

ORDINANCE NO. NS-1100.110

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA AMENDING SELECTED PROVISIONS OF CHAPTER III OF DIVISION C3 OF THE COUNTY ORDINANCE CODE, RELATING TO GREEN BUILDING REGULATIONS

**THE BOARD OF SUPERVISORS HEREBY MAKES THE FOLLOWING FINDINGS:**

**I. FINDINGS PURSUANT TO HEALTH AND SAFETY CODE §18941.5 AND 17958.7:**

The proposed Chapter III, “Green Building Regulations” of Division C3 of the County Ordinance Code sets forth minimum green building standards for new single family residential development. The application of these requirements will further the goals and policies of the County General Plan regarding environmental protection and will reduce future greenhouse gas emissions in accordance with the goals established under the Global Warming Solutions Act.

To the extent the requirements of this ordinance are deemed to constitute changes or modifications to the requirements of the California Building Standards Code and the other regulations adopted pursuant to Health and Safety Code Section 17922, this Board of Supervisors expressly finds that the provisions of this ordinance are reasonably necessary because of local climatic, geological, or topographical conditions for at least the following reasons:

- (1) In the United States, buildings account for 39 percent of total energy use, 12 percent of the total water consumption 68 percent of total electricity consumption, 38 percent of the carbon dioxide emissions, according to statistics provided by the federal Environmental Protection Agency.
- (2) Energy consumption from the residential sector in Santa Clara County was the highest among all Bay Area counties, according to 2006 data from the California Energy Commission’s Energy Consumption Data Management System.
- (3) Green building is a practice of building construction, operation and design that intends to minimize the environmental impacts of the buildings upon the natural and human environment by preserving natural resources, reducing energy and water usage, and improving indoor environmental quality.
- (4) Reduction of energy usage as a result of efficiencies and conservation required by this ordinance is likely to have local benefits such as cost reduction, additional available system energy capacity, reduction in electricity demand, and a reduction in greenhouse gas emissions. These benefits are likely to become increasingly important as the effects of global warming and climate change are felt locally.

(5) Environmental benefits of green building include: enhanced and protected biodiversity and ecosystems, improvements in air and water quality, reduced waste streams, and conservation of natural resources according to the EPA. Other benefits of green building according to the EPA include improved occupant productivity, enhanced occupant comfort and health and minimized strain on local infrastructure. Therefore, the design, construction, and maintenance of buildings and structures within the Santa Clara County is likely to have a beneficial impact on the County's environmental sustainability, resource usage, energy efficiency, waste management, and the health and productivity of occupants.

(6) The adoption of California Assembly Bill 32 (the "Global Warming Solutions Act") recognizes that greenhouse gas ("GHG") emissions from California are contributing to global warming and the legislation mandates that statewide GHG emissions be lowered to 1990 levels by 2020. The use of green building practices furthers, at the local level, the environmental protection goals of the County General Plan and the greenhouse reduction goals set forth under the Global Warming Solutions Act by reducing energy and water usage while conserving resources and creating healthier environments.

## **II. FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, Pub. Resources Code, § 21000 *et seq.*, ("CEQA"):**

This adoption of this ordinance is categorically exempt from the requirements of the CEQA pursuant to Section 15308 of the CEQA Guidelines (14 Cal. Code §15308) because it is an action taken by a regulatory agency for the protection of the environment and no exceptions to this categorical exemption apply.

## **III. OTHER FINDINGS**

(1) The goals of this ordinance are in line with the County of Santa Clara General Plan, which sets forth goals to minimize the environmental impacts of land development and the construction of buildings while preserving the natural landscape and conserving water and energy.

(2) The regulation of building design, construction and operation lies with the realm of police power regulations traditionally assigned to states and their political subdivisions.

(3) The County does not intend to mandate installation of products whose efficiencies exceed applicable federal or state standards that govern the efficiency of such products, or to set up a system of local appliance standards.

(4) Nothing in this ordinance is intended to duplicate, contradict, or enter a field which has been fully occupied by, federal or state law or regulation;

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**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA  
ORDAINS AS FOLLOWS:**

SECTION 1: Section C3-52 of Chapter III of Division C3 of Title C of the County of Santa Clara Ordinance Code is amended to read as follows:

**Section C3-52. Applicability.**

Upon the effective date of this chapter, all Covered Projects shall submit to the Compliance Official a completed Green Building Project Checklist but no points or certification shall be required to be achieved until January 1, 2010 or whenever the cost-effectiveness determination for this Ordinance is approved by the California Energy Commission, whichever comes later.

Effective January 1, 2010, or whenever the cost-effectiveness determination for this Ordinance is approved by the California Energy Commission (whichever comes later), all Covered Projects shall be required to meet the requirements set forth in Table I of Section C3-53, except that no point requirements or certification shall apply to any project for which a building permit application is submitted prior to January 1, 2010.

