

## ORDINANCE NO. 12-13

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA ADDING SECTIONS 15.12.020 THROUGH 15.12.090 TO CHAPTER 15.12 OF THE GOLETA MUNICIPAL CODE ESTABLISHING MANDATORY GREEN BUILDING REQUIREMENTS FOR CERTAIN NEW CONSTRUCTION AND INCENTIVES FOR ADDITIONAL VOLUNTARY GREEN BUILDING PRACTICES BEYOND EXISTING REGULATIONS.

The City Council of the City of Goleta does ordain as follows:

#### **SECTION 1:** The City Council finds and declares that:

- A. The City of Goleta General Plan sets forth a vision for the City's future which forms the foundation for the City's goals, objectives, and policies;
- B. Chapter 1.2 of the City of Goleta General Plan envisions the City as a community that "seeks sustainability by not sacrificing tomorrow's resources for today's needs", and "where the amount and character of growth respects the carrying capacity of the natural environment";
- C. The City of Goleta General Plan includes Housing Element Implementation Program IP-9C Establish "Green" Building Standards and Processes;
- D. Housing Element Implementation Program IP-9C requires the City to adopt a "Green Building Program" to encourage the use of green building materials and energy conservation measures in new construction;
- E. The City of Goleta Strategic Plan reflects the goals and values of the City organization and provides direction on issues and projects of importance to the City Council and the community; and
- F. Objective 6.15 of the Strategic Plan calls for the City to "Promote Green, Sustainable, Energy Efficient Practices at City Hall, Corp Yard and in the Community";
- G. Public policy that promotes healthy, resilient, high-performing building design and practices complements existing City policies relating to development and environmental stewardship, including energy efficiency and conservation, waste reduction and recycling, storm water quality and flood protection, tree protection, water conservation, and transportation demand management; and
- H. A number of local and national systems have been developed to serve as

guides to green building practices, including the United States Green Building Council (USGBC), which has created and supports the Leadership in Energy and Environmental Design (LEED) green building rating systems and maintains certification processes for new and existing buildings that together identify and verify a range of responsible design, construction and maintenance practices that can improve human and environmental health in buildings and their surroundings while saving energy, water and money.

- I. Green building design, construction and operation furthers the goals set forth in the City's General Plan and the Strategic Plan, and supports the California Public Utilities Commission's (CPUC's) California Long Term Energy Efficiency Strategic Plan.
- J. A public purpose will be served by establishing green building standards that include requirements for certain new construction projects, and is consistent with the City's desire to create a more sustainable community by incorporating green building measures into the design, construction, and operation of buildings.
- K. At the national and state levels, the U.S. Green Building Council has taken the initiative to promote and define commercial and residential green building by developing the Leadership in Energy and Environmental Design (LEED) Rating System™.
- L. At the state level, Build It Green has taken the initiative to promote and define residential green building by developing the GreenPoint Rated RatingSystem™.
- M. At the local level, the Santa Barbara Contractors Association has taken the initiative to promote and define commercial and residential green building by developing the Built Green Santa Barbara Rating System.
- N. Nothing in this ordinance is intended to duplicate, contradict, or infringe upon provisions of state law, including the California Building Code, as adopted by the Goleta Municipal Code. The ordinance and the associated checklists used to demonstrate compliance or to receive various incentives provide many opportunities to achieve required points and credits that do not impact areas where state law has established building standards.
- O. Because the design, restoration, construction, and maintenance of buildings and structures within the City can have a significant detrimental impact on the City's environment, greenhouse gas emissions, resource usage, energy efficiency, waste management and the health and productivity of residents, workers and visitors over the life of the building,

requiring and/or encouraging certain building projects to incorporate green building measures is necessary and appropriate to achieve public health and welfare benefits; and

- P. The City reviewed this Ordinance's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA"), the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"), and the City's Environmental Guidelines.

**SECTION 2:** *Environmental Assessment.* Resolution No. 12-64 found the Green Building Program, which includes this Ordinance, to be exempt from additional CEQA review. That Resolution properly assessed the environmental impact of the Green Building Program in accordance with CEQA. This Resolution incorporates by reference the environmental findings and analysis set forth in Resolution No. 12-64.

**SECTION 3:** Sections 5.12.020 to 5.12.090 are added to Chapter 15.12 of the Goleta Municipal Code ("GMC") to read as follows:

"15.12.020 Purpose.

The purpose of this Chapter is to enhance the public health and welfare and assure that further commercial and residential 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 provisions referred to in this Chapter are designed to achieve the following goals:

- A. Increase energy and water efficiency in buildings;
- B. Increase resource conservation;
- C. Reduce waste generated by construction projects;
- D. Provide durable buildings that are efficient and economical to own, operate, and maintain;
- E. Promote a healthier indoor environment.

