

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF BURLINGAME AMENDING TITLE 18 OF THE CODE OF THE CITY OF BURLINGAME; ADOPTING BY REFERENCE THE 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CALGREEN), PART 11 , WITH MANDATORY TIER ONE ENERGY EFFICIENCY PROVISIONS AND AMENDMENTS AND MODIFICATIONS, AND ADDING CHAPTER 18.30 AS
*THE BURLINGAME GREEN BUILDING ORDINANCE***

The City Council of the City of Burlingame ordains as follows:

Section 1. FINDINGS.

Climatic. The City of Burlingame is in climate zone 3 and is located between the Santa Cruz Mountain foothills and San Francisco Bay, with a number of substantial creeks flowing through highly developed residential and industrial areas. It is surrounded by large areas of open space maintained in natural condition, as well as having a significant natural canyon in the center of the residential area. Green Building encourages water conservation and improved energy efficiency, which reduces water and energy consumption.

Geologic. The City is directly east of the San Andreas Fault, and much of the highly developed part of the City is located along the front of the Bay, much of it on fill. The United States Geologic Survey, the California Division of Mines and Geology, and the Association of Bay Area Governments have extensively mapped the area for such earthquake probabilities. The foothill areas have a variety of soil formations with steep canyons and heavy precipitation. Green Building practices foster development away from these active areas by encouraging their location near existing public transportation and services.

Topographic. The City of Burlingame is “The City of Trees.” Green Building practices

encourage minimal disruption of the natural flora and the practical placement of trees to provide shade. Green Building also encourages limited grading and buildings that blend with the natural topography. The City has worked with other jurisdictions on the San Francisco Peninsula to establish consistent standards to minimize the impact that varying standards might have on development and redevelopment of both residential and commercial buildings.

Social. The City of Burlingame Citizens Environmental Council (CEC) and Green Information Group (GIG) have worked in concert to design a green building ordinance with built-in measures that establish energy efficiency standards for new and existing residential and non-residential construction projects that exceed the State of California 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 Burlingame intends by this ordinance to ensure that all buildings subject to this ordinance will consume no more energy than what is permitted by the 2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code. In seeking to attain these goals, the building standards in Title 18 have been and are adopted.

Section 2. To provide appropriate, clear information to applicants for construction approvals, Section 18.07.050 is adopted to conform Title 18 to Zoning Code requirements established in the Municipal Code.

Section 3. The City operates its own sanitary sewer system and water quality control plant and is subject to State and Federal laws regarding both point and non-point discharges. Sections 18.07.060, 18.08.010, 18.12.080, 18.12.090, 18.12.100, 18.12.110, 18.12.115, 18.12.120, and 18.12.125 are intended to assist the City in meeting its responsibilities regarding those laws as well as protecting the public safety and welfare.

Section 4. The City also operates its own water supply system for its citizens. Sections 18.07.060, 18.12.050, 18.12.060, 18.12.070, and 18.12.100 are intended to provide consistent policy regarding water service installations and to protect the public's water supply. Green Building practices encourage water conservation and sustainability that reduces water usage in the City.

Section 5. Chapter 18.30 is added to the City of Burlingame Municipal Code to read as follows:

Chapter 18.30

GREEN BUILDING CODE

Sections:

- 18.30.010 Adoption of 2010 California Green Building Standards Code.**
- 18.30.015 Section 101.2 amended – Purpose.**
- 18.30.020 Section 202 amended – Definitions.**
- 18.30.030 Section 4.408.2 amended – Construction Demolition and Recycling Plan.**
- 18.30.040 Section A4.203.1 amended – Tier 1 Energy Efficiency (Residential - Performance Approach) Adopted as Mandatory Measure.**
- 18.30.045 Section A4.204 amended – Tier 1 Energy Efficiency (Residential - Prescriptive Approach) Adopted as Mandatory Measure.**
- 18.30.050 Section A5.203.1.1 amended – Tier 1 Energy Efficiency (Non-Residential) Adopted as Mandatory Measure.**
- 18.30.060 Section 304.1.2 added – Undue Hardship.**
- 18.30.070 Section 102.3.1 added – Final Approval.**
- 18.30.080 Subsection 101.12 added – Appeals.**

18.30.010 Adoption of 2010 California Green Building Standards Code.

The rules, regulations and standards printed in one volume and published by the

International Code Council under the title the “2010 California Green Building Standards Code”, including the appendices, are adopted as and for the rules, regulations and standards within this city as to matters therein contained except as provided in this chapter. The mandatory requirements of the appendices to the code shall be enforceable to the same extent as if contained in the body of the code.

