

Chapter 17.50 GREEN BUILDING

Note

* **Prior ordinance history; Ord. 1873.**

17.50.010 Purpose.

The purpose of this chapter is to enhance the public welfare and assure that further residential, commercial, and civic development is consistent with the city's desire to create a more sustainable community by incorporating green building measures into the design, construction, and maintenance of buildings. The green building practices referenced in this chapter are designed to achieve the following goals:

- A. To encourage resource conservation;
- B. To reduce the waste generated by construction projects;
- C. To increase energy efficiency; and
- D. To promote the health and productivity of residents, workers, and visitors to the city. (Ord. 1934 § 1, 2006)

17.50.020 Findings.

The city finds that:

- A. Green building design, construction, and operation can have a significant positive effect on energy and resource efficiency, waste and pollution generation, and the health and productivity of a building's occupants over the life of the building.
- B. Green building benefits are spread throughout the systems and features of the building. Green buildings may use recycled content building materials, consume less energy and water, have better indoor air quality, and use less wood fiber than conventional buildings. Construction waste is often recycled and remanufactured into other building products, resulting in reduced landfill impacts.
- C. Design and construction decisions made by the city in the construction and remodeling of city buildings can result in significant energy cost savings to the city over the life of the buildings. Use of green building techniques in all construction can reduce overall energy consumption throughout the city.
- D. Based on studies by the Alameda County waste management authority (ACWMA), construction and demolition debris comprises up to 21 percent of materials disposed in Alameda County landfills, and opportunities exist for reducing the generation of this waste.
- E. In recent years, green building design, construction, and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local and national systems have been developed to serve as guides to green building practices. At the national level, the U.S. Green Building Council, developer of the leadership in energy and

environmental design (LEED™) commercial green building rating system and LEED™ reference guide, has become a leader in promoting and guiding green building. At the regional level, ACWMA has developed green building guidelines and green building rating systems for single-family and multi-family residences following a collaborative process with the development community.

F. Requiring certain commercial, residential, and city sponsored (civic) projects to incorporate LEED™ green building measures is necessary and appropriate to achieve the benefits of green building.

G. Health and Safety Code Sections 18938 and 17958 provide that the California Building Standards Code establish building standards for all occupancies throughout the state.

H. Many of the prerequisites and means of achieving credits under LEED™, the single-family green building rating system and the multi-family green building rating system do not impact areas where state law has established building standards. The city further finds that, for specific projects, the applicant may believe that achieving the LEED™, single-family or multi-family green building rating required by this chapter could require use of otherwise unauthorized building standards, and, accordingly, the city finds that it is appropriate to provide for an exemption from this chapter in such circumstances. (Ord. 1934 § 1, 2006)

17.50.030 Definitions.

For the purposes of this chapter, certain words and terms used are defined as follows:

A. “ACWMA” means the Alameda County waste management authority.

B. “ACWMA’s Multi-family Green Building Guidelines” means a supporting document published by ACWMA that provides detailed information, resources, and standards for the multi-family green building rating system, including information regarding the documentation required for certification.

C. “ACWMA’s New Home Construction Green Building Guidelines” means a supporting document published by ACWMA that provides detailed information, resources, and standards for the single-family green building rating system, including information regarding the documentation required for certification.

D. “Applicant” means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity that applies to the city for the applicable permits to undertake any covered project within the city.

E. “Building” means any structure used for support or shelter of any use or occupancy, as defined in the California Building Standards Code.

F. “City” means the city of Pleasanton.

G. “City sponsored project” means a building(s) primarily funded and sponsored by the city or on city owned land.

H. “Commercial project” means any retail, office, industrial, warehouse or service building(s) within city limits, which is not a city sponsored project, a residential project, or a mixed use project.

I. “Conditioned space” means an enclosed space in a building that is provided with a mechanical heating system that has a capacity exceeding 10 Btu/(hr. x ft.²), or is provided with a mechanical cooling system that has a capacity exceeding five Btu/(hr. x ft.²), unless the space conditioning system is designed and thermostatically controlled to maintain a process environment temperature less than 55 degrees Fahrenheit or to maintain a process environment temperature greater than 90 degrees Fahrenheit for the entire space the system serves.

