

ORDINANCE NO. 665-06

AN ORDINANCE OF THE CITY OF UNION CITY ADDING CHAPTER 15.76 TO THE UNION CITY MUNICIPAL CODE TO REQUIRE GREEN BUILDING AND LANDSCAPING PRACTICES

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Chapter 15.76 is hereby added to the Union City Municipal Code, as shown in Exhibit A attached hereto and made a part hereof as if fully set forth,

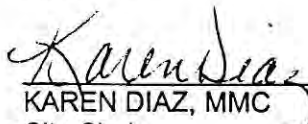
**SECTION 2.** The proposed Municipal Code Text Amendment has been deemed exempt from CEQA, subject to Sections 15061(b3). The text amendment is to add language establishing requirements for green building and landscaping practices. No further environmental review is required,

**SECTION 3.** Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against this Ordinance or otherwise voting. This ordinance shall become effective thirty days from and after its adoption.

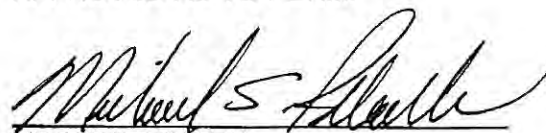
PASSED AND ADOPTED this 28th day of March 2006.

  
MARK GREEN  
Mayor

ATTEST:

  
KAREN DIAZ, MMC  
City Clerk

APPROVED AS TO FORM:

  
MICHAEL RIBACK  
City Attorney

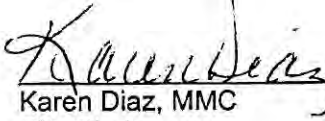
State of California )  
County of Alameda )  
City of Union City )

THE FOREGOING ORDINANCE was introduced with the first reading waived at a regular meeting of the City Council of the City of Union City on the 14<sup>th</sup> day of March 2006, by the following vote:

AYES: Dutra-Vernaci, Fernandez, Navarro, Valle, Green  
NOES: None  
ABSENT: None  
ABSTAIN: None

And had its second reading and was adopted at a regular meeting of the City Council of the City of Union City on the 28<sup>th</sup> date of March 2006, by the following vote and passed by the following vote:

AYES: Fernandez, Navarro, Valle, Green  
NOES: None  
ABSENT: Dutra-Vernaci  
ABSTAIN: None

  
\_\_\_\_\_  
Karen Diaz, MMC  
City Clerk

**EXHIBIT A**

**Municipal Code Chapter 15.76**

**GREEN BUILDING AND LANDSCAPING PRACTICES**

**15.76.010 Purpose.**

The purpose of this chapter is to create a more environmentally and economically sustainable community by incorporating green measures into the design, construction, demolition, renovation, operation, and maintenance of buildings and landscaping within the city. This chapter establishes a requirement to submit documentation of the green building and landscaping practices used in civic and public-private partnership projects. The green building and landscaping practices referenced in this chapter are designed to reduce landfill waste, conserve natural resources, increase energy efficiency, lower costs associated with operations and maintenance, improve indoor environmental quality, and minimize impacts on the natural environment.

**15.76.020 Definitions.**

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

- A. "Alameda County Green Building Guidelines" means the most recent version of the residential building guidelines developed by StopWaste.Org for use in New Home Construction, Home Remodeling, and Multifamily building projects. City staff shall have on file the most recent version of the Alameda County Green Building Guidelines at all times.
- B. "Alameda County Green Points" means the most recent version of the residential building rating system developed by StopWaste.Org. City staff shall have on file the most recent version of the Alameda County Green Points at all times.
- C. "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 or renovation for a building and/or landscaping project within the City.
- D. "Bay-Friendly Landscape Guidelines" means the most recent version of guidelines developed by StopWaste.Org for use in the design, construction, and maintenance of landscapes. City staff shall have on file the most recent version of the Bay Friendly Landscape Guidelines at all times.
- E. "Bay-Friendly Landscape Scorecard" means the most recent version of the landscaping rating system developed by StopWaste.Org. City staff shall have on file the most recent version of the Bay-Friendly Landscape Scorecard at all times.
- F. "Bay-Friendly Landscaping" means a whole systems approach to the design, construction, and maintenance of the landscape in order to support the integrity of the San Francisco Bay watershed.
- G. "Building" means any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is affixed to the land.

