

**ORDINANCE NOs. 1879 and 1881**

**Chapter 12.44      Green Building Requirements.**

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**12.44.010      Purpose.**

The purpose of this Chapter is to enhance the long-term public health and welfare by contributing to the overall reduction of greenhouse gas production and emissions and improving the environmental and economic health of the City through the efficient design, construction, operation, maintenance and deconstruction of buildings and site development by incorporating green building practices and materials. The green building provisions referenced in this Chapter are designed to achieve the following objectives:

- a. Increase energy efficiency in buildings;
- b. Encourage water and resource conservation;
- c. Reduce waste generated by construction projects;
- d. Reduce long-term building operating and maintenance costs; and
- e. Improve indoor air quality and occupant health; and
- f. Contribute to meeting the state and local commitments to reduce greenhouse gas production and emissions.

**12.44.020      Applicability.**

The provisions of this Chapter shall apply to all construction or development projects defined below as a “Covered Project.”

**12.44.030      Definitions.**

For the purposes of interpreting this Chapter and the associated Standards for Compliance, the following terms are defined as follows. When the definitions below differ from those contained elsewhere in this Title, the provisions of this Chapter shall apply.

- a. “Addition” means the addition of building square footage to an existing structure.
- b. “BIG” means Build It Green, a non-profit organization which established and maintains the Green Point Rated system for evaluating and certifying residential green buildings and green building professionals.
- c. “BPI” means the Building Performance Institute, a non-profit organization which provides training and certification of green building professionals.

- d. “Building envelope” means the ensemble of exterior and demising partitions of a building and roof structure that enclose conditioned space.
- e. “Compliance threshold” means the minimum number of points or rating level required to be achieved by a particular Covered Project as set forth by the Standards for Compliance outlined in Section 12.44.040.
- f. “Conditioned space” means any area within a building or structure that is heated or cooled by any equipment.
- g. “Covered project” means a development project for which one or more building permits are required for new construction as set forth by the Standards for Compliance outlined in Section 12.44.040.
- h. “GBCI” means the Green Building Certification Institute, a non-profit organization which certifies green buildings and green building professionals under the LEED® rating system.
- i. “Green building” means a comprehensive process of design and construction that employs techniques to increase the efficiency of resource use, including energy, water and building materials, while minimizing adverse impacts on human health and the natural environment.
- j. “Green building checklist” means a checklist or rating sheet used for calculating a green building rating.
- k. “Green building rating system” means a standardized rating system providing specific criteria to determine the level of compliance of building projects as set forth by the Standards for Compliance outlined in Section 12.44.040.
- l. “GreenPoint Rated” means a residential building certified as complying with the green building rating systems developed by the Build It Green organization.
- m. “GreenPoint Rater” means an individual certified by Build It Green as capable of evaluating and rating residential construction projects for compliance with the GreenPoint Rated green building rating systems.
- n. “HERS” means the Home Energy Rating System adopted by the California Energy Commission.
- o. “LEED®” means the “Leadership in Energy and Environmental Design” green building rating system developed by the U.S. Green Building Council.
- p. “LEED® AP” means an individual who has been certified a LEED® Accredited Professional by the U.S. Green Building Council or the Green Building Certification Institute as capable of evaluating and rating construction projects for compliance with the LEED® green building rating systems.
- q. “Net Zero Energy” means a building that has a net annual Time Dependent Valued (TDV) Energy Consumption, as defined by Title 24 of the California Code of Regulations, of zero, accounting for both energy consumption and the use of on-site renewable energy production.
- r. “New construction” means the construction of a new or replacement residential dwelling unit or a new or expanded non-residential building.

- s. “Qualified green building rater” means an individual who has been trained and certified as a LEED® AP, GreenPoint Rater or has similar qualifications and certifications if acceptable to the Chief Building Official.
- t. “Renovation” means any remodeling, modification or tenant improvement to an existing building that includes replacement or alteration of at least two of the following: heating/ventilating/air conditioning system, building envelope, hot water system or lighting system, but excluding improvements and project valuation related to seismic or disabled access, building replacement due to catastrophic loss due to flood or earthquake damage or installation of renewable energy systems. Renovation shall include any addition of conditioned space to an existing dwelling unit.
- u. “USGBC” means the U.S. Green Building Council, a non-profit organization which established and maintains the LEED® rating systems for evaluating and certifying residential green buildings and green building professionals.

