ORDINANCE NO. 1448

AMENDING ORDINANCE 1422 - THE 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN), PART 11, WITH MANDATORY ENERGY EFFICIENCY PROVISIONS AND AMENDMENTS AND MODIFICATIONS TO SECTION 15.04.125, THE "SAN CARLOS GREEN BUILDING ORDINANCE"

The City Council of the City of San Carlos does ordain as follows:

SECTION 1:

WHEREAS, in June 2007, the City Council of the City of San Carlos approved a work program and process for the 2030 General Plan and to augment and inform the Goals, Policies, and Actions of the 2030 General Plan Environmental Management Element and other Elements of the General Plan, the City had prepared a Climate Action Plan (CAP); and

WHEREAS, the City Council of the City of San Carlos adopted Resolution 2009-078 adopting the 2030 General Plan on October 12, 2009, including the finding that the General Plan references a Climate Action Plan which serves as a threshold of significance, through the 2030 General Plan, within the City of San Carlos to address climate change and as such is consistent with the direction of the California Attorney General opinion (Climate Change, CEQA, and General Plans, Revised March 5, 2009) and Public Resources Code 21083.3; and

WHEREAS, the City Council of the City of San Carlos adopted Resolution 2009-080 adopting the Climate Action Plan on October 12, 2009 including the finding that the Climate Action Plan provides the strategies for San Carlos to reduce greenhouse gas emissions consistent with the direction of the State of California via AB32 and Governor's Order S-03-05 and Public Resources Code Section 2108.3; and

WHEREAS, the Final Environmental Impact Report ("FEIR") for the San Carlos 2030 General Plan and the Climate Action Plan, pursuant to 15168 of the California Environmental Quality Act ("CEQA"), was a "Program" FEIR upon which later activities can be reviewed; and

WHEREAS, in accordance with CEQA Section 15168 (c)(5), the City Council finds that adoption of amendments to Title 15 of the San Carlos Municipal Code can be found to be within the scope of the project described in the 2030 General Plan and Climate Action Plan Program FEIR and no further environmental review is required; and

WHEREAS, in order to address the intent of the City Council regarding green building regulation in the City of San Carlos, amendments to the San Carlos Municipal Code, Title 15 "Buildings and Construction", Chapter 15.04 concerning Technical Building Codes were necessary; and

WHEREAS, the City Council of the City of San Carlos adopted Ordinance No. 1422, entitled "AN ORDINANCE ADOPTING THE 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN), PART 11, WITH MANDATORY TIER ONE ENERGY EFFICIENCY PROVISIONS AND AMENDMENTS AND MODIFICATIONS, AND ADDING SECTION 15.04.125 AS "SAN CARLOS GREEN BUILDING ORDINANCE" on August 23, 2010; and

WHEREAS, in order to fully address the intent of the City Council regarding green building regulation in the City of San Carlos, amendments to the San Carlos Green Building Ordinance are now necessary; and

WHEREAS, the City Council makes the following findings of consistency with the 2030 General Plan and Climate Action Plan:

A. The ordinance amendments to the San Carlos Municipal Code Chapter 15.04 "Technical Building Codes" are consistent with the General Plan.

Amendments proposed to Chapter 15.04 are consistent with Guiding Principles, Goals, Policies and Actions of the General Plan as follows:

- Housing Element Guiding Principle: Housing in San Carlos promotes environmental sustainability and protection of natural resources.
- Housing Element Goal 2: To increase energy efficiency of and minimize environmental impacts from housing in San Carlos and Policies HOU-2.1 and HOU-2.2 and Action HOU2.1 that support the Goal.
- Environmental Management Element Guiding Principles: Support community health and wellness through sound environmental practice. Ensure that there is a Climate Action Plan in place at all times to address reduction in greenhouse gas emissions and manage the impacts of climate change.
- Environmental Management Goal 5: To assure a high level of domestic water quality, promote water conservation and reduce toxics in run-off, including storm water and the sanitary sewer system and Policy EM-5.3 and Action EM-5.4 that support the Goal.
- Environmental Management Element Goal 9: To reduce energy consumed citywide and the Policy EM-9.6 and Actions EM-9.1 and EM-9.2 that support the Goal.

