

ORDINANCE NO. NS-1100.114

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

THE BOARD OF SUPERVISORS HEREBY MAKES THE FOLLOWING FINDINGS:

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

The proposed modifications to Chapter III, "Green Building Regulations" of Division C3 of the County Ordinance Code set forth minimum green building standards for new multi-family residential and non-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 or 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 40 percent of total energy use, 14 percent of the total water consumption 72 percent of total electricity consumption, and 39 percent of the carbon dioxide emissions, according to statistics provided by the federal Environmental agencies.

(2) Energy consumption from the non-residential sector in Santa Clara County was the highest among all Bay Area counties, according to 2007 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) According to studies published by the California Department of Water Resources and the Santa Clara Valley Water District, continued availability of sufficient potable water supply to meet demand in Santa Clara County is at risk. Expected increased air temperature associated with climate change is expected to reduce annual snowmelt and increase the potential for drought, reducing both imported and local water sources.

(6) 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. 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.

(7) 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 ("CEQA"), Public Resources Code § 21000 *et seq.*:

The adoption of this ordinance is categorically exempt from the requirements of CEQA pursuant to Section 15308 of the CEQA Guidelines (14 Cal. Code Regs. § 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 consistent 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 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 that has been fully occupied by, federal or state law or regulation.

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

SECTION 1: Chapter III (Green Building Regulations) of Division C3 of Title C of the County of Santa Clara Ordinance Code is amended to read as follows:

CHAPTER III.

GREEN BUILDING REGULATIONS

Section C3-50. Purpose.

The purpose of this chapter is to enhance public health and welfare and assure that green building principles and practices are incorporated into new development to limit impacts to the natural and human environment within unincorporated Santa Clara County. The green building provisions referenced in this chapter are designed to achieve the following goals:

- (a) Increase energy efficiency in buildings;
- (b) Reduce potable water demand;
- (c) Encourage natural resource conservation;
- (d) Reduce waste generated by construction projects;
- (e) Provide durable buildings that are efficient, cost effective, and economical to own and operate; and
- (f) Promote the health and productivity of residents and workers who occupy and live in buildings within the County.

Section C3-51. Definitions.

The following definitions shall apply to this chapter:

- (a) "Addition" means new construction square footage added to an existing structure.
- (b) "Applicant" means any person or entity applying to the County for a building permit to undertake any Covered Project within the County.
- (c) "Alternative Means" means of achieving the green building performance standards equivalent to the LEED or GreenPoint Rated systems without using the checklists and verification methods of those programs. Alternative means must achieve a green building standard that is equal or better than the LEED or Green Point Rated programs and is independently verified to the satisfaction of the Compliance Official.
- (d) "Compliance Official" means the Building Official as defined in Section C1-4 of the Santa Clara County Ordinance Code or his or her designee.
- (e) "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 set forth in the Standards for Compliance in Section C3-53.
- (f) "Covered Project" means any building permit application for new construction or renovations subject to Standards for Compliance as set forth in Section C3-53.

- (g) "County Verification" means verification by qualified employees of the County of Santa Clara or consultants under contract with the County.
- (h) "Dual Plumbing" means buildings shall install dual plumbing for both potable and recycled water.
- (i) "Green Building" means a whole systems approach to the design, construction, and operation of buildings that substantially mitigates the environmental 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.
- (j) "Green Building Certification" means verification to meet the certification requirements of Build it Green or LEED.
- (k) "Green Building Compliance" means written documentation by a Qualified Green Building Professional demonstrating that a Covered Project will meet the Green Building Standards for Compliance listed under Section C3-53.
- (l) "Green Building Project Checklist" means a checklist or score developed for the purpose of calculating a green building rating.
- (m) "Green Building Rating System" means the rating system associated with specific green building criteria and used to determine compliance thresholds, as set forth in Green Building Standards for Compliance under Section C3-53. Examples of rating systems include, but are not limited to, the LEED and Green Point Rated systems.
- (n) "GreenPoint Rated" means a residential green building rating system developed by the Build it Green organization.
- (o) "GreenPoint Verification" means verification of compliance by a certified GreenPoint Rater, resulting in green building certification by Build it Green including green points allocation across all of the resource categories.
- (p) "Indoor Potable Water Reduction" means reduction of potable water usage within a building included as a Covered Project in comparison with the water use baseline as established under Part 11 (California Green Building Standards Code), Section 603 of the 2010 California Building Code. Indoor Potable Water Reduction can be accomplished using the plumbing fixtures identified in Part 11, Section 603 of the Building Code or through a reduction in the overall potable water usage within a building.
- (q) "Indoor Potable Water Reduction Calculation" means a calculation showing the Indoor Potable Water usage within a building included as a Covered Project, in comparison with the water use baseline as established under Part 11 (California Green Building Standards Code), Section 603 of the 2010 Building Code.
- (r) "LEED" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.
- (s) "LEED AP Verification" means verification of compliance by a LEED Accredited Professional who is a registered architect or engineer and has successfully completed at least one LEED Certified project.
- (t) "LEED Certification" means verification to meet the standard of Certified or better by the U.S. Green Building Council (USGBC), and resulting in LEED certification of the project by the USGBC.
- (u) "Major Remodel" means any remodel that exceeds the permit valuation thresholds established within the Standards for Compliance in Section C3-53.