**12.44.040 Covered Projects - Standards for Compliance.**

The City Council shall adopt a resolution defining which projects shall be deemed to be “Covered Projects” within the meaning of this Chapter, and establishing “Standards for Compliance” applicable to those covered projects, which standards shall include, but not be limited to, the green building rating system(s) applicable to various types and sizes of covered projects; minimum compliance thresholds for various types and sizes of covered projects; and methods for verification of compliance with the adopted standards. In applying Standards for Compliance under this chapter:

- a. Cumulative new construction or renovations over any one-year period shall be considered as a single Covered Project, and subject to the highest compliance threshold based on the cumulative project size or valuation.
- b. The Chief Building Official shall determine the appropriate project valuation based on the cost of similar improvements, and may request substantiating documentation from the applicant. Where Compliance Thresholds contain project size ranges expressed as both building square footage and project valuation, the intent is to base project requirements upon the project valuation range. However the Chief Building Official shall have the authority to determine whether the building square footage or valuation range most accurately reflects the scope of the proposed project for purposes of determining the required minimum Compliance Threshold.
- c. The Chief Building Official may determine that an alternative green building rating system may be used to determine project compliance, where it can be demonstrated that the alternative rating system is as stringent as or greater in terms of reduced energy and resource use and improved interior air quality than that normally required by the Standards for Compliance.
- d. Mixed use (residential and non-residential) projects must comply either with the applicable Covered Project requirements for the respective residential and non-residential portions of the project, or may propose to utilize a mixed use rating system, subject to approval by the Chief Building Official.
- e. The cost of reviewing any proposals requesting the use alternate green building rating systems or requests for exemptions including, but not limited to, the cost to the city of hiring a consultant to review the proposal, shall be borne by the applicant.

- f. All buildings submitted for permit must meet all applicable requirements of the 2008 Building Energy Efficiency Standards, California Code of Regulations (“C.C.R.”), Title 24, Part 6.
- g. The applicable green building rating system shall be that which is most recently adopted by Build It Green or the U.S. Green Building Council. The green building rating system in effect at the time of building permit submittal shall be that which is applicable to the development project throughout the project construction.

**12.44.050 Incentives for Compliance.**

In addition to the required standards for compliance, the City Council may establish by resolution financial or application processing incentives and/or award or recognition programs to encourage higher levels of green building compliance for a project.

**12.44.060 Administrative Procedures.**

The procedures for compliance with the provisions of this Chapter shall include, but not be limited to, the following:

- a. Project Design. Applicants for a Covered Project are strongly encouraged to involve a qualified green building rater in the initial design phases of the project in advance of submittal of an application to determine applicable green building compliance thresholds and the most cost effective and appropriate means of achieving compliance.
- b. Planning Applications. If a discretionary planning application is required for a Covered Project, applicants should be prepared to identify expected green building measures to be included in the project to achieve the compliance thresholds. Applicants should identify any anticipated difficulties in achieving compliance and any exemptions from the requirements of this Chapter that may be requested.
- c. Building Plan Check Review. Upon submittal of an application for a building permit, building plans for any Covered Project shall include a green building program description and completed checklist. The checklist shall be incorporated onto a separate full-sized plan sheet included with the building plans. A qualified green building rater shall provide evidence that the project, as indicated by the project plans and green building program description, will achieve the Standards for Compliance outlined in Section 12.44.040 prior to issuance of a building permit.
- d. Changes During Construction. During the construction process, alternate green building measures may be substituted, provided that the qualified green building rater provides documentation of the proposed change and the project’s continued ability to achieve the Standards for Compliance to the Chief Building Official.
- e. Final Building Inspection. Prior to final building inspection and occupancy for any Covered Project, a qualified green building rater shall provide evidence that project construction has achieved the required compliance set forth in the Standards for Compliance outlined in Section 12.44.040. The Chief Building Official shall review the documentation submitted by the applicant, and determine whether the project has achieved the compliance threshold as set forth in the Standards for Compliance outlined in Section 12.44.040. Where subsequent certification of the building is required by the Standards for Compliance, the Chief Building Official shall also determine whether the applicant has demonstrated that such certification is

in process and will be achieved not later than one year after approval of final building inspection. If the Chief Building Official determines that the applicant has met these requirements, the final building inspection may proceed.