18.30.015 Section 101.2 amended – Purpose.

Section 101.2 is amended to read as follows:

101.2 Purpose. The purpose of the Burlingame 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:

1. To encourage conservation of natural resources;
2. To reduce waste in landfills generated by construction projects;
3. To increase energy efficiency and lower energy usage;
4. To reduce the operating and maintenance costs for buildings;
5. To promote a healthier indoor environment; and
6. To promote use of recycled material.

18.30.020 Section 202 amended – Definitions.

Section 202 is amended to include the following:

202 Definitions.

1. ***Build It Green:*** 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.
2. ***Chief Building Official:*** means the Chief Building Official or his or her designee.
3. ***Green building:*** 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, seek to minimize the use of energy, water, and other natural resources, and promote a healthy, productive indoor environment.
4. ***GreenPoints:*** credits assigned under the applicable GreenPoint Checklist for a residential project.
5. ***GreenPoint Rated:*** a residential green building rating system developed by Build It Green.
6. ***Green Point Rated Verification:*** verification of compliance by a certified GreenPoint Rater by Build It Green.
7. ***GreenPoint Rater:*** a person certified by Build It Green.
8. ***LEED®:*** the “Leadership in Energy and Environmental Design” green building rating system developed by the U.S. Green Building Council.
9. ***LEED®/USGBC Verification:*** verification to meet the standards of the U.S. Green Building Council (USGBC) and resulting in LEED® certification of the

project by the USGBC. Minimum level: Certified.

10. **Mixed use:** the construction of a building or buildings that include both residential and non-residential uses.
11. **Non-residential project:** the construction of retail, office, industrial, warehouse, services, hotels, motels, or similar buildings.
12. **Qualified green building professional:** a person trained through the USGBC as a LEED® AP (accredited professional), or through Build It Green as a GreenPoint Rater, or other qualifications when acceptable to the Building Official. A certified green building professional, architect, engineer, designer, builder, or building inspector may be considered a qualified green building professional when determined appropriate by the Chief Building Official.
13. **Residential project:** the construction of R2, R3, R3.1, and R4 buildings, except hotels and motels.
14. **Residential reconstruction:** 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 Chief Building Official.

18.30.030 Section 4.408.2 amended – Construction Demolition and Recycling Plan.

Section 4.408.2 is deleted in its entirety and replaced with the following:

4.408.2 Construction Demolition and Recycling Plan. A Construction Demolition and Recycling Plan must be submitted for any project that has a construction value of \$50,000 or more. The Construction Demolition and Recycling Plan must comply with the City of Burlingame Construction and Demolition Recycling Ordinance #1704 as set forth in Chapter 8.17.

18.30.40 Section A4.203.1 amended – Tier 1 Energy Efficiency (Residential - Performance Approach) Adopted as Mandatory Measure.

Section A4.203.1 is amended as follows:

A4.203.1 Tier 1 Energy Efficiency (Residential - Performance Approach) Adopted as Mandatory Measure. The following residential projects must exceed Title 24 Energy Efficiency Standards by 15% as required under this ordinance:

All residential additions, remodels, alterations or repairs in which the cost of construction has a total value of fifty thousand dollars (\$50,000) or more.

A permit applicant is required to submit a completed checklist of the proposed compliance measures 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, then an applicant must submit a completed checklist of the proposed compliance measures directly to the Building Division at the time of the initial Building Code plan check submittal. A GreenPoint Rated checklist, or equivalent, with a

minimum of fifty (50) points shall be accepted as one method of meeting compliance with this ordinance. 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”, LEED®, 2008 Building Energy Efficiency Standards, other recognized point systems, or equivalent approved methods. Compliance measures shall be approved by the Chief Building Official prior to issuance of a building permit. Projects must show verification of energy savings which exceed the *2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code* by 15%.

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.

18.30.45 Section A4.204 amended – Tier 1 Energy Efficiency (Residential Prescriptive Approach) Adopted as Mandatory Measure.

Section A4.204 is amended by adding the following:

A4.204 Tier 1 Energy Efficiency (Residential - Prescriptive Approach) Adopted as Mandatory Measure. The following residential projects must exceed Title 24 Energy Efficiency Standards by 15% as required under this ordinance:

All residential additions, remodels, alterations or repairs in which the cost of construction has a total value of fifty thousand dollars (\$50,000) or more.