All Covered Projects shall also meet or exceed the energy requirements contained in the California Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code.

SECTION 2: Section C3-54 of Chapter III of Division C3 of Title C of the County of Santa Clara Ordinance Code is amended to read as follows:

**Section C3-54. Administrative Procedures.**

(a) The procedures for compliance are as follows:

(1) Building Plan Check Review. Any submittal of an application for a building permit for any Covered Project shall include a Green Building Project Checklist. This 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 to the Compliance Official to satisfy the requirements of the Standards of Compliance set forth in Section C3-53, prior to issuance of a building permit.

(2) Final Building Inspection, Verification, and Occupancy. Prior to final building inspection and occupancy for any Covered Project, a Qualified Green Building Professional shall provide evidence of Green Building Certification, to the Compliance Official to satisfy the requirements of the Standards of Compliance set forth in Section C3-53.

(3) Final Determination of Compliance. Prior to final building inspection for a Covered Project, the Compliance Official shall review the documentation submitted by the

Applicant and determine whether the Applicant has achieved the required compliance as set forth in the Standards for Compliance under Section C3-53. If the Compliance Official determines that the Applicant has met the requirements of Section C3-53, the final building inspection may proceed, provided the Covered Project has received all other required applicable approvals. If the Compliance Official determines that the Covered Project has not met the requirements of Section C3-53, the Compliance Official shall find one of the following:

- i. Substantial Compliance. An Applicant may submit evidence showing that the Applicant is unable to immediately meet all of the requirements of Section C3-53 but will meet all necessary requirements within a six-month period. Upon this submission (and provided all other applicable requirements have been met) the Compliance Official may issue a Temporary Certificate of Occupancy for a six-month period within which the Applicant must meet all of the requirements of Section C3-53. Circumstances under which a Temporary Certificate of Occupancy may be issued include, but are not limited to: installation of, or compliance with all Green Building measures as required under Section C3-53 but Green Building Certification has not occurred or been processed, and the unavailability of Green Building materials. An additional six month extension may be granted at the discretion of the Compliance Official. The total extension term shall not exceed one year. If the Applicant meets the requirements of Section C3-53 within this extension period (as determined by the Compliance Official), final building inspection may proceed. If the Applicant does not meet the requirements of Section C3-53 after the total one-year extension period has run out, the Compliance Official may revoke the Temporary Certificate of Occupancy and the project shall be classified as a Non-Compliance Project.
- ii. Non-Compliance Project. If the Compliance Official determines that the Covered Project does not meet the requirements of Section C3-53 and is not in Substantial Compliance (as specified above), the Covered Project shall be determined to be a Non-Compliance project, and the final inspection for this project shall not occur until the project is brought into full compliance with Section C3-53 (provided all other applicable requirements have been met).

(4) Lack of Inspectors. If the Compliance Official determines that there is a lack of Qualified Green Building Professionals available to perform green building inspections and / or certifications within a timely manner, the Compliance Official may, at his or her discretion, allow inspections and/or certifications by qualified employees of the County of Santa Clara, or Self Verification by the Applicant that the project is in Compliance with Section C3-53.

- (b) The Director of Planning and Development 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 minimum, for the incorporation of green building requirements of this Chapter into checklist submittals with building permit applications, and supporting documents demonstrating compliance with this Chapter.

- (c) In addition to the procedures in this section, a Covered Project shall also meet or exceed the energy requirements contained in the California Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code.

SECTION 3: Section C3-55 of Chapter III of Division C3 of Title C of the County of Santa Clara Ordinance Code is amended to read as follows:

**Section C3-55. Appeal.**

- (a) Any Applicant or person may appeal the determination of the Compliance Officer regarding compliance with any provision of this ordinance to the Director of Planning and Development. Any such appeal must be filed within 15 days of the decision by the Compliance Officer and shall be accompanied by a payment of a fee in an amount established by resolution by the Board of Supervisors.
- (b) An Applicant may appeal the determination made pursuant to subsection (a) to the Board of Supervisors. Any such appeal must be filed within 15 days of the decision and be accompanied by a payment of a fee in an amount established by resolution by the Board of Supervisors.

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- (c) Any appeal related to any provision required to comply with the California Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code shall be limited to whether the provision applies to the project, but the appeal process shall not be used to exempt any project from compliance with applicable California Building Energy Efficiency Standards.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California on December 15, 2009 by the following vote:

<b>AYES</b>	<b>Cortese, Gage, Kniss, Shirakawa, Yeager</b>
<b>NOES</b>	<b>None</b>
<b>ABSTAIN</b>	<b>None</b>
<b>ABSENT</b>	<b>None</b>
<b>VACANT</b>	<b>None</b>

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Liz Kniss, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

**ATTEST:**

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Maria Marinos  
Clerk of the Board of Supervisors

**APPROVED AS TO FORM AND LEGALITY:**

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Lizanne Reynolds  
Deputy County Counsel