- f. **Post-Final Inspection Requirement.** Where certification of the building is required by the Standards for Compliance, and such certification is only available subsequent to occupancy of the completed building, the applicant shall provide documentation of such certification within one year of the date of the final building inspection for the project. Failure to provide evidence of this certification within this timeframe, or within an alternate timeframe as determined by the Chief Building Official, will result in a determination that the Covered Project is not in compliance with the requirements of this Chapter.
- g. **Conflict with Other Laws.** The provisions of this Chapter are intended to be in addition to and not in conflict with other laws, regulations and ordinances relating to building construction and site development. If any provision of this Chapter conflicts with any duly adopted and valid statutes or regulations of the federal government of the State of California, the federal or state statutes or regulations shall take precedence.

**12.44.070 Exemptions.**

- a. The provisions of this Chapter shall not apply to the following exemptions; however, none of the exemptions listed shall provide the applicant with relief from the compliance requirements of the 2008 Building Energy Efficiency Standards, California Code of Regulations (C.C.R. Title 24, Part 6):
  - 1. Buildings which are temporary (such as construction trailers).
  - 2. Building area which is not or is not intended to be conditioned space.
  - 3. Any requirements of this Chapter which would impair the historic integrity of any building listed on a local, state or federal register of historic structures, as determined by the Chief Building Official and as regulated by the California Historic Building Code (C.C.R. Title 24, Part 8). In making such a determination, the Chief Building Official may require the submittal of an evaluation by an architectural historian or similar expert.
- b. **Hardship or Infeasibility 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, the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility, and to demonstrate clearly the applicant's continued compliance with all requirements of the 2008 Building Energy Efficiency Standards, California Code of Regulations (C.C.R. Title 24, Part 6).
  - 1. **Application.** The applicant shall identify in writing the specific requirements of the Standards for Compliance that the project is unable to achieve and the circumstances that make it a hardship or infeasible for the project to comply with this Chapter. Circumstances that constitute hardship or infeasibility shall include, but are not limited to, the following:
    - i. There is a conflict between the provisions of the applicable green building rating system and the California Building Standards Code, other State code provisions, other

- requirements of this Title or conditions imposed on the project through a previously approved planning application;
- ii. There is a lack of commercially available green building materials and technologies to comply with the green building rating system;
  - iii. That the cost of achieving compliance is disproportionate to the overall cost of the project;
  - iv. That physical conditions of the project site make it impractical to incorporate necessary green building measures or achieve the Standards for Compliance;
  - v. That compliance with certain requirements would impair the historic integrity of buildings listed on a local, state or federal list or register of historic structures;
2. Granting of exemption. If the Chief Building Official determines that the granting of the exemption will not cause the building to violate the compliance requirements of the 2008 Building Energy Efficiency Standards, California Code of Regulations (C.C.R. Title 24, Part 6), and that it is a hardship or infeasible for the applicant to fully meet the requirements of this Chapter, the Chief Building Official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. In making this determination, the Chief Building Official shall consider whether alternate, practical means of achieving the objectives of this Chapter can be satisfied, such as reducing comparable energy use at an offsite location within the City. 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 the threshold of compliance determined to be achievable by the Chief Building Official.
  3. Denial of exception. If the Chief Building Official determines that the granting of the exemption will potentially cause the building to violate the compliance requirements of the 2008 Building Energy Efficiency Standards, California Code of Regulations (C.C.R. Title 24, Part 6), or that it is reasonably possible for the applicant to fully meet the requirements of this Chapter, the request shall be denied and the applicant shall be notified of the decision in writing. The project and compliance documentation shall be modified to comply with the Standards for Compliance.