J. “Construction” means the building of any structure or any portion thereof.

K. “Covered project” means: (1) construction of any city sponsored project; (2) construction of any commercial project that includes 20,000 gross square feet or more of conditioned space; (3) renovation of any commercial project or city sponsored project that adds 20,000 gross square feet or more of additional conditioned space, but not a renovation project that consists solely of interior improvements to an existing building; (4) construction of any single-family residential project that is 2,000 square feet or more in size; (5) construction of any multi-family residential project; (6) construction of any mixed use project; (7) additions to residential projects where the addition is 2,000 square feet or greater; or (8) additions of any size to residential projects where the residential project was less than 2,000 square feet when built and it has been less than five years from the date the certificate of occupancy was issued. Covered projects do not include historic buildings or privately owned commercial or mixed use buildings within the boundaries of the downtown specific plan (adopted March 5, 2002).

L. “Green building” means a whole systems approach to the design, construction, and operation of buildings that helps mitigate the environmental, economic, and social impacts of buildings. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.

M. “Green building compliance official” means the community development director or designee.

N. “Green building project checklist” means a checklist or scorecard developed for the purpose of calculating a score on the LEED™ commercial green building rating system, the single-family green building rating system or the multi-family green building rating system. Covered projects shall utilize the green building project checklist that corresponds with the green building rating system approved for use.

O. “Green building worksheet” means a worksheet or form developed by the green building compliance official and, as may be amended, which specifies information to be submitted prior to any hearing for design review or planned unit development design review approval for a covered project. The green building worksheet shall specify the form and content of the required documentation.

P. “Hardship” means circumstances, by some verifiable level of adversity or difficulty, by which an applicant would not be able to reasonably fulfill the obligations to meet the ordinance as determined by the green building compliance official.

Q. “Historic building” means any building listed on or eligible for listing on a national, state, or local register or listing of historic resources.

R. “Infeasible” means the existence of obstacles which render the applicant/developer incapable of fulfilling the obligations to meet this chapter as determined by the green building compliance official.

S. “LEED™ commercial green building rating system” means the most recent version of the leadership in energy and environmental design (LEED™) commercial green building rating system, or other related LEED™ rating system, approved by the U.S. Green Building Council. As new rating systems are developed by the U.S. Green Building Council, the green building compliance official shall have the authority to specify the applicable LEED™ commercial green building rating system for a covered project. For the first six months after the release of any new version of the LEED™ commercial green building rating system when the covered project is formally submitted to the planning division for approval with the payment of appropriate fees, the applicant shall be given the choice of using the most current version or the version to be superseded. city staff shall maintain the most recent version of the applicable LEED™ commercial green building rating systems at all times.

T. “LEED™ Commercial Green Building Reference Guide” means a supporting document published by the U.S. Green Building Council that provides detailed information, resources, and standards for the five environmental categories covered by the LEED™ commercial green building rating system, including information regarding the documentation required for LEED™ certification. city staff shall maintain the most recent version of the LEED™ reference guide at all times.

U. “Mixed use project” means a building(s) within city limits that combines the uses of a commercial project and a residential project.

V. “Multi-family green building rating system” means ACWMA’s green building rating system for multi-family residential projects. As new rating systems are developed by ACWMA, the green building compliance official shall have the authority to specify the applicable multi-family green building rating system for a covered project. For the first six months after the release of any new version of the multi-family green building rating system when the covered project is formally submitted to the planning division for approval with the payment of appropriate fees, the applicant shall be given the choice of using the most current version or the version to be superseded.

W. “Multi-family residential project” means a residential project containing more than one attached dwelling unit, including duplexes, apartments, condominiums, and townhouses.

X. “Noncovered project” means: (1) renovation of any commercial project, city sponsored project, or residential project that consists solely of interior improvements to an existing building; (2) additions to historic buildings (commercial or residential); (3) privately owned commercial or mixed use buildings within the boundaries of the downtown specific plan (adopted March 5, 2002); or (4) any project not listed as a “covered project” in subsection K of this section.

Y. “Prepermitting documentation” means the documentation required by Section 17.50.050 of this chapter.

Z. “Renovation” means any change, addition, or modification to an existing building.

AA. “Residential project” means any building within city limits used for living, sleeping, eating, and cooking. For the purposes of this chapter, a residential project includes assisted living facilities and senior housing. A residential project does not include hotels, motels, inns, or similar

commercial enterprises wherein rooms or suites of rooms are rented for transient occupancy and are considered commercial projects.

BB. “Single-family green building rating system” means ACWMA’s green building rating system for single-family residential projects. As new rating systems are developed by ACWMA, the green building compliance official shall have the authority to specify the applicable single-family green building rating system for a covered project. For the first six months after the release of any new version of the single-family green building rating system when the covered project is formally submitted to the planning division for approval with the payment of appropriate fees, the applicant shall be given the choice of using the most current version or the version to be superseded.