15.12.030 Applicability

This Chapter applies to all projects defined as "Covered Projects," as defined below, except that it does not apply to any project for which a planning entitlement application or building permit application was submitted before the effective date of this ordinance.

#### 15.12.040 Definitions.

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this Chapter.

“Applicant” means any person applying to the city for the applicable planning or building permits to undertake any Covered or Non-Covered project within the city, or any subsequent owner of the project site.

“Built Green Santa Barbara” means a commercial and residential green building rating system developed by the Santa Barbara Contractors Association.

“Built Green Santa Barbara Verification” means verification of compliance by a designated Third Party Verifier, confirming achievement of a level of building performance at the 3, 4, or 5-Star level of the Built Green Santa Barbara program, as implemented in the City’s green building program.

“CALGreen+” means the requirements that must be met in addition to the CALGreen mandatory requirements, as outlined in the Standards for Compliance in Section 15.12.050.

“Compliance official” means the Director of Planning and Environmental Review, or designee.

“Compliance threshold” means the minimum CALGreen+ requirements, or the number of points or rating level per a green building rating system that must be attained to receive an incentive for a particular Covered Project, as outlined in the Incentives for Compliance in Section 15.12.060.

“Covered project” means any one of the following planning entitlement application(s) requiring legislative actions by City Council: Rezone, General Plan Amendment, Specific Plan and Ordinance Amendment, subject to the Standards for Compliance outlined in Section 15.12.050.

“Good faith effort” means a project that has not met the required compliance threshold, but for extenuating reasons or reasons beyond the control of the applicant, the Compliance Official has found the project meets the good faith effort provisions.

“Green building” means a whole systems approach to the design, construction and operation of buildings that substantially mitigates the environmental, economic, and social impacts of conventional building practices. 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.

“Green building project checklist” means a checklist or scorecard developed for the purpose of calculating a green building rating.

“Green building rating system” means the rating system associated with specific green building performance criteria and used to determine rating levels or compliance thresholds to receive an incentive, as outlined in the Incentives for Compliance adopted by City Council resolution. Examples of rating systems include, but are not limited to, LEED, GreenPoint Rated, and Built Green Santa Barbara systems.

“GreenPoint Rated” means a residential green building rating system developed by the Build It Green organization.

“GreenPoint Rated Verification” means verification of compliance by a certified GreenPoint Rater, resulting in green building certification by Build It Green.

“GreenPoint Rater” means an inspector certified by the Build it Green organization to performs all steps of the rating process, including helping the project team decide which points to achieve, verifying each green measure, and submitting the application and supporting documentation to Build It Green.

“Home Energy Rating System (HERS)” means the rating of a home as a system (known as Whole House Home Energy Rating), where a home is rated on a scale from 0 to 250 points to show its efficiency relative to a reference home built to just meet the Title 24 Building Energy Efficiency Standards' prescriptive requirements.

“HERS Rater” means an inspector certified by the California Energy Commission (CEC) to rate homes in California according to the Home Energy Rating System (HERS).

“LEED®” means the “Leadership in Energy and Environmental Design” green building rating system developed by the U.S. Green Building Council.

“LEED®/GBCI Verification” means verification to meet the standards of the LEED rating system as determined by the Green Building Certification Institute.

“Non-Covered project” means any project that does not require in its

planning entitlement application(s) any of the specified legislative actions by City Council to obtain approval, but is encouraged to undertake green building practices, with certain incentives for certain measures provided for in the Incentives for Compliance.

“Qualified green building professional” means a person trained through the USGBC as a LEED Accredited Professional (LEED AP) or through Build It Green as a Certified Green Building Professional (CGBP), or Third Party Verifier as certified by Built Green Santa Barbara or similar qualifications if acceptable to the Compliance Official.

#### 15.12.050 Standards for Compliance.

The City Council may establish by resolution, and periodically review and update as necessary, Green Building Standards for Compliance. The Standards for Compliance must include, without limitation, the following:

- A. The types of projects subject to regulation (Covered Projects);
- B. Minimum thresholds of compliance for Covered Projects;
- C. Incentives to encourage green building for Covered Projects above the minimum thresholds;
- D. Incentives to encourage green building for Non-Covered Projects above existing regulations;
- E. The green building rating system to be applied to the various types of projects which voluntarily pursue incentives;
- F. The Standards for Compliance may be approved after recommendation from the Director of Planning and Environmental Review, who must refer the Standards for recommendation to the Planning Commission, before Council action.

#### 15.12.060 Incentives for Compliance.

In addition to the required Standards for Compliance for Covered Projects, the City Council may, through resolution, enact financial, structural (permit review process), or other incentives such as technical and marketing assistance (award or recognition programs) to further encourage voluntary green building practices for Covered and Non-Covered Projects beyond existing regulations.

