

ORDINANCE NO. 2007-215

**AN ORDINANCE OF THE TOWN OF WINDSOR
AMENDING TITLE VII BUILDING AND HOUSING BY ADDING
ARTICLE 13**

**GREEN BUILDING STANDARDS AND RATINGS FOR COMMERCIAL
AND RESIDENTIAL GREEN BUILDINGS**

WHEREAS, the Town Council of the Town of Windsor is committed to preserving and improving the natural and built environment of the Town and protecting the health of its residents and visitors by reducing environmental impacts associated with urban development and preserving the quality of life by participating in Green Building to promote sustainability and energy conservation; and

WHEREAS, Green Building is a key component to sustainability and energy conservation; and

WHEREAS, Green Building benefits are easily applied throughout the systems and features of a building. Green Building can include the use of certified sustainable wood products and highly-recycled content products. Recycling of waste that occurs during demolition, deconstruction, and construction reduces the amount of waste deposited in landfills. The proper orientation and passive solar design of a building reduces the demands on heating and cooling systems. The use of advanced designed heating, ventilating, and air conditioning systems provide increased energy efficiency and improved air quality. The use of water conserving methods and equipment reduces the per capita demand on the resources and infrastructure. The installation of alternative and renewable energy systems can supplement conventional methods of energy production; and

WHEREAS, In recent years, Green Building design, construction and operational techniques have become increasingly wide-spread. Many homeowners, businesses, and building professionals have voluntarily sought to improve Green Building techniques into their projects. A number of local and national systems have been developed to serve as guides to Green Building practices. The U.S. Green Building Council, developer of the Leadership in Energy and Environmental Design (LEED™) Green Building Rating Systems and LEED™ Reference Guide, has become a leader in promoting Green Building in commercial building and design. Additional guides have been introduced such as the New Home GreenPoint guidelines and the Multi-Family GreenPoint guidelines by Build It Green for evaluating residential buildings and design; and

WHEREAS, Article 13, of Title VII Building and Housing, "Green Building Standards," is intended to promote water and resource conservation, reduce waste generated by construction, increase energy efficiency in buildings, provide

durable buildings that are efficient and economical to own and operate and promote the health and productivity of residents, workers, and visitors to the Town; and

WHEREAS, In accordance with CEQA Section 15061 (b) (3), "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA." The proposed Ordinance would result in positive benefits to the environment, public health, safety and welfare and therefore the ordinance is exempt from CEQA review.

NOW THEREFORE, THE TOWN COUNCIL OF THE TOWN OF WINDSOR does hereby ordain as follows:

Section 1. Chapter 3, entitled Commercial and Residential Green Building is hereby added to Title VII Building and Housing of the Town of Windsor Code to read as follows;

7.3.10 Purpose.

The purpose of this chapter is to enhance the public health and welfare and assure that commercial and residential development is consistent with the Town's desire to create a more sustainable community by incorporating green building measures into the design, construction, and maintenance of buildings and appurtenant development. The green building practices referenced in this chapter are designed to achieve the following:

- A. Encourage resource conservation;
- B. Reduce waste generated by construction projects;
- C. Increase energy efficiency; and
- D. Promote the health and productivity of residents, workers, and visitors of the Town.

7.3.20 Findings.

The Town Council of the Town of Windsor finds that:

- A. The design, construction, and maintenance of buildings and structures within the Town can have a significant impact on the Town's environmental sustainability, resource usage, energy efficiency, waste management, and the health and productivity of residents, workers, and visitors.
- B. Green building design, construction, and operation can have a significant, positive effect on resource conservation, energy efficiency,

waste and pollution generation, and the health and productivity of a building's occupants over the life of the building.

- C. Green building benefits are spread throughout the systems and features of the building. Green buildings can include, among other things, the use of certified sustainable wood products; extensive use of high-recycled-content products; recycling of waste that occurs during deconstruction, demolition, and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved indoor air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production.
- D. In recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local and national systems have been developed to serve as guides to green building practices. The U.S. Green Building Council, developer of the Leadership in Energy and Environmental Design (LEED™) Green Building Rating Systems and LEED™ Reference Guide, has become a leader in promoting and guiding green building. The New Homes Green Points Calculator and the Multifamily Green Points Project Tool approved by the Alameda County Waste Management Authority are useful documents in evaluating residential green building projects.
- E. Requiring commercial and residential projects to incorporate green building measures is necessary and appropriate to achieve the public health and welfare benefits of the community.
- F. In accordance with CEQA Section 15061 (b) (3), "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in questions may have a significant effect on the environment, the activity is not subject to CEQA." The proposed Ordinance would result in positive benefits to the environment, public health, safety and welfare and therefore the ordinance is exempt from CEQA review.

