

ORDINANCE NO. NS-1100.105

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

THE BOARD OF SUPERVISORS HEREBY MAKES THE FOLLOWING FINDINGS

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

The proposed Chapter III, "Green Building Regulations" of Division C3 of the County Ordinance Code sets forth minimum green building standards for new single family 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 and the 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 39 percent of total energy use, 12 percent of the total water consumption 68 percent of total electricity consumption, 38 percent of the carbon dioxide emissions, according to statistics provided by the federal Environmental Protection Agency.
- (2) Energy consumption from the residential sector in Santa Clara County was the highest among all Bay Area counties, according to 2006 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) 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 according to the EPA. 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.

(6) 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, Pub. Resources Code, § 21000 *et seq.*, ("CEQA"):

This adoption of this ordinance is categorically exempt from the requirements of the CEQA pursuant to Section 15308 of the CEQA Guidelines (14 Cal. Code §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 in line 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 regulations 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 which has been fully occupied by, federal or state law or regulation;

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

Division C3 of Title C of the County of Santa Clara Ordinance Code is amended to add Chapter III (Green Building Regulations) to be numbered and titled and to read as follows:

CHAPTER III.

GREEN BUILDING REGULATIONS

Sections:

Section C3-50	Purpose
Section C3-51	Definitions
Section C3-52	Applicability
Section C3-53	Standards for Compliance
Section C3-54	Administrative Procedures
Section C3-55	Appeal
Section C3-56	Interaction with other 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) Encourage water and natural resource conservation;
- (c) Reduce waste generated by construction projects;
- (d) Provide durable buildings that are efficient, cost effective, and economical to own and operate; and
- (e) Promote the health and productivity of residents and workers which 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) "Compliance Official" means the Building Official as defined in Section C1-4 of the Santa Clara County Ordinance Code or his or her designee.

- (d) "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.
- (e) "Covered Project" means any building permit application for new construction or renovations subject to Standards for Compliance as set forth in Section C3-53.
- (f) "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.
- (g) "Green Building Certification" means verification to meet the certification requirements of Build it Green or LEED.
- (h) "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.
- (i) "Green Building Project Checklist" means a checklist or score developed for the purpose of calculating a green building rating.
- (j) "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.
- (k) "GreenPoint Rated" means a residential green building rating system developed by the Build it Green organization.
- (l) "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.
- (m) "LEED" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.
- (n) "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.
- (o) "Major Remodel" means any remodel that exceeds the permit valuation thresholds established within the Standards for Compliance in Section C3-53.
- (p) "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.
- (q) "New Residences" means the construction of a new single family dwelling.
- (r) "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.

- (s) "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.
- (t) "Remodel" means any alteration or modification to an existing building that is a "Remodel" as defined under Ordinance Code Section C1-10.1.
- (u) "Self Verify" means verification submitted by an Applicant that a Covered Project will meet the Standards for Compliance under Section C3-53.
- (v) "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.

Section C3-52 Applicability

Upon the effective date of this chapter, all Covered Projects shall submit to the Compliance Official a completed Green Building Project Checklist but no points or certification shall be required to be achieved until July 1, 2009 or whenever the cost-effectiveness determination for this Ordinance is approved by the California Energy Commission, whichever comes later.

Effective July 1, 2009, or whenever the cost-effectiveness determination for this Ordinance is approved by the California Energy Commission (whichever comes later), all Covered Projects shall be required to 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 is submitted prior to July 1, 2009

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 v1.0

³ Single Family Green Point Checklist 2007 Edition (March 2007)

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.

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.

Section C3-55 Appeal

- (a) Any Applicant or 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 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.

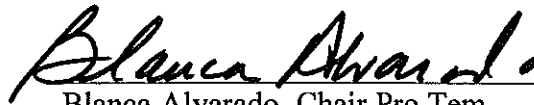
Section C3-56 Interaction with other regulations

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.

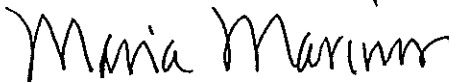
There are many other laws, regulations, and ordinances that apply to building design construction and maintenance and to development. The provisions of this Ordinance are intended to be in addition to and not in conflict with these other laws, regulations, and ordinances. If any provision of this Ordinance 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 DEC 1 6 2008 by the following vote:

AYES **ALVARADO, GAGE, KNISS, ~~MONTANA~~, YEAGER**
NOES ~~None~~
ABSTAIN ~~None~~
ABSENT ~~None~~
VACANT DISTRICT 3

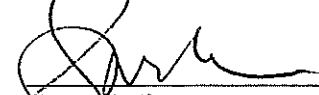

Blanca Alvarado, Chair Pro Tem
Board of Supervisors

ATTEST:



Maria Marinos
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



Steve Mitra
Deputy County Counsel