- Environmental Management Element Goal 12: To reduce solid waste disposal and increase recycling and Policy EM-12.1 and Actions EM-12.1 and EM-12.5 that support the Goal.

  Finding: The proposed amendments to Chapter 15.04 provide for adoption of water efficiency standards, for adoption of energy standards 15% above State Title 24 Energy Efficiency Standards, and for adoption of solid waste efficiency standards which, when applied to housing and other construction projects, help minimize the environmental impacts resulting from greenhouse gas emissions.

B. The ordinance amendments to the San Carlos Municipal Code Chapter 15.04 adding Section 15.04.125 "San Carlos Green Building Ordinance" are consistent with the Climate Action Plan.

Amendments proposed to Chapter 15.04 are consistent with the Reduction Measures of the Climate Action Plan as follows:

- Climate Action Plan Energy Use analysis concludes that based on the 2005 baseline inventory, the second largest contributor of San Carlos' greenhouse gas emissions (38.8%) comes from energy use in San Carlos. Reduction measures are adopted in the Climate Action Plan to reduce energy demand.
- Climate Action Plan Energy Reduction Measure 2.1: Establish energy efficiency standards for new construction and remodel projects that exceed the most current version of the State's Title 24 Energy Standards; and
- Climate Action Plan Energy Reduction Measure 3: Adopt a green building standard for new development and major remodels.

  Finding: the review of Chapter 15.04 and the proposed amendments thereto provide for adoption of energy efficiency standards above State Title 24 energy requirements and adoption of green building standards which, when applied to construction projects, help minimize the environmental impacts resulting from greenhouse gas emissions; and

WHEREAS, green building design, site location, 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 U.S. 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 (CALGreen) which became mandatory January 1, 2011. At the regional level, Build it Green (BIG), a non-profit organization headquartered in the Bay Area, has developed a GreenPoint Rating system.

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

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

THEREFORE, Chapter 15.04 is amended as follows:

SECTION 2: Chapter 15.04 Technical Building Codes, City Council Findings is hereby amended to read as follows:

15.04.020 City Council Findings.

The City Council finds that modifications are required for the respective Codes being adopted herein. Specifically, local climatic, geologic, topographic, and social conditions necessitate the modifications as listed in Sections 15.04.125 A and 15.04.170.

SECTION 3: Chapter 15.04 Technical Building Codes is hereby amended to add Section 15.04.125 "San Carlos Green Building Ordinance" to read as follows:

Sections:

15.04.125 Title 24, Part 11, California Green Building Standards Code (CALGreen), with amendments and modifications (San Carlos Green Building Ordinance).

Section 15.04.125 A. FINDINGS. To the extent the proposed San Carlos 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, topographic, and social conditions, specifically:

Climatic: The City of San Carlos is located in Climate Zone 3 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. Use of green building practices encourages water conservation and sustainable efforts that reduce usage in this area.

Geologic: The City of San Carlos is located in an active seismic area. The San Andreas Fault is located within 3 miles of the City. Use of green building practices encourage development away from these areas and the fault zone; and encourages locating development near existing public transportation and services found along El Camino Real and downtown areas of the City.

Topographic: The City of San Carlos 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 substantially grading, which impacts the topography of the adjacent land and results in unintended circumstances, such as run-off and drainage issues. Use of green building practices encourages reduced grading and the location of buildings in harmony with natural topography. In addition, the City of San Carlos is a community that values its trees. Use of green building practices encourages minimal disruption of the natural flora and fauna, and encourages strategic placement of trees, where practicable, for shading.

Social: The City of San Carlos City Council has provided staff with direction to adopt a green building ordinance with built-in measures to establish energy efficiency standards for new construction and remodel projects that exceed the State's Title 24 energy requirements. Use of green building practices that employ higher standards above Title 24 energy requirements, as stated in the City's Climate Action Plan, will further improve residential and commercial building energy efficiency.

