COUNCILMEMBERS: None

Mayor of the City of Belmont

ATTEST:

Clerk of the City of Belmont