#### **12.44.080 Appeal.**

Any aggrieved applicant or person may appeal a Chief Building Official determination under this Chapter, including a determination regarding compliance with the provisions of this Chapter and a determination on the approval or denial of an exemption under Section 12.44.070, to the city Council by filing a written appeal with the City Clerk and paying the necessary filing fee within ten (10) days of the determination.

**RESOLUTION NO. 12907**

**A RESOLUTION OF THE SAN RAFAEL CITY COUNCIL  
ESTABLISHING GREEN BUILDING STANDARDS**

**Standards for Compliance**

All covered projects shall be constructed using the green building standards listed on Table A for residential projects and on Table B for non-residential projects.

**Incentives**

Projects which meet the following enhanced green building standards are entitled to administrative and financial incentives:

- a) New single-family or duplex dwellings which achieve at least one hundred (100) points using the most recently published edition of the New Home Construction Green Building Guidelines and the associated GreenPoints Calculator published by Build It Green,
- b) New multi-family units which achieve at least one hundred (100) points using the most recently published edition of the Multifamily Green Building Guidelines and the associated GreenPoints Calculator published by the Build It Green,
- c) New non-residential residential construction which achieve at least a LEED® “Gold” rating using the most recently published version of the LEED® for New Construction or other more appropriate LEED® rating system as determined by the Chief Building Official based on the proposed construction type.

Administrative and financial incentives shall include all of the following:

- a) Expedited processing of building permit plan checks,
- b) Reimbursement for costs of a Certified GreenPoint Rater associated with verification of compliance with green building regulations for residential projects,
- c) Provision of a plaque certifying the building as meeting the City’s Green Building Standards,
- d) Provision of a City Green Building logo for placement on construction and sales signage, and
- e) Listing on the City’s website for a period of time, as determined by the Community Development Director.

**TABLE A: GREEN BUILDING STANDARDS FOR COMPLIANCE FOR RESIDENTIAL  
CONSTRUCTION AND RENOVATION**

| Covered Project  | Green Building Rating System | Minimum Compliance Threshold | Energy Budget Below CA Title 24 Part 6 | Verification                   |
|--|------------------------------|------------------------------|--|--------------------------------|
| <b>Single-Family or Two-Family Residential: New construction</b> |                              |                              |  |                                |
| 500-2,499 sq. ft.  | GPR New Home                 | 75 points                    | 15%                                    | Green Point Rated <sup>1</sup> |
| 2,500-3,999 sq. ft.  | GPR New Home                 | 100 points                   | 15%                                    | Green Point Rated <sup>1</sup> |
| 4,000-5,499 sq. ft.  | GPR New Home                 | 125 points                   | 20%                                    | Green Point Rated <sup>1</sup> |
| 5,500-6,999 sq. ft.  | GPR New Home                 | 150 points                   | 30%                                    | Green Point Rated <sup>1</sup> |
| 7,000+ sq. ft.   | GPR New Home                 | 200 points                   | Net zero energy                        | Green Point Rated <sup>1</sup> |

| Single-Family or Two-Family Residential: Renovations (including additions to existing buildings) |                                 |  |     |                               |
|--|---------------------------------|--|-----|-------------------------------|
| Less than \$50,000 valuation   | n/a                             | Insulate exposed hot water pipes; Install radiant barrier when reroofing and removing sheathing              |     | City building inspector       |
| \$50,000-\$99,999 valuation or less than 500 sq. ft. <sup>3</sup>                                | GPR Existing Home               | Checklist submittal and completion of a HERSII or BPI home performance audit                                 |     | City plan check               |
| \$100,000-\$149,999 valuation or 500-749 sq. ft. <sup>3</sup>                                    | GPR Existing Home – Elements    | 25 points  |     | GreenPoint Rater <sup>2</sup> |
| \$150,000-\$299,999 valuation or 750-999 sq. ft. <sup>3</sup>                                    | GPR Existing Home – Elements    | 35 points  |     | GreenPoint Rater <sup>2</sup> |
| \$300,000+ valuation or 1,000+ sq. ft. <sup>3</sup>  | GPR Existing Home – Whole House | 50 points + 20% improvement in HERSII or BPI home performance audit results or a minimum HERSII score of 100 |     | GreenPoint Rater <sup>2</sup> |
| Multi-Family Residential: New Construction   |                                 |  |     |                               |
| Less than 1,000 sq. ft. average unit size  | GPR Multi-Family                | 60 points  | 15% | GreenPoint Rated <sup>1</sup> |
| 1,000+ sq. ft. average unit size   | GPR Multi-Family                | 75 points  | 15% | GreenPoint Rated <sup>1</sup> |