CC. “Single-family residential project” means a residential project containing one dwelling unit.

DD. “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, as defined in the California Building Standards Code. (Ord. 2000 § 1, 2009; Ord. 1934 § 1, 2006)

17.50.040 Standard for compliance.

A. Covered Projects. All covered projects shall meet the following requirements:

1. All commercial projects shall meet a minimum LEED™ “certified” rating, except as modified by the provisions of subsection B of this section.
2. All city sponsored projects that are neither residential projects nor mixed use projects shall achieve a minimum LEED™ “certified” rating, except as modified by the provisions of subsection B of this section, and are encouraged to meet the “silver” rating.
3. All single-family residential projects, including any such city sponsored project, shall achieve a “green home” rating on the single-family green building rating system, which currently requires 50 points.
4. All multi-family residential projects, including any such city sponsored project, shall achieve a “green home” or similarly entitled minimum compliance rating on the multi-family green building rating system, which currently requires 50 points, unless the green building compliance official determines that the single-family green building rating system is more appropriate for the building, such as for a duplex that is not part of a larger project.
5. All mixed use projects, including any such city sponsored project, shall meet the requirements for a multi-family residential project, unless the green building compliance official determines that another rating system is more appropriate.

B. Actions Not Required.

1. LEED™ Registration And Certification. Applicants are encouraged to register commercial projects and other applicable covered projects with the U.S. Green Building Council. LEED™ certification through the U.S. Green Building Council is not required under this chapter.

2. **Building Commissioning.** Building commissioning, although specified as a prerequisite for all LEED™ ratings, is not required under this chapter. Applicants are encouraged to verify that fundamental building systems are designed, installed, and calibrated to operate as intended.

C. **Noncovered Projects.** Applicants for noncovered projects are encouraged to incorporate green building measures, but are not required to submit any documentation nor is there any verification of compliance.

D. **Compliance as a Condition of Approval.** Compliance with the provisions of this chapter shall be listed as a condition of approval on any design review or planned unit development design review approval issued for a covered project. Failure to comply with any of the terms of this chapter shall subject the covered project to the full range of enforcement mechanisms set forth in Section 17.50.100 of this chapter. (Ord. 1934 § 1, 2006)

17.50.050 Submission of prepermitting documentation.

A. **Permitting Documentation.** In conjunction with the application for design review or planned unit development design review, whichever is applicable, the applicant shall submit documentation indicating the measures to be used to achieve the applicable green building rating (“prepermitting documentation”). The city encourages the applicant to use a LEED™ accredited professional or similarly experienced person to prepare the prepermitting documentation. This documentation shall include:

1. The applicable green building project checklist;
2. The applicable green building worksheet with an analysis of each credit claimed; and
3. Any other documentation that may be necessary to show compliance with this chapter.

B. **Review and Prehearing Meeting.** After submission of the prepermitting documentation required by subsection A of this section, but prior to the hearing on the design review or planned unit development design review, the green building compliance official shall review the prepermitting documentation and arrange a meeting with the applicant to discuss the proposed green building measures, as needed. (Ord. 1934 § 1, 2006)

17.50.060 Review of prepermitting documentation.

A. **Approval.** The green building compliance official shall only approve the prepermitting documentation if it is determined that the prepermitting documentation indicates that the covered project can achieve the applicable green building rating, as set forth in Section 17.50.040 of this chapter. If the green building compliance official determines that these conditions have been met, the prepermitting documentation shall be marked “approved,” and returned to the applicant. The green building compliance official shall provide a copy of the approved prepermitting documentation at the hearing on the design review or planned unit development design review and shall notify the building and safety division that the prepermitting documentation has been approved. No building permit shall be issued until the prepermitting documentation has been

approved under this section or an exemption has been granted under Section 17.50.080 of this chapter.

B. Nonapproval. If the green building compliance official determines that the prepermitting documentation is incomplete or fails to indicate that the covered project will meet the required green building rating for the covered project as set forth in Section 17.50.040 of this chapter, he or she shall either:

1. Return the prepermitting documentation to the applicant marked “denied”, including a statement of reasons, and so notify the building and safety division; or
2. Return the prepermitting documentation to the applicant marked “further explanation required”, and detail the additional information needed.

C. Resubmission. If the prepermitting documentation is returned to the applicant, the applicant may resubmit the prepermitting documentation with such additional information as may be required or may apply for an exemption under Section 17.50.080 of this chapter.

