

**20.68**                    **GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING REGULATIONS**

**20.68.010**            **Purpose.**

To promote economic and environmental health in the City, it is essential that the City itself, through the design, construction, operation and deconstruction of its own facilities and facilities it funds, provide leadership to both the private and public sectors by incorporating green building and Bay-Friendly landscaping practices. The most immediate and meaningful way to do this is to require the integration of green building and Bay-Friendly landscaping strategies in City and public-private partnerships buildings and landscapes.

**20.68.020**            **Definitions.**

As used in this section:

**Compliance Official.** The Community Development Director shall be authorized and responsible for implementing this Article as the Green Building and Bay-Friendly Landscaping Compliance Official.

**20.68.030**            **Standard for Compliance**

The City Council shall establish by resolution, and periodically review and update as necessary, *Green Building and Bay Friendly Landscaping Standards of Compliance*. The Standards of Compliance shall include, but not be limited to, the following elements:

- a) Types of projects subject to regulation
- b) Guidelines or checklists to be applied to various types of projects
- c) Minimum threshold of compliance for various types of projects; and
- d) Timing and method of verification of compliance with regulations
- e) Definitions of terms used in the Standards of Compliance

The Standards of Compliance shall be based on the recommendation of the Planning and Zoning Commission.

**20.68.040**            **Promulgation of Implementing Regulations.**

A. Implementation of this section shall commence January 1, 2007. The Community Development Director shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this Article. The initial rules and regulations shall be promulgated after securing and reviewing comments from affected City agencies and departments.

B. The rules and regulations promulgated by the Community Development Department under this section shall provide for at least the following:

1. The incorporation of the green building and Bay-Friendly landscaping requirements of this Article into the appropriate design, construction, maintenance and development agreement documents prepared for the applicable Projects.

2. The Compliance Official(s) shall have the responsibility to administer and monitor compliance with the green building and Bay-Friendly landscaping requirements set forth in this Article and with any rules and regulations promulgated thereunder, and to grant waivers or exemptions from the requirements of this Article.

**20.68.050**      **Hardship or Infeasibility Exemption.**

A.    Exemption. If an Applicant for a Covered Project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Chapter, they may apply for an exemption as set forth below. In applying for an exemption, the burden is on the Applicant to show hardship or infeasibility.

B.    Application. If an Applicant for a Covered Project believes such circumstances exist, the Applicant may apply for an exemption at the time of application submittal. The Applicant shall indicate the maximum number of credits he or she believes make it a hardship or infeasible to comply fully with this Chapter. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of Green Building materials and technologies, and compatibility of Green Building requirements with other government requirements and building standards.

C.    Meeting with Compliance Official. The Compliance Official shall review the information supplied by the Applicant, may request additional information from the Applicant, and may meet with the Applicant to discuss the request.

D.    Granting of Exemption: If the Compliance Official determines that it is a hardship or infeasible for the Applicant to meet fully the requirements of this Chapter based on the information provided, the Compliance Official shall determine the maximum feasible number of credits reasonably achievable for the Project. If an exemption is granted, the Applicant shall be required to comply with this Chapter in all other respects and shall be required to achieve, in accordance with this Chapter, the number of credits determined to be achievable by the Compliance Official.

E.    Denial of Exemption. If the Compliance Official determines that it is possible for the Applicant to fully meet the requirements of this Chapter, they shall so notify the Applicant in writing.

**20.68.060**      **Appeal.**

A.    Any aggrieved Applicant or person may appeal the determination of the Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section 20.68.060; or (ii) compliance with the ordinance pursuant to Section 20.68.060.

B.    Any appeal must be filed in writing with the Community Development Department within fourteen (14) days of the determination by the Compliance Official. The appeal shall state the alleged error or reason for the appeal. In reviewing the appeal, the City Council may request additional written or oral information from the Applicant or Compliance Official. The Planning and Zoning Commission shall hold a public hearing regarding the appeal within forty (40) days of the date when the appeal was filed.

**20.68.070**      **Severability**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, and phrase of this Article irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or effective. To this end, the provisions of this Article are declared to be severable.