<sup>1</sup> Project verification by GreenPoint Rater and certification by Build It Green

<sup>2</sup> Project verification by GreenPoint Rater

<sup>3</sup> Project valuation will be the primary determinate in establishing the Minimum Compliance Threshold for the project, with use of project size range when valuation is uncertain or in the opinion of the building official does not accurately reflect the project scope.

**TABLE B: GREEN BUILDING STANDARDS FOR COMPLIANCE FOR NONRESIDENTIAL CONSTRUCTION AND RENOVATION**

| Covered Project   | Green Building Rating System                           | Minimum Compliance Threshold  | Energy Budget Below CA Title 24 Part 6 | Verification   |
|---|--|---|--|--|
| New construction (including additions to existing buildings)    |  |   |  |  |
| 2,000-4,999 sq. ft.   | LEED® New Construction or Core & Shell                 | Checklist submittal + compliance with Prerequisites   |  | LEED® AP with additional GreenPoint Rater or BPI Certification |
| 5,000-49,999 sq. ft.  | LEED® New Construction or Core & Shell                 | LEED® Silver  | 15%                                    | LEED® AP with additional GreenPoint Rater or BPI Certification |
| 50,000+ sq. ft.   | LEED® New Construction or Core & Shell                 | LEED® Gold  | 15%                                    | GBCI Certified   |
| Renovations   |  |   |  |  |
| Less than \$500,000 valuation or 500-4,999 sq. ft. <sup>3</sup> | LEED® Commercial Interiors or Operations & Maintenance | <b>Voluntary</b> compliance with the following Prerequisites:<br>WE P1 (Water Efficiency–Baseline Requirements only) <sup>4</sup><br>EA P3 (Fundamental Refrigerant Management) for renovations of ≥50% of the building interior area |  | None   |

|  |  |  |  |  |
|--|--|--|--|--|
|  |  | <b>Voluntary</b> compliance with the following Credits:<br>EA C1.3 (Optimize Energy Performance – HVAC) for renovations of $\geq 50\%$ of the building interior area |  |  |
| \$500,000 - \$5 million valuation or 5,000-24,999 sq. ft. <sup>3</sup> | LEED® Commercial Interiors or Operations & Maintenance | Same as above, but Required.   |  | City building inspector  |
| Greater than \$5 million valuation or 25,000+ sq. ft. <sup>3</sup>     | LEED® Commercial Interiors or Operations & Maintenance | LEED® Silver   |  | LEED® AP with additional GreenPoint Rater or BPI Certification |

<sup>3</sup> Project valuation will be the primary determinate in establishing the Minimum Compliance Threshold for the project, with use of project size range when valuation is uncertain or in the opinion of the building official does not accurately reflect the project scope.

<sup>4</sup> Applicable only to fixtures within area of renovation or restrooms associated with area of renovation.

### **12.16.025 Solar water heater pre-plumbing requirements.**

All new residential dwelling units and new non-residential buildings over 5,000 square feet in floor area which include hot water heating systems shall include plumbing specifically designed to allow the later installation of a system which utilizes solar energy as a means of heating domestic potable water. Construction specifications to accomplish this requirement shall be adopted by the Chief Building Official. No building permit shall be issued unless the requirements of this section are incorporated into the approved building plans. The provisions of this section can be modified or waived when it can be satisfactorily demonstrated to the Chief Building Official that the requirements are impractical due to shading, building orientation, construction constraints or configuration of the parcel.