D. Timing of Review. The green building compliance official shall review the green building project checklist and all other prepermitting documentation for compliance with this chapter prior to the hearing on design review or planned unit development design review, and again during plan check. (Ord. 1934 § 1, 2006)

17.50.070 Compliance.

A. Building Permit Documentation. With the application for a building permit, the applicant shall submit a completed green building project checklist with the first building permit plan set submitted. All building plans shall indicate in the general notes or individual detail drawings, where feasible, the green building measures to be used to attain the applicable green building rating. Notwithstanding any other provision of this code, no building permit shall be issued for any covered project unless and until the green building compliance official has approved the prepermitting documentation submitted for the covered project.

B. Compliance Review. Building division staff shall verify that the green building measures and provisions indicated in the prepermitting documentation are being implemented at foundation inspection, framing inspection, and prior to issuance of a final certificate of occupancy. The green building compliance official or the building and safety division staff may also conduct other inspections as needed to ensure compliance with this chapter. If, as a result of any such inspection, the green building compliance official or building and safety division staff determines that the covered project does not comply with the prepermitting documentation, a stop work order may be issued. At the discretion of the green building compliance official such a stop work order may apply to the portion of the project impacted by noncompliance or to the entire project. The stop work order shall remain in effect until the green building compliance official determines that the covered project will be brought into compliance with the prepermitting documentation and this chapter.

C. Substitution of Credits. During compliance review for covered projects, flexibility may be exercised by the green building compliance official to substitute the approved credits with other credits in the approved, applicable green building rating system. Substitution shall occur only at the

request of the applicant and when it is determined that the originally approved credits are no longer feasible.

D. Compliance Documentation. Documentation shall be provided as described below:

1. Prior to final building approval and/or issuance of a final certificate of occupancy for any covered commercial, city sponsored, single-family residential, multi-family residential, or mixed use project, the applicant shall submit to the green building compliance official:

a. Documentation that verifies incorporation of the design and construction related credits from the prepermitting documentation for the covered project; and

b. A letter from the project architect or project contractor that certifies that the covered project has been constructed in accordance with the approved green building project checklist.

The applicant may also provide:

c. Any additional documentation that would be required by the LEED™ reference guide for LEED™ certification, and

d. Any additional information the applicant believes is relevant to determining its good faith efforts to comply with this chapter.

2. After one year of occupancy, the applicant shall submit to the green building compliance official documentation detailing conformance with the operation, efficiency, and conservation related credits from the prepermitting documentation for any covered commercial, city sponsored, single-family residential, multi-family residential, or mixed use project, if required by the green building compliance official. The applicant may also provide any additional information the applicant believes is relevant to determining its good faith efforts to comply with this chapter.

3. After five years of occupancy, the applicant shall submit to the green building compliance official documentation detailing conformance with the operation, efficiency, and conservation related credits from the prepermitting documentation for any covered commercial, city sponsored, multi-family residential, or mixed use project, if required by the green building compliance official. The applicant may also provide any additional information the applicant believes is relevant to determining its good faith efforts to comply with this chapter.

E. Final Determination of Compliance. Prior to issuance of an occupancy permit, the green building compliance official shall review the information submitted by the applicant and determine whether the applicant has achieved the required green building rating, as set forth in Section 17.50.040 of this chapter. If the green building compliance official determines that the applicant has not achieved the required green building rating, the green building compliance official shall find as follows:

1. Good Faith Effort to Comply. If the green building compliance official determines that the covered project has not met the requirements for the applicable green building rating, as set forth in Section 17.50.040 of this chapter, 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 green building compliance official shall consider the availability of markets for materials to be recycled, the availability of green building materials and technologies, and the documented efforts of the applicant to comply with this chapter. The green building compliance official may require additional reasonable green building measures as authorized in

subsection (E)(3) of this section to be taken in the operation of the covered project to mitigate the failure to comply fully with this chapter.

2. Noncompliance. If the green building compliance official determines that the applicant has not made a good faith effort to comply with this chapter, or if the applicant fails to submit the documentation required by subsection (D)(1) of this section within the required time period, then the final building approval and/or occupancy permit may be withheld. The green building compliance official may require additional reasonable green building measures as authorized in subsection (E)(3) of this section to be employed in the operation of the covered project to mitigate the applicant's failure to comply with this chapter. Once the applicant has performed such additional reasonable green building measures, the green building compliance official shall approve the covered project for final building approval and/or issuance of an occupancy permit. If the documentation submitted by the applicant as required by subsections (D)(2) and (D)(3) of this section indicates that the applicant has not made a good faith effort to maintain the originally approved conservation and energy related credits in the operation of the building, the green building compliance official may require additional reasonable green building measures as authorized in subsection (E)(3) of this section.