- H. "City/Public Agency Partnership Project" means any new construction or renovation built on City- or other public agency-owned land, partially funded by the City, under a cooperative arrangement between the City (or Redevelopment Agency) and another public agency.
- I. "City-Sponsored Project" means any new construction or renovation primarily funded by the City, conducted on City-owned property, or managed by City personnel from design through construction.
- J. "Construction" means the building of any facility or structure or any portion thereof including any tenant improvements to an existing facility or structure.
- K. "Covered Project" shall have the meaning set forth in 15.76.030 of this chapter.
- L. "Green Building and Landscaping Compliance Official" or "Official" means the designated staff person(s), appointed by the City Manager, authorized and responsible for implementing this Article.
- M. "Green Building and Landscaping Documentation" or "GBLD" shall have the meaning set forth in 15.76.050 of this chapter.
- N. "Green Building and Landscaping Practices" means a whole systems approach to the design, construction, and operation of buildings and landscaping that helps mitigate the environmental, economic, and social impacts of construction, demolition, and renovation.
- O. "Green Building and Landscaping Worksheet" means a worksheet, approved by the City for the purpose of compliance with this chapter, submitted by the applicant for any Covered Project.
- P. "Initiated" means officially identified and fully funded to offset the costs associated with the project as found in the Adopted Operating Budget and Capital Improvement Plan or in a Development Agreement and/or Disposition and Development Agreement with the Redevelopment Agency.
- Q. "Landscape" means the parcel area less the building pad and includes all planted areas and hardscapes such as driveways, parking, paths and other paved areas.
- R. "LEED™ Accredited Professional" means an individual who has passed the LEED™ accreditation exam administered by the U.S. Green Building Council.
- S. "LEED™ Project Checklist" means a checklist or scorecard developed by the U.S. Green Building Council, and as may be amended, for the purpose of calculating a score on the LEED™ Rating System. Covered Projects shall utilize the LEED™ Project Checklist that corresponds with the LEED™ Rating System approved for use.
- T. "LEED™ Rating System" means the most recent version of the Leadership in Energy and Environmental Design™ (LEED™) Green Building Rating System approved by the U.S. Green Building Council. City staff shall have on file the most recent version of the LEED™ Rating System at all times.
- U. "Non-Covered Project" shall have the meaning set forth in 15.76.030 of this chapter.

- V. "Public-Private Partnership Project" means any new construction or renovation built on City- or Redevelopment Agency-owned land, primarily funded by the City or the Redevelopment Agency, built as a project of the Redevelopment Agency, or built under a Development Agreement and/or Disposition and Development Agreement with the Redevelopment Agency.
- W. "Renovation" means any change, addition, or modification to an existing building, structure, or landscape, including, but not limited to tenant improvements.
- X. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground.
- Y. "Traditional Public Works Projects" means heavy construction projects such as pump stations, flood control improvements, roads, bridges, as well as traffic lights, sidewalks, bike paths, bus stops, street median projects, and associated infrastructure on City-owned and maintained property.

**15.76.030 Threshold for covered projects.**

- A. Covered Projects. All City-Sponsored, City/Public Agency Partnership, and Public-Private Partnership building projects, whose estimated cost of construction is equal to or greater than \$3,000,000 (to be adjusted annually according to the Building Cost Index published in Engineering News-Record Magazine), shall be considered "Covered Projects" for the purposes of this chapter. All City-Sponsored, City/Public Agency Partnership, and Public-Private Partnership landscape projects greater than 5,000 square feet shall also be considered "Covered Projects."
- B. Non-Covered Projects. All City-Sponsored, City/Public Agency Partnership, and Public-Private Partnership building projects, whose estimated cost of construction is less than \$3,000,000 (to be adjusted annually according to the Building Cost Index published in Engineering News-Record Magazine), shall be considered "Non-Covered Projects" for the purposes of this chapter. All City-Sponsored, City/Public Agency Partnership, and Public-Private Partnership landscape projects less than 5,000 square feet shall be considered "Non-Covered Projects" for the purposes of this chapter.
- C. Traditional Public Works Projects. All Traditional Public Works Projects are exempt from the requirements of this chapter. However, the Public Works Department shall regularly review the project specifications used in bidding Traditional Public Works Projects to include the best green building and landscaping practices.
- D. Private Building and Landscaping Projects. All private building and landscaping projects, except for landscaping installed by a private developer to be dedicated to the City, are exempt from the requirements of this chapter but shall be encouraged to incorporate as many green building and Bay-Friendly Landscaping measures as possible. Resources and information about green building and landscaping practices shall be made available to the public at the Economic and Community Development Department.
- E. Determination of Covered Projects. The Green Building and Landscaping Compliance Official (Official) shall make the final determination as to whether any initiated project qualifies as a Covered Project.

**15.76.040 Standards for compliance.**

**A. City-Sponsored Projects.** All City-Sponsored Covered Projects initiated on or after the final adoption of this ordinance shall:

- (1) Incorporate green building measures from the Leadership in Energy and Environmental Design™ (LEED™) Rating System, the Alameda County Residential Green Building Guidelines, or a City-approved equivalent—whichever is applicable to the project type;
- (2) Incorporate green landscaping measures from the Bay-Friendly Landscape Guidelines, or a City-approved equivalent, if the project includes landscaping;
- (3) Submit Green Building and Landscaping Documentation (GBLD) as described in 15.76.050
- (4) Meet either a minimum LEED™ “Certified” rating and be so certified by the U.S. Green Building Council or the minimum Alameda County Green Points;
- (5) Meet the minimum Bay-Friendly Landscape Scorecard points if the project includes landscaping;
- (6) Have a LEED™ Accredited Professional as a principal member of the design team from the beginning of the project if the LEED™ Rating System is applicable; and
- (7) Submit documentation to a qualified third party for verification of compliance.