A permit applicant is required to submit a completed checklist of the proposed

compliance measures 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, then an applicant must submit a completed checklist of the proposed compliance measures directly to the Building Division at the time of the initial Building Code plan check. A GreenPoint Rated checklist, or equivalent, with a minimum of fifty (50) points shall be accepted as one method of meeting compliance with this ordinance. 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”, LEED®, 2008 Building Energy Efficiency Standards, other recognized point systems, or equivalent approved methods. Compliance measures shall be approved by the Chief Building Official prior to issuance of a building permit. Projects must show verification of energy savings which exceed the current *2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code* by 15%.

18.30.50 Section A5.203.1.1 amended – Tier 1 Energy Efficiency (Non-Residential)

Adopted as Mandatory Measure.

Section A5.203.1.1 is amended as follows:

A5.203.1.1 Tier 1 Energy Efficiency (Non-Residential) Adopted as Mandatory Measure.

The following non-residential projects must exceed Title 24 Energy Efficiency Standards by 15% as required under this ordinance:

- 1) All new non-residential buildings 10,000 square feet or more in gross floor area
- 2) All non-residential additions 10,000 square feet or more in gross floor area

A permit applicant is required to submit completed documentation, prepared by a qualified green building professional, of the proposed compliance measures 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, then an applicant must submit completed documentation, prepared by a qualified green building professional, of the proposed compliance measures directly to the Building Division at the time of the initial Building Code plan check. 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.

Verification of compliance with CALGreen -Tier 1 or LEED® Silver shall be accepted as the methods of meeting compliance with this ordinance. Compliance measures shall be approved by the Chief Building Official prior to issuance of a building permit. Projects must show verification of energy savings which exceed the current *2008 Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code* by 15%.

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.

18.30.060 Section 304.1.2 added – Undue Hardship.

Section 304.1.2 added to read as follows:

304.1.2 Undue Hardship. If circumstances, beyond the control of the applicant, exist which make strict compliance with this ordinance an undue hardship, then 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 2008 California Building Energy Efficiency Standards (Title 24, Part 6) of the California Building Code.

Application. If an applicant for a covered project believes such circumstances exist, then the applicant may apply for an exemption at the time of the planning application or building permit application submittal. The applicant shall indicate the maximum threshold of compliance that they calculate is feasible and state the circumstances that would 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 Chief 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 Chief 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 Chief 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 attain, in accordance with this chapter, the threshold of compliance determined to be achievable by the Chief Building Official.

Denial of Exemption. If the Chief Building Official determines compliance would not constitute an undue hardship, the request shall be denied and the Chief Building Official shall notify the applicant in writing. All decisions of the Chief Building Official under this section shall be final.

18.30.070 Section 102.3.1 added – Final Approval.

Section 102.3.1 is added to read as follows:

102.3.1 Final Approval. Prior to final building inspection and occupancy for projects included under this ordinance, and when required by the Chief Building Official, a qualified green building professional shall provide evidence of adequate green building compliance or documentation to the Chief Building Official to satisfy the requirements of compliance for residential and/or non-residential projects covered under this ordinance. Evidence of green building compliance shall include, but not be limited to, verification or certification by Build It Green GreenPoint Rater or LEED® specialist, or in-progress site inspections and final sign-off by a City of Burlingame building inspector or other designated City employee. Compliance with Build It Green GreenPoints or LEED® shall not be deemed complete until formal certification has been granted and submitted to the Chief Building Official. Compliance with this ordinance alone does not equal compliance with GreenPoints or LEED®. The Chief Building Official shall make the final determination whether a project meets green building requirements of this ordinance.

18.30.080 Subsection 101.12 added – Appeals.

Subsection 101.12 is added to read as follows:

101.12 Appeals.

An appeal of a denial of or a refusal to issue a permit or from any other decision of the building official may be taken as set forth in section 18.07.040.

Section 6. An application for a building permit received after December 31, 2010 must comply with this Ordinance unless specific land use provisions for the project were approved by the City of Burlingame prior to 5:00 p.m. on December 31, 2010. If the Planning Commission has approved the project then the building permit application for that project may use the

provisions found in the 2007 California Building Codes including all amendments as adopted in Ordinance 1813.

Section 7. This ordinance shall be published as required by law.

Mayor

I, MARY ELLEN KEARNEY, City Clerk of the City of Burlingame, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the City Council held on the 4th day of October, 2010, and adopted thereafter at a regular meeting of the City Council held on the 18th day of October, 2010 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

City Clerk