### **12.20.025 Photovoltaic pre-wiring requirements.**

All new residential dwelling units and new non-residential buildings over 5,000 square feet in floor area shall include electrical conduit specifically designed to allow the later installation of a photovoltaic (PV) system which utilizes solar energy as a means to provide electricity. Construction specifications to accomplish this requirement shall be adopted by the Chief Building Official. No building permit shall be issued unless the requirements of this section are incorporated into the approved building plans. The provisions of this section can be modified or waived when it can be satisfactorily demonstrated to the Chief Building Official that the requirements are impractical due to shading, building orientation, construction constraints or configuration of the parcel.

Chapter 12.12.020 (Amendments made to the California Building Code) Section 1510 is amended by adding the following subsection:

1510.1.2 Radiant Barriers. When reroofing causes the roof sheathing to be removed, a radiant barrier (reflective insulation) shall be installed in conjunction with the reroofing project.

Chapter 12.16.020 (Amendments to the California Plumbing Code) Section 150(j) is amended by adding the following subsection:

150 (j).4 Hot water piping insulation. When hot water pipes are exposed by removal of wall surfaces insulation shall be installed having a minimum thickness of 1 inch for pipe diameter of 2 inches or less, and having a minimum thickness of 1.5 inches for pipe diameter exceeding 2 inches.

**Chapter 12.46 Requirement to Divert Construction and Demolition Debris from Landfill.**

**Sections:**

- 12.46.010 Definitions**
- 12.46.020 Threshold for covered projects**
- 12.46.030 Submission of Waste Management Plan**
- 12.46.040 Review of Waste Management Plan**
- 12.46.050 Compliance with Waste Management Plan**
- 12.46.060 Exemption**

**12.46.010 Definitions**

For the purposes of this Chapter, the following definitions shall apply:

- a. “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the City for the applicable permits to undertake any construction, demolition, or renovation project within the City.
- b. “Construction” means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.
- c. “Construction and Demolition Debris” means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair or demolition operations on any pavement, house, commercial building or other structure.
- d. “Conversion Rate” means the rate set forth in the standardized Conversion Rate Table approved by the City pursuant to this Chapter for use in estimating the volume or weight of materials identified in a Waste Management Plan.
- e. “Covered Project” means a development project for which one or more building permits are required for new construction.
- f. “Demolition” means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.
- g. “Divert” means to use material for any lawful purpose other than disposal in a landfill or transformation facility.
- h. “Diversion Requirement” means the diversion of at least fifty (50) percent of the total Construction and Demolition Debris generated by a Project via reuse or recycling, unless the Applicant has been granted an Exemption pursuant to Section 12.46.060 of this Chapter, in which case the Diversion Requirement shall be the maximum feasible diversion rate established by the Chief Building Official for the Covered Project.

#### **12.46.020 Threshold for Covered Projects**

- a. Covered Projects: Every construction, demolition and renovation project within the City which is 1,000 square feet or greater shall comply with this Chapter.
- b. Compliance as a Condition of Approval: Compliance with the provisions of this Chapter shall be listed as a condition of approval on any building or demolition permit issued for a Covered Project.

#### **12.46.030 Submission of a Waste Management Plan**

- a. Waste Management Plan Forms: Applicants for building or demolition permits for any Covered Project shall complete and submit a Waste Management Plan (“WMP”), on a WMP form approved by the City for this purpose. The completed WMP shall indicate all of the following:
  1. the estimated volume or weight of project construction and demolition debris, by materials type, to be generated;
  2. the estimated maximum volume or weight of such materials that can feasibly be diverted through material reuse;
  3. the estimated maximum volume or weight of such materials that can feasibly be diverted through recycling;
  4. the vendor and/or facility that the Applicant proposes to use to collect or receive said materials;
  5. the estimated volume or weight of construction and demolition materials that will be landfilled.
- b. Calculating Volume and Weight of Debris: In estimating the volume or weight of materials identified in the WMP, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose, which shall be provided to the Applicant with the WMP application form.