The City of San Carlos intends by this ordinance to ensure that all building subject to this ordinance will consume no more energy than what is permitted by the most current version of the California Energy Efficiency Standards (Title 24, Part 6) of the California Building Code.

Section 15.04.125 B. PURPOSE. The purpose of the San Carlos Green Building Ordinance is to enhance public health and welfare by encouraging green building measures in the design, construction, operation and maintenance of buildings. The green building practices referenced in this ordinance are intended to achieve the following goals:

A. To encourage 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;
E. To promote a healthier indoor environment; and
F. To promote use of recycled material.

Section 15.04.125 C. AMENDMENTS AND MODIFICATIONS. 15.04.125, Title 24, Part 11, California Green Building Standards Code (CALGreen), 2010 Edition, is hereby:

1. Adopted by reference as mandatory, with the following amendments and modifications:
   A. Appendix A4, Section A4.203.1 Tier 1 (Residential Energy Efficiency: Exceed the California Energy Code based on the most current version of the Standards by 15%), adopted as mandatory, and;
   B. Appendix A5, Section A5.203.1.1 Tier 1 (Non-Residential Energy Efficiency: Exceed the California Energy Code based on the most current version of the Standards by 15%), adopted as mandatory.

2. Adopted additional "Definitions", as amendments and modifications, for the purpose of application of the San Carlos Green Building Ordinance.

   Section 15.04.125 D. Definitions.

3. Adopted as amendments and modification, mandatory standards, for the purpose of application of the San Carlos Green Building Ordinance to include residential and non-residential projects.

   Section 15.04.125 E. Mandatory Standards for Green Building Compliance for Residential Projects.

   Section 15.04.125 F. Mandatory Standards for Green Building Compliance for Non-Residential Projects.

4. Adopted as amendments and modifications, undue hardship provisions, for the purpose of application of the San Carlos Green Building Ordinance.

   Section 15.04.125 G. Undue Hardship.

5. Adopted as amendments and modifications, final approval provisions, for the purpose of application of the San Carlos Green Building Ordinance.

   Section 15.04.125 H. Final Approval.

6. Adopted as amendments and modifications, appeal provisions, for the purpose of application of the San Carlos Green Building Ordinance.

Section 15.04.125 I. Appeal.

Section 15.04.125 D. DEFINITIONS. For the purpose of this ordinance, the following terms shall have the meanings set forth below:

A. "Build It Green" means the non-profit organization that publishes the New Home Construction Green Building Guidelines, the Multi-Family Green Guidelines (Parts 1 & 2), Home Remodeling Green Building Guidelines, the GreenPoint Rated checklists, and any successor entity that assumes responsibility for the programs and operations of Build It Green.
B. "Building Official" means the Building Official or his or her designee.
C. "Certified Green Building Professional" means a person currently certified as a "Certified Green Building Professional" by Building It Green®.
D. "Compliance Matrix" means the City of San Carlos Green Building Program Compliance Matrix, which identifies project types and sizes and the applicable green building checklist or program, point minimum, and verification requirements applicable to each project type covered under the program.
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 environment and seek to minimize the use of energy, water, and other natural resources and promote a healthy, productive indoor environment.
F. "GreenPoints" means credits assigned under the applicable GreenPoint Checklist for a residential project.
G. "GreenPoint Rated" means a residential green building rating system developed by Build It Green.
H. "Green Point Rated Verification" means verification of compliance by a GreenPoint Rater certified by Build It Green®.
I. GreenPoint Rater means a person currently certified as a GreenPoint Rater by Build It Green®.
J. "LEED®" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.
K. "LEED® AP" means a person currently certified through the U.S. Green Building Council (USGBC) as a LEED Accredited Professional for the applicable building type.
L. "LEED®/USGBC Verification" means verification to meet the standards of the U.S. Green Building Council (USGBC).
M. "Mixed use" means the construction of a building or buildings that include both non-residential and residential uses.