7.3.30 Definitions.

For the purposes of this chapter, certain words and terms are defined as follows:

“Applicant” means any individual, firm or any other entity that applies to the Town for the applicable permits to undertake any construction or development project within the Town.

“Approved Green Building Inspector” means a person or organization certified or designated by a green building rating system body to perform inspections and provide documentation related to the inspection and verification of covered projects. When not precluded by other requirements, an approved green building inspector may mean the green building compliance official.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy as defined in the California Building Code.

“City Manager” means the Town Manager of the Town of Windsor or his or her designee.

“Code” means the Town of Windsor Municipal Code.

“Commercial-New” means the construction of a new retail, office, industrial warehouse, or service building (s) within Town limits that is not a Town-sponsored project, a residential project, or a mixed-use project.

“Commercial-Tenant Improvement” means the renovation, remodeling, or rehabilitation of any existing retail, office, industrial warehouse, or service building (s) , including additions, with Town limits that is not a Town-sponsored project, a residential project, or a mixed-use project.

“Compliance Documentation” means all documentation required by a green building rating system indicating the compliance threshold level that has been achieved. Compliance documentation includes, or excludes, specific requirements as set forth by Town Council Resolution.

“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 type.

“Construction” means the building or renovation, whether adding additional square footage or not, of any structure or any portion thereof.

“Final Inspection” means the final inspection and approval required by the California or International Building Standards Code when a building is completed and ready for occupancy and use.

“Green Building Compliance Official” means the Town’s Building Official or his/her designee who is responsible for enforcing this chapter.

“Green Building” means a whole systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition and renovation. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.

“Green Building Project Checklist” means a checklist or scorecard developed for the purpose of calculating a green building rating.

“Green Building Rating” means the point or performance threshold proposed or achieved for the respective rating system used for a covered project.

“Green Building Rating System” means the rating system associated with a specific guideline, set forth by the Town Council Resolution that is used to determine compliance thresholds.

“Green Building Worksheet” means a worksheet or form developed by the Town that specifies information to be submitted prior to an application for a building permit or hearing for Design Review for a covered project. The green building worksheet shall specify the form and content of the required documentation.

“GreenPoint Rating System” means the most recent version of the New Homes GreenPoint Checklist or the Multifamily Residential GreenPoint Checklist approved by the Alameda County Waste Management Authority and/or Build It Green, as modified by the Town.

“LEED™ rating system” means the most recent version of the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building System™, or other related LEED™ rating system, approved by the U.S. Green Building Council.

“Mixed-Use Project” means a building (s) within the Town limits that combines the uses of a commercial project and a residential project.

“Multi-family residential” means a residential project containing more than two attached dwelling units, including apartments, condominiums, and townhouses, excepting townhouses that meet the definition of Single-Family dwellings.

“Renovation” means any rehabilitation, repair, remodeling, change, addition, or modification to an existing building.

“Residential Project” means any building within Town limits used for living, sleeping, eating, and cooking. Residential project includes single family new, single family addition, and multi-family new. For the purpose of this chapter, a residential project includes assisted-living facilities and senior housing. A residential project does not include hotels, motels, inns, or similar commercial enterprises wherein rooms or suites of rooms are rented for transient occupancy and are considered commercial projects.

“Self-Certified” means a project where, after completion, the architect or engineer of record has submitted compliance documentation to the green building compliance official certifying that the project has met the standards specified in the guidelines.

“Single-Family Addition” means any residential project that adds new floor area to an existing residence. Single-family residential additions may be attached or detached.

“Single Family Dwelling” means a residential project on a single parcel containing one dwelling unit, or one dwelling unit with a legal second unit as defined in Chapter 17 of this code, or a duplex. For the purposes of this chapter, townhouses shall be considered single-family residential projects provided there are recorded property lines between each unit and the occupancy group and division of each unit as defined in the California Building Standards Code.

“Stop Order” means a written notice to stop work, as defined in the California Building Standards Code, which is served by the Building Official on any person engaging in work contrary to the provision of this code.

“Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work artificially build or composed of parts joined together in some definite manner and permanently attached to the ground, as defined in the California Building Standards Code.

“Town” means the Town of Windsor.