#### **12.46.040 Review of a Waste Management Plan**

- a. Approval: No building or demolition permit shall be issued for any Covered Project unless and until the Chief Building Official has approved the WMP application. Approval shall not be required, however, where an emergency demolition is required to protect public health or safety, as determined by the Chief Building Official, Public Works Director or Fire Chief. The Chief Building Official shall only approve a WMP application if he or she first determines that all of the following conditions have been met:
  1. the WMP application provides all of the information set forth in Section 12.46.030(a) of this Chapter; and
  2. the WMP application indicates that at least fifty (50) percent of all construction and demolition debris generated by the Project will be diverted.
- b. Non-approval: If the Chief Building Official determines that the WMP application is incomplete or fails to indicate that at least fifty (50) percent of all construction and demolition debris generated by the Project will be reused or recycled, he or she shall return

the WMP application to the Applicant, including a statement of reasons and suspend issuance of building or demolition permit applications.

#### **12.46.050 Compliance with a Waste Management Plan**

- a. Documentation: Within thirty (30) days after completion of any Covered Project, the Applicant shall submit to the Chief Building Official documentation that it has met the Diversion Requirement for the Project. The Diversion Requirement shall be that the Applicant has diverted at least fifty (50) percent of the total construction and demolition debris generated by the Project through material reuse or recycling, unless the Applicant has been granted an Exemption pursuant to Section 12.46.060 of this Chapter. This documentation shall include all of the following:
  1. Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of the material received;
  2. A copy of the previously approved WMP application for the Project setting forth the actual volume or weight of each material diverted and landfilled;
  3. Any additional information the Applicant believes provides evidence of compliance with the provisions of this Chapter.
- b. Weighing of Wastes: Applicants shall make reasonable efforts to ensure that all construction and demolition debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the Applicant shall use the standardized Conversion Rates approved by the City for this purpose.
- c. Determination of Compliance: The Chief Building Official shall review the information submitted under subsection (a) of this Section and determine whether the Applicant has complied with the Diversion Requirement.
- d. Good Faith Effort to Comply: If the Chief Building Official determines that the Diversion Requirement has not been achieved, he or she shall determine on a case-by-case basis whether the Applicant has made a good faith effort to comply with this Chapter. In making this determination, the Chief Building Official shall consider the availability of markets for the construction and demolition debris, the size of the Project and the nature of its waste stream, and the documented efforts of the Applicant to divert construction and demolition debris, and this determination shall be made in writing with reasons stated, and shall be included in the building permit file.

#### **12.46.060 Exemption**

- a. Application: If an Applicant for a Covered Project experiences unique circumstances that the Applicant believes makes it infeasible to comply with the Diversion Requirement, the Applicant may apply for an exemption at the time that he or she submits the WMP required under Section 12.46.030(a) of this Chapter. The Applicant shall indicate on the WMP the maximum rate of diversion that he or she believes is feasible for each material and the

specific circumstances that he or she believes makes it infeasible to comply with the Division Requirement.

- b. Meeting with Chief Building Official: The Chief Building Official shall review the information supplied by the Applicant and may meet with the Applicant to discuss possible ways of meeting the Diversion Requirement. Based on the information supplied by the Applicant, the Chief Building Official shall determine whether it is possible for the Applicant to meet the Division Requirement.
- c. Granting of Exemption: If the Chief Building Official determines that it is infeasible for the Applicant to meet the Division Requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the WMP application submitted by the Applicant. The Chief Building Official shall return a copy of the WMP application to the Applicant marked "Approved for Exemption" and place a copy in the building permit file.
- d. Denial of Exemption: If the Chief Building Official determines that it is possible for the Applicant to meet the Division Requirement, he or she shall so inform the Applicant in writing. The Applicant shall have 30 days to resubmit a WMP application form in full compliance with Section 12.46.030(a) of this Chapter. If the Applicant fails to resubmit the WMP application, or if the resubmitted WMP application does not comply with Section 12.46.030(a) of this Chapter, the Chief Building Official shall deny the WMP application and suspend issuance of building or demolition permit applications.

These Ordinances shall not be applicable to any development project for which a planning application has been approved or a complete building permit application has been filed prior to 6/3/2010.