N. "Non-residential project" means the construction of retail, office, industrial, warehouse, services, hotels, motels, or similar building(s).
O. "Qualified Green Building Professional" means a LEED AP, architect, engineer, "Certified Green Building Professional", or City of San Carlos building inspector.
P. "Remodel" means any construction or renovation to an existing structure other than repair or addition.
Q. "Repair" means the reconstruction or renewal of any part of an existing structure for the purpose of maintenance.
R. "Residential project" means the construction of R2, R3, R3.1, and R4 buildings, except hotels and motels.
S. "Residential reconstruction" means a residential-type project where the building at any time is uninhabitable, including removal of any or all utilities (water, electrical, natural gas, or sewer); or the project provides no permanent kitchen or bathroom facilities; or the project provides no shelter or ability to maintain heat as defined by code; or when over 50% of the foundation is replaced or reinforced other than the repair of a foundation failure; or when over 50% of the framing above the foundation is removed or replaced. Final determination whether a project meets the definition of residential reconstruction shall be made by the Building Official.

Section 15.04.125 E. MANDATORY STANDARDS FOR GREEN BUILDING COMPLIANCE FOR RESIDENTIAL PROJECTS. The following residential projects are subject to this Ordinance:

A. New single family residences.
B. Residential additions 500 square-feet or greater.
C. Residential reconstruction (as defined).
D. New multi-family buildings.
E. Multi-family additions 500 square-feet or greater.

Residential projects subject to this Ordinance shall:

A. Exceed Title-24 Energy Efficiency Standards by 15%;
B. Comply with the green building requirements identified on the Compliance Matrix for applicable project type;
C. Comply with CALGreen standards in newly constructed and reconstructed portions of the structure.

A permit applicant is required to submit documentation of the proposed green building compliance measures (checklist) for the project at the initial submittal to the Planning Division for projects requiring Planning Commission approval. If Planning Commission approval is not required prior to Building Code plan check, the applicant must submit documentation of the proposed green building measures (checklist) directly to the Building Division at the time of initial Building Code plan check submittal. For projects identified on the Compliance Matrix as requiring Building Division verification of green

building requirements, the green building documentation shall be prepared by a Qualified Green Building Professional. For projects identified on the Compliance Matrix as requiring third-party verification, the green building documentation shall be prepared by a GreenPoint Rater or LEED® AP. Applicants are encouraged, but not required, to meet with City staff prior to any application submittal to review the green building program and details to achieve compliance with this Ordinance.

The means by which compliance measures are achieved shall be by Build It Green "GreenPoints" or LEED®, and Title 24 Energy Efficiency Standards (Title 24, Part 6). Compliance measures shall be approved by the Building Official prior to issuance of building permit. Projects are required to show verification of the required energy savings of 15% by comparison of the proposed building to the Title 24 standard building by calculation of the TDV energy.

Projects using the performance approach may use and Alternative Calculation Method (ACM) approved by the California Energy Commission to show verification of the required energy savings by 15% by comparison of the proposed building to the Title 24 standard or "budget" building.

A permit applicant is also required to submit a construction demolition and recycling plan for projects subject to the San Carlos Green Building Ordinance. The construction demolition and recycling plan must comply with the City of San Carlos Recycling and Diversion of Construction and Demolition Debris Ordinance as set forth in Chapter 8.05.

Section 15.04.125 F. MANDATORY STANDARDS FOR GREEN BUILDING COMPLIANCE FOR NON-RESIDENTIAL PROJECTS. The following non-residential projects are subject to this Ordinance:

A. New commercial buildings.
B. Commercial building additions 2000 square-feet or greater.
C. Mixed use buildings.
D. Alterations (Tenant Improvements) $500,000 or greater.

Non-residential projects subject to this Ordinance shall:

A. Exceed T-24 Energy Efficiency Standards by 15%;
B. Comply with the green building requirements identified on the Compliance Matrix for applicable project type;
C. Comply with CALGreen standards in newly constructed and altered portions of the structure.