**B. City/Public Agency Partnership and Public-Private Partnership Projects.** All City/Public Agency Partnership and Public-Private Partnership Covered Projects initiated on or after the final adoption of this ordinance shall:

- (1) Incorporate, to the maximum extent feasible, green building measures from the LEED™ Rating System, the Alameda County Green Building Guidelines, or a City-approved equivalent—whichever is applicable to the project type;
- (2) Incorporate green landscaping measures from the Bay-Friendly Landscape Guidelines, or a City-approved equivalent, if the project includes landscaping;
- (3) Submit a GBLD as described in 15.76.050;
- (4) Have a LEED™ Accredited Professional as a principal member of the design team from the beginning of the project if the LEED™ Rating System is applicable; and
- (5) Provide documentation demonstrating level of compliance.

**C. Non-Covered Projects.** For the purposes of incorporating as many green building and landscaping practices into projects within the city, all Non-Covered Projects initiated on or after the final adoption of this ordinance shall be encouraged to:

- (1) Incorporate as many green building measures as feasible from the LEED™ Rating System, the Alameda County Green Building Guidelines, or a City-approved equivalent—whichever is applicable to the project type;

(2) Incorporate as many green landscaping measures as feasible from the Bay-Friendly Landscape Guidelines, or a City-approved equivalent, if the project includes landscaping; and

(3) Provide documentation demonstrating level of compliance.

- D. Public Landscaping Installed by Private Development. All landscaping within private development projects to be dedicated to the City for long-term maintenance by the City shall (1) Incorporate green landscaping measures from the Bay-Friendly Landscape Guidelines, or a City-approved equivalent and (2) Provide documentation demonstrating level of compliance.
- E. Determination of Compliance. The Official shall make the final determination as to whether a project has complied with the requirements of this chapter.

**15.76.050 Submission of green building and landscaping documentation.**

- A. Preliminary GBLD. Applicants for Site Development Review involving any Covered Project shall complete and submit a preliminary GBLD on forms approved by the City for this purpose as part of the application packet. The documentation shall indicate how many LEED™ credits or Alameda County Green Points the Covered Project is expected to achieve in each category. The completed GBLD shall include documentation of the following:

(1) Proposed LEED™ or Alameda County Green Building Guidelines to be incorporated into the project;

(2) Proposed Bay-Friendly Landscape Guidelines to be incorporated if the project includes landscaping;

(3) Green Building and Landscaping Worksheet with an analysis of each proposed credit or point claimed; and

(4) Any other documentation that may be necessary to show the proposed green building and landscaping practices to be incorporated into the project.

- B. Final GBLD. Prior to issuance of building permits of any Covered Project, the applicant shall submit a final GBLD demonstrating the green building and landscaping measures that have been incorporated into the project. This documentation shall include all of the following:

(1) Completed LEED™ Project Checklist or Alameda County Green Points scorecard;

(2) Completed Bay-Friendly Landscape Scorecard if the project includes landscaping;

(3) All building plans with green building measures indicated in the general notes and individual detail drawings; and

(4) Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this chapter.

- C. Non-Covered Projects shall be encouraged to submit a preliminary and final GBLD as set forth in 15.76.050(A) and 15.76.050(B).

- D. City-Sponsored Covered Projects that have been granted a waiver as set forth in 15.76.070 shall submit a preliminary and final GBLD as set forth in 15.76.050(A) and 15.76.050(B).

**15.76.060 Review of green building and landscaping documentation.**

- A. Approval. Notwithstanding any other provision of this Municipal Code, no building permit shall be issued for any Covered Project unless and until the Official has approved the GBLD for compliance with 15.76.040. If the Official determines that these conditions have been met, s/he shall mark the GBLD "Approved," return a copy of the GBLD to the applicant, and notify the Building Department that the GBLD has been approved. The applicant shall be responsible for submitting the Approved GBLD to the appropriate certification authority.
- B. Nonapproval. If Official determines that the GBLD is incomplete or fails to demonstrate compliance with 15.76.040, s/he shall either: (1) Return the GBLD to the applicant marked "Denied", including a statement of reasons, and so notify the Building Division, which shall not issue a building permit or other City permit, or (2) Return the GBLD to the applicant marked "Further Explanation Required," and detail the additional information needed. The applicant shall resubmit to the Official once the statement of reasons for denial has thoroughly been addressed and documented.

**15.76.070 Waiver.**

If a City-Sponsored Covered Project cannot attain certification as set forth in 15.76.040(A), the City Council may grant the project a waiver, making a finding that the project is subject to exceptional or extraordinary circumstances that make it infeasible to comply with the requirements of this chapter. The applicant seeking a waiver shall submit a GBLD as the basis for the City Council's review and determination of the waiver. A waiver can be sought at any time during the project development or construction. Any project granted an waiver shall be required to incorporate as many green building and landscaping measures as feasible from the GBLD.