7.3.40 Applicability.

This chapter shall apply to the construction of new residential and commercial building buildings, and reconstruction of buildings in which more than 75 percent of the existing building is demolished that require one or more of the following permits:

- A. Site plan approval or a conditional use permit under the provisions of the planning and zoning code.
- B. Design review under the provisions of the Downtown Specific Plan.
- C. Building permits for construction of one or more new dwelling units or commercial structure.

7.3.50 Documentation.

Applications for site plan approval or conditional use permit for the construction of a new building or a building permit involving the construction of one or more new dwelling units shall include documentation indicating the measures to be used to achieve the required LEED™ rating for commercial projects or GreenPoint rating for residential projects. The documentation shall indicate how many credits the project will achieve in each category and the level of LEED™ certification that will be achieved or the number of points the project will obtain in the New Homes GreenPoint or the Multifamily GreenPoint rating system. An application for site plan approval or conditional use permit for the construction of a new building shall not be deemed complete until all required green building documentation has been submitted. The required documentation shall include:

- A. A completed copy of the LEED™ Checklist for commercial buildings, the New Homes GreenPoint Checklist for single-family residential buildings, or the Multifamily GreenPoint Checklist for multifamily residential buildings.

- B. Any other documentation required by the compliance official to determine compliance with this chapter.
- C. Applications for commercial building permits shall include the LEED™ Checklist with the first building permit plan set submitted. Building plans shall indicate in the general notes or individual detail drawings, where appropriate, the green building measures to be used to attain the required LEED™ rating.
- D. Applications for residential building permits shall include the New Homes GreenPoint Checklist or the Multifamily GreenPoint Checklist, whichever applies, with the first building permit plan set submitted. Building plans shall indicate in the general notes or individual detail drawings, where appropriate, the green building measures to be used to attain the required minimum GreenPoint rating.
- E. Applications for mixed-use building permits shall include the Multifamily GreenPoint Checklist for both the residential and commercial portion of the project.

7.3.60 Review of Documentation.

For commercial buildings, the green building compliance official shall only approve a project if the green building documentation indicates that the project will achieve a minimum of twenty (20) credits on the LEED™ rating system. For residential buildings, the green building compliance official shall only approve a project if the green building documentation indicates that the project will achieve a minimum of fifty (50) points on the GreenPoint rating system. The green building compliance official shall be responsible for verifying the appropriate green building rating.

- A. The green building documentation shall be reviewed during the planning entitlement review and shall be approved or approved subject to conditions based on conforming to the minimum requirements stated herein.
- B. Compliance with the provisions of this chapter shall be listed as a condition of approval on any design review approval issued by the Planning Division for a covered project. Failure to comply with any of the terms of this chapter shall subject the applicant of the covered project to the full range of enforcement mechanisms set forth in WTC section 7.3.100.
- C. The green building documentation shall be reviewed during the building permit review and shall be approved based on conformance to the minimum requirements stated herein. If the green building compliance official determines that the green building documentation fails to indicate that the project will conform to the required LEED™

rating or GreenPoint rating for the project, either one or both of the following actions shall be taken:

- 1) Deny the documentation and return the documentation, including a statement of reasons for denial and measures required to conform to the ordinance, to the applicant.
- 2) If the documentation is returned to the applicant as not approved, the applicant may resubmit the documentation with such modifications and additions as may be required for approval.

7.3.70 Verification.

Upon approval of the green building documentation, the compliance official shall establish a verification plan noting how each green building measure or provision will be verified through visual inspections, documentation, or other means during construction.

- A. The green building compliance official or a designee shall verify that the green building measures and provisions indicated in the approved green building documentation are being implemented through inspections during the construction of the project. In lieu of or in addition to visual inspections, the applicant may submit documents, such as purchase receipts, verifying that green building measures and provisions have been implemented. If the compliance official determines that the project as built does not comply with any portion of the approved green building documentation, a stop-work order may be issued. At the discretion of the compliance official, the stop-work order may apply to the portion of the project that is not in compliance or to the entire project. The stop-work order shall remain in effect until the compliance official determines that the project is in compliance with the approved green building documentation and the provisions of this chapter.
- B. During the verification process for the project, flexibility may be exercised by the compliance official to substitute the approved credits or points of the green building documentation for the project with other credits in the LEED™ Rating System or other points in the GreenPoint Rating System, as applicable. Substitution shall occur only at the request of the applicant and when the compliance official determines that the originally approved credits are no longer feasible and/or the substitute credits are an equivalent or a superior alternative to the original credits. Substitution of credits shall only be permitted if it does not result in lowering the required LEED™ rating of twenty (20) points for commercial building or does not result in a rating of fewer than fifty (50) points on the GreenPoint Rating System for residential buildings.