A permit applicant is required to submit documentation of the proposed green building compliance measures (checklist) for the project at the initial submittal to the Planning Division for projects requiring Planning Commission approval. If Planning Commission

approval is not required prior to Building Code plan check, the applicant must submit documentation of the proposed green building compliance measures (checklist) directly to the Building Division at the time of the initial Building Code plan check. For projects identified on the Compliance Matrix as requiring Building Division verification of green building requirements, the green building documentation shall be prepared by a Qualified Green Building Professional. For projects identified on the Compliance Matrix as requiring third-party verification, the green building documentation shall be prepared by a LEED® AP. Applicants are encouraged, but not required, to meet with City staff prior to any application submittal to review the green building program and details to achieve compliance with this Ordinance.

The means by which compliance measures are achieved shall be by LEED® and Title 24 Energy Efficiency Standards. Compliance measures shall be approved by the Building Official prior to issuance of building permit. Projects are required to show verification of the required energy savings of 15% by comparison of the proposed building to the Title 24 standard building by calculation of the TDV energy.

Projects using the performance approach may use an Alternative Calculation Method (ACM) approved by the California Energy Commission to show verification of the required energy savings of 15% by comparison of the proposed building to the Title 24 standard or "budget" building.

A permit applicant is also required to submit a construction and demolition and recycling plan for projects subject to the San Carlos Green Building Ordinance. The construction demolition and recycling plan must comply with the City of San Carlos Recycling and Diversion of Construction and Demolition Debris Ordinance as set forth in Chapter 8.05.

Section 15.04.125 G. UNDUE HARDSHIP. Exemption. If an applicant for a covered project believes that circumstances 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 and to show continued compliance with most current version of the California Energy Efficiency Standards (Title 24, Part 6) of the California Building Code.

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 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.

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 upon the information provided, the Building Official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. If a finding of undue hardship is determined, 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 aspects and shall be required to achieve, in accordance with this chapter, the threshold of compliance determined to be achievable by the Building Official.

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.

All decisions of the Building Official under this section shall be final.

Section 15.04.125 H. FINAL APPROVAL. Prior to final building inspection and occupancy for projects included under this ordinance, and when required by the Building Official, a Qualified Green Building Professional shall provide evidence of adequate green building compliance or documentation to the Building Official to satisfy the requirements of this ordinance. For projects identified on the Compliance Matrix as requiring Building Division verification of green building requirements, evidence of green building compliance shall include in-progress site inspections, and final sign-off by the City of San Carlos building inspector, GreenPoint Rater, or LEED AP. For projects identified on the Compliance Matrix as requiring third-party verification, evidence of green building compliance shall include submission to the City completion of verification by a GreenPoint Rater or LEED AP. Compliance with this ordinance alone does not equal certification with GreenPoints or LEED®. The Building Official shall make the final determination whether a project meets green building requirements of this ordinance.

Section 15.04.125 I. APPEAL. Any decision or determination by the Building Official that the material or type of construction is not deemed to be in compliance with this ordinance may be appealed pursuant to California Administrative Code Section 112. Notice of such appeal must be filed with the Building Official not more than 15 days after the date on which the final decision or determination by the Building Official is rendered. The notice shall identify the decision or determination that is the subject of appeal and shall state the alleged error or reason for the appeal.

Section 4: That the City Council herby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions of this Ordinance are severable and, if for any reason, any sentence, paragraph, or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section 5: This Ordinance shall be published and posted according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

Re-introduced this 10th day of September, 2012

Passed and adopted as an Ordinance of the City Council of the City of San Carlos at a regular meeting thereof held on the 8th day of October 2012, by the following vote:

AYES, COUNCIL MEMBERS: CLAPPER, COLLINS, GRASSILLI, OLBERT

NOES, COUNCIL MEMBERS: GROCOTT

ABSENT, COUNCIL MEMBERS: NONE

MAYOR of the City of San Carlos

ATTEST:

CITY CLERK of the City of San Carlos