- (v) "Minor Remodel" means any remodel for which the permit valuation of the construction is less than the value established for a "Major Remodel" per the Standards for Compliance in Section C3-53.
- (w) "Multifamily" means buildings containing three or more dwelling units within the same structure, each having its own kitchen and bathroom facilities.
- (x) "New Residences" means the construction of a new single family dwelling.
- (y) "Non-residential" means buildings not used for a residential use that are defined under Occupancy Classifications A, B, E, F, H, I, L and M in the California Building Code.
- (z) "Qualified Green Building Professional" means a person trained through the USGBC as a LEED Accredited Professional or through Build it Green as a Certified Green Point Rater, or a person with similar qualifications if acceptable to the Compliance Official.
- (aa) "Rainwater Harvesting" means the onsite collection, storage, and reuse of rain water to meet water demand.
- (bb) "Rebuild" means any alteration or modification to an existing building that is not a "Remodel" as defined under Ordinance Code Section C1-10.1 and thus is considered a new building.
- (cc) "Remodel" means any alteration or modification to an existing building that is a "Remodel" as defined under Ordinance Code Section C1-10.1.
- (dd) "Self Verify" means verification submitted by an Applicant that a Covered Project will meet the Standards for Compliance under Section C3-53.
- (ee) "Square footage" for the purposes of calculating additional or new construction square footage means the sum of the gross horizontal areas of the several floors of a building, as measured from the rough exterior walls, or (if applicable) from the centerline of the common wall between two attached buildings. Square footage also includes the total area of any attached garage, carport, porch or similar attached structure or feature that is both (a) covered, and (b) greater than 50% enclosed by perimeter walls. It includes the horizontal area of an interior stairway at each of the two or more stories to which the stairway provides access. An attic space that has a minimum clearance of seven (7) feet in each of the three (3) dimensions for at least 70 contiguous square feet shall be included. Where the vertical distance between any floor and the ceiling above exceeds 15 feet, floor area shall be counted twice.
- (ff) "Two-Family Residential" means two dwelling units within the same structure, each having its own kitchen and bathroom facilities.
- (gg) "Water Efficiency Landscape Ordinance" means either the State Model Water Efficiency Ordinance or the replacement County Water Efficiency Landscape Ordinance, in compliance with the California Water Conservation in Landscaping Act.
- (hh) "Water Reduction Credits" means the amount of water savings achieved through retrofits accomplished after January 1, 2000 to reduce potable water demand. Water Reduction Credits can be achieved through retrofits to reduce both indoor and outdoor potable water use, however any retrofits enacted to comply with the State or County Water Efficiency Landscape Ordinance shall not apply. Acceptance of Water Reduction Credits can only be accomplished through the Alternative Means process and must include independent verification.

Section C3-52. Applicability.

(a) Single Family Residential Construction

Effective January 1, 2010, all Covered Projects described in Table I of Section C3-53 shall meet the requirements set forth in Table I, except that no point requirements or certification shall apply to any project for which a building permit application was submitted prior to January 1, 2010 and still remains valid.

(b) Multi Family Residential and Non-Residential Construction

All Covered Projects described in Table II of Section C3-53 shall submit to the Compliance Official a completed Green Building Project Checklist and a Indoor Potable Water Demand Calculation; however, no standards or certification are required to be achieved until January 1, 2011 or whenever the cost-effectiveness determination for this Ordinance is approved by the California Energy Commission, whichever is later.

Effective January 1, 2011, or whenever the cost-effectiveness determination for this Ordinance is approved by the California Energy Commission (whichever is later), all Covered Projects described under Table II of Section C3-53 shall meet the requirements set forth in Table II, except that no standards or certification is required for any project for which a building permit application is submitted prior to January 1, 2011. and still remains valid.

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.

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Section C3-53. Standards for Compliance.

Table I

**County of Santa Clara
Green Building Standards for Compliance for Private Development
Single Family Residential Construction**

Type of Project	Checklist Required	Minimum Requirements or Standard	Verification
Remodels & Additions			
Minor Remodel and Addition < 500 square feet ⁸	No Requirement (<i>Handouts and Checklists Provided</i>)		
Major Remodel ¹ and Addition ≥ 500 square feet ⁷	Green Point Rated Existing Home Checklist ²	Submit Checklist	Self Verify
New Residences & Rebuilds			
New Residence and Rebuild ≤ 1,200 square feet	No Requirements (<i>Handouts and Checklists Provided</i>)		
New Residence and Rebuild 1,201 ≤ 3,000 square feet	Single Family Green Point Checklist ³ or LEED for Homes Checklist ⁴	50 points ⁶ or LEED Certification	Green Point Verification or LEED Certification
New Residence and Rebuild >3,000 square feet	Single Family Green Point Checklist ³ or LEED for Homes Checklist ⁴	50 points ⁶ + 1 point per additional 100 square feet beyond 3,000 square feet ⁵ or LEED Certification	Green Point Verification or LEED Certification

¹ Major Remodel entails renovations of >\$100,000 permit valuation.