3. Mitigation. If the green building compliance official determines that the applicant has not complied with this chapter, the green building compliance official may require further reasonable green building measures to be employed in the operation and maintenance of the covered project to mitigate the applicant's failure to comply fully with this chapter. Such mitigation measures may include, but are not limited to, changes to landscaping for the covered project to decrease water and energy consumption, use of energy efficient fixtures, including the use of energy efficient light bulbs, and education of the building's occupants and owners regarding ongoing energy and resource savings techniques.

F. LEED™ Certification. For covered projects that have voluntarily registered with the U.S. Green Building Council with the intent to certify the building at the "certified" level or above, the green building compliance official may reduce the scope of the city's compliance review. Depending on the timing of certification, the documentation required by subsections (D)(1), (D)(2) and (D)(3) of this section may be reduced or eliminated. (Ord. 1934 § 1, 2006)

17.50.080 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, he or she 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 that he or she submits the prepermitting documentation required under Section 17.50.050 of this chapter. The applicant shall indicate in the prepermitting documentation the maximum number of credits he or she believes is practical or feasible for the covered project and the circumstances that 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 existing building standards.

C. Meeting with Green Building Compliance Official. The green building 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 green building 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 green building compliance official shall determine the maximum feasible number of credits reasonably achievable for the covered project and shall indicate this number on the prepermitting documentation submitted by the applicant. The green building compliance official shall return a copy of the prepermitting documentation to the applicant marked “approved with exemption.” The green building compliance official shall provide a copy of the approved prepermitting documentation marked “approved with exemption” at the hearing on the design review or planned unit development design review and shall notify the building and safety division that the prepermitting documentation has been approved. 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 green building compliance official. If an exemption is granted, the planning commission and the city council shall be notified of the action. Any member of the planning commission or city council may appeal the determination to grant or deny an exemption.

E. Denial of Exemption. If the green building compliance official determines that it is possible for the applicant to fully meet the requirements of this chapter, he or she shall so notify the applicant in writing. The applicant may resubmit the prepermitting documentation in full compliance with Sections 17.50.050 and 17.50.060 of this chapter. If the applicant does not resubmit the prepermitting documentation, or if the resubmitted prepermitting documentation does not comply with Sections 17.50.050 and 17.50.060 of this chapter, the green building compliance official shall deny the prepermitting documentation in accordance with Section 17.50.060(B) of this chapter. (Ord. 1934 § 1, 2006)

17.50.090 Appeal.

A. Any applicant or person may appeal the determination of the green building compliance official regarding: (1) the granting or denial of an exemption pursuant to Section 17.50.080 of this chapter; (2) compliance with this chapter pursuant to Section 17.50.070 of this chapter; or (3) the type or scope of mitigation measures required for noncompliance pursuant to Section 17.50.070(E)(3) of this chapter.

B. Appeals must be filed in writing with the city manager within 15 days of the determination by the green building compliance official. The appeal shall state the alleged error or reason for the appeal. In reviewing the appeal, the city manager may request additional written or oral information from

the applicant or the green building compliance official. The city manager shall issue a written determination within 15 days of the receipt of the appeal.

C. The determination by the city manager may be appealed to the city council by filing a written appeal with the city clerk within 15 days of the written determination by the city manager. The city council shall hold a public hearing regarding the appeal within 40 days of the date when the appeal was filed. (Ord. 1934 § 1, 2006)

17.50.100 Enforcement.

A. Violation of any provision of this chapter due to the applicant's failure to build the covered project in accordance with the covered project's plans, including the prepermitting documentation and the conditions of approval in the applicable permit, shall be punishable as provided in Chapter 1.28 of this code.

B. Where the applicant has violated any provision of this chapter due to the applicant's failure to build the covered project in accordance with the project's plans, including the prepermitting documentation and the conditions of approval in the applicable permit, the green building compliance official may require mitigation as set forth in Section 17.50.070(E)(3) of this chapter.

C. Enforcement pursuant to this section shall be undertaken by the city through its community development director or the city attorney.

D. These remedies are cumulative and the choice of one by the city shall not preclude pursuing the others. (Ord. 2000 § 1, 2009; Ord. 1934 § 1, 2006)