- C. Prior to issuance of occupancy, the compliance official shall review the verification documentation submitted by the applicant and determine whether the applicant has achieved the required LEED™ rating or GreenPoint rating, as set forth in this chapter.
- D. If the compliance official determines that the project is not in compliance with the approved green building documentation, the compliance official may require additional green building measures to mitigate the project's noncompliance. Mitigation measures may include, but are not limited to, landscaping the project to decrease water and energy consumption, use of energy-efficient fixtures and equipment, and education of the building's occupants and owners regarding on-going energy and resource savings techniques. If the mitigation measures are or will be implemented to the satisfaction of the compliance official an occupancy permit shall be issued.
- E. For projects that have been voluntarily registered with the U.S. Green Building Council for LEED™ Certification at the same or higher rating than required by this ordinance, the compliance official may reduce the scope of the verification process and applicable fees, as appropriate.
- F. For projects that have been voluntarily submitted to Build It Green for a GreenPoint rating, receiving a rating by a Certified GreenPoint Rater at the same or higher rating than required by this ordinance, the compliance official may reduce the scope of the verification process and applicable fees, as appropriate.
- G. The green building compliance official may waive the initial review or pre-permitting documentation when she or he determines that review of the pre-permitting documentation can be carried out during the regular building permit plan review process, such as when multiple projects of a subdivision are submitted at different times, but the projects are very similar in nature.

7.3.80 Exemptions.

An exemption from the minimum required LEED™ or GreenPoint rating may be granted by the green building compliance official under special circumstances. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technology, and compatibility of green building requirements with other building standards.

- a) The green building compliance official may meet with the applicant to discuss possible ways of complying with the required LEED™ rating or GreenPoint rating. The green building compliance official may approve

the exemption if he or she determines achieving the minimum required rating is infeasible for the project based on the application and information provided.

- b) The exemption shall be granted if the compliance official determines that special circumstances exist that make it infeasible for the project to comply with the required LEED™ rating or GreenPoint rating. The compliance official shall determine the maximum feasible number of credits reasonably achievable for the project and shall confirm the number of credits on the green building documentation, which shall be marked “Approved with Exemption”. The project shall be subject to the green building verification process based on the confirmed number of credits.

7.3.90 Appeal.

Any aggrieved applicant may appeal a determination made under this chapter to the Town Manager. An appeal is limited to the following issues: (1) compliance with the ordinance pursuant to WTC section 7.3.40, and (2) the type or scope of mitigation measures required for non-complying project pursuant to WTC section 7.3.070.

Any appeal must be filed in writing with the Town Manager within ten (10) days of the determination of the compliance official, stating the reasons for appeal. The appeal shall state the alleged error or the reason for the appeal. In reviewing the appeal, the Town Manager or designee may request additional written or oral information from the applicant or the compliance official. The Town Manager or designee shall issue a written determination within fifteen (15) days after the time period (10 days) to file an appeal has expired.

The determination by the Town Manager may be appealed to the Town Council by filing a written appeal with the Town Clerk within ten (10) days of the written determination of the Town Manager. The Town Council shall hear the appeal within 45 calendar days after receipt of the written request, and shall give 10 days’ prior written notice of the hearing to the applicant. The 45-day period may be extended with the consent of the Town and applicant.

7.3.100 Enforcement.

Violation of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the Town shall be entitled to recover its attorney’s fees and costs from a person who is determined by a court of competent jurisdiction to have violated this chapter.

- 1) A violation of this chapter constitutes a public nuisance. Violation of any provision of this chapter due to the applicant’s failure to comply with the approved plans, including the pre-permitting documentation and the

conditions of approval in the applicable permit, shall be punishable as an infraction as provided in WTC section 1.1.210.

- 2) Any person who violates any provision of this chapter is subject to the civil penalty as provided in WTC section 1-1-250.
- 3) The Building Official and the Town Attorney are authorized to enforce this chapter.

SECTION 2. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days following its adoption by the Town Council. The Town Clerk shall cause this Ordinance to be published or to be posted in at least three (3) public places in Town in accordance with Section 36933 of the Government Code of the State of California.

PASSED, APPROVED AND ADOPTED this 16th day of May 2007, by the following vote:

AYES: COUNCILMEMBERS ALLEN, FUDGE, GOBLE, AND SALMON
NOES: NONE
ABSTAIN: NONE
ABSENT: MAYOR PARKER



DEBORA FUDGE, MAYOR PRO TEM

ATTEST:



MARIA DE LA O, TOWN CLERK