² Green Point Rated Existing Home Checklist v1.2

³ Single Family Green Point Checklist 4.2

⁴ LEED® for Homes Project Checklist (January 2008)

⁵ For purposes of determining points required, square footage shall be rounded to the nearest whole number (in 100's), for example 149 shall be rounded down to 100 and 150 shall be rounded up to 200.

⁶ Points shall include Green Point Rated minimum points across all resource categories.

⁷ Requirements do not apply to Residences where the resulting square footage is 1,200 square feet or less in size.

⁸ Additions that result in the cumulative addition of over 500 square feet within a twenty four (24) month period (application date to application date) shall not be included within this classification.

Table II

**County of Santa Clara
Green Building Standards for Compliance for Private Development
Multifamily Residential and Non-Residential Construction**

Type of Project	Minimum Standard	Verification
Two Family Residential		
All Two Family Residential (Minor and Major Remodel, Rebuild, New Residence)	Applicable Standards listed under Table I	Applicable Verification Method Listed under Table I
Multi-Family Residential		
New buildings and rebuilds < 5,000 square feet with each unit < 1,200 square feet	Submit GreenPoint Rated (GPR) ¹ or LEED Checklist ²	Self Verify
New buildings and rebuilds > 2 units and < 9 units	GPR ¹ or LEED ² Certification or Alternative means approved by Building Official ----- Indoor Water Demand Reduction of 25% ⁴ Dual Plumbing	GreenPoint Verification or LEED AP Verification or LEED Certification ----- County Verification
New buildings and rebuilds >10 units	GPR ¹ (70 points) or LEED ²³ Certification or Alternative means approved by Building Official ----- Indoor Water Demand Reduction of 25% ⁴ Dual Plumbing	GreenPoint Verification or LEED Certification ----- County Verification
Non-Residential		
New buildings, rebuilds & additions < 5,000 square feet	Submit LEED Checklist ³	Self Verify
New buildings, rebuilds & additions > 5,000 and < 25,000 square feet	LEED ³ Certification or Alternative means approved by Building Official ----- Indoor Water Demand Reduction of 25% ⁴ Dual Plumbing ⁵	LEED AP Verification or LEED Certification ----- County Verification

<p>New building, rebuilds & additions > 25,000 square feet</p>	<p>LEED³ Silver Certification or Alternative means approved by Building Official ----- Indoor Water Demand Reduction of 25%⁴ Dual Plumbing⁵</p>	<p>LEED Certification ----- County Verification</p>
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¹ Multifamily GreenPoint Rated Checklist v2.2

² LEED® for Homes Project Checklist (January 2008)

³ LEED 2009 for New Construction and Major Renovations Checklist

⁴ Water Reduction Credits may be used through the Alternative Means process to apply towards the 5% difference between the State Green Building Code Standard of 20% and the County Green Building Standard of 25%.

⁵ Dual Plumbing shall apply if recycled water is available within 0.5 mile of the parcel or is scheduled for installation within 0.5 mile of a parcel under a Capital Improvement Plan within ten years. Dual Plumbing shall not be required for any building additions unless the entire plumbing system for the structure is replaced.

Section C3-54. Administrative Procedures.

(a) The procedures for compliance may include, but not be limited to, the following:

(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 demonstrate 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 C3-55. Appeal.

- (a) Any Applicant or other interested 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 or other interested person 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.
- (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.

Section C3-56. Interaction with other regulations.

This ordinance is not intended to apply where its application shall result in its preemption by federal or state laws or rules, including but not limited to conservation standards applicable to appliances and equipment, including heating, ventilating, and air conditioning ("HVAC") products and water heaters.

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There are many other laws, regulations, and ordinances that apply to building design construction and maintenance and to development. The provisions of this Ordinance are intended to be in addition to and not in conflict with these other laws, regulations, and ordinances. If any provision of this chapter conflicts with any duly adopted and valid statutes or regulations of the federal government or the State of California, the federal or state statutes or regulations shall take precedence.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

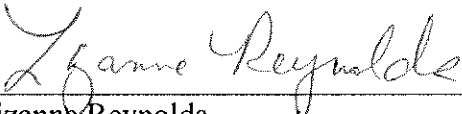
AYES:
NOES:
ABSTAIN:
ABSENT:

Ken Yeager, President
Board of Supervisors

ATTEST:

Maria Marinos
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



Lizanne Reynolds
Deputy County Counsel