#### 15.12.070 Administrative Procedures and Promulgation of Implementing Regulations.

- A. All Covered projects must comply with the City’s administrative policies

and procedures regulating the mandatory Green Building requirements. All projects electing to pursue incentives and using third party standards must comply with the City's administrative policies and procedures regulating the Incentives for Compliance outlined in Section 15.12.060.

- B. The City Manager, or designee, is authorized to promulgate administrative policies and procedures needed to achieve compliance with the mandatory Green Building requirements and requirements to receive incentives. Such administrative policies and procedures must, at a minimum, provide for the incorporation of green building requirements into checklist submittals with planning entitlement and building permit applications, and supporting design, construction, or development documents to demonstrate compliance with the mandatory Green Building requirements and requirements to receive incentives.
- C. All costs for inspections, documentation and verification of compliance with green building requirements, including the hiring of a Certified Green Building Rater, HERS Rater, commissioning agent, or certified home performance contractors must be borne by the applicant.
- D. The procedures for compliance documentation must include, without limitation, the following:
  - 1. Discretionary Planning Entitlements for Covered Projects and Projects Electing to Pursue Incentives and Using Third Party Standards. Upon submittal of an application for any discretionary planning entitlement for any Covered Project including, without limitation, Rezones, General Plan Amendments, Specific Plans and/or Ordinance Amendments, or submittal of an application for any projects electing to pursue incentives, application materials must include the appropriate completed checklists, as required by the Standards for Compliance specified in Section 15.12.050, accompanied by a text description of the proposed green building practices and expected measures and milestones for compliance.
  - 2. Building Plan Check Review. Upon submittal of an application for a building permit, building plans for any Covered Project must identify the mandatory green building measures and an index to the location of those measures on the plans, reflecting any changes proposed since the planning entitlement phase. For those projects electing to pursue incentives and using third party standards, upon submittal for an application for a building permit, building plans must include a checklist and green building practices description, reflecting any changes proposed since the planning entitlement phase. The checklist must be incorporated onto a separate plan sheet included with the building plans. For any project electing to

pursue incentives and using third party standards outlined in Section 15.12.060, a qualified green building professional must provide evidence of adequate green building compliance or documentation for the design phase to the Compliance Official to satisfy the requirements of the Standards for Compliance outlined in Section 15.12.050, before the City issues a building permit.

3. Refundable Deposit. The Compliance Official must determine the amount of a refundable deposit for compliance with the requirements of this Chapter. The refundable deposit must be paid to the City before the City issues a building permit.
  4. Final Building Inspection, Verification, and Occupancy. Before final building inspection and occupancy for any Covered Project, documentation must be provided to the Compliance Official to satisfy the requirements of the Standards for Compliance outlined in Section 15.12.050 and as specified in the project approval for the Covered Project;
  5. Before final building inspection and occupancy for any project electing to pursue incentives and using third party standards, a qualified building professional must provide evidence of adequate green building compliance or documentation to the Compliance Official to satisfy the requirements of the Standards for Compliance and as specified in the project approval for the Project, an updated completed checklist demonstrating the green building practices and measures, and an estimated date for submittal for certification within twenty-four (24) months;
- E. Final Determination of Compliance for Covered Projects. Before issuing a final Certificate of Occupancy for a Covered Project, the Compliance Official must review the documentation submitted by the applicant, and determine whether the applicant achieved the required compliance threshold as set forth in the Standards for Compliance outlined in Section 15.12.050. If the Compliance Official determines that the applicant met the requirements of Section 15.12.050 for the Project, the Certificate of Occupancy may be issued, provided the Covered Project receives approval of all other inspections required by the Building Official. If the Compliance Official determines that the required Standards for Compliance have not been achieved, the Compliance Official must find the following:
1. Non-Compliant Project. If the applicant for a Covered Project fails to submit the documentation required within the required time period, then the project must be determined to be non-compliant, and either corrective measures must be completed within six (6)

months or a penalty will be assessed to the Project before the City issues a final Certificate of Occupancy.

- F. Final Determination of Compliance for Projects Electing to Pursue Incentives and Using Third Party Standards. Before issuing a final Certificate of Occupancy for a Project electing to pursue incentives and using third party standards, the Compliance Official must review the documentation submitted by the applicant, and determine whether the applicant achieved the required compliance threshold as set forth in the Standards for Compliance outlined in Section 15.12.050 and/or demonstrate that measures are in place to assure compliance to achieve the required green building rating not later than eighteen (18) months from Temporary Certificate of Occupancy, with one (1), six (6) month extension allowed. Such measures must include 1). Registration of the project with the applicable third party rating system; and 2). Identification of the qualified green building professional working on the project. If the Compliance Official determines that the applicant met the requirements of Section 15.12.050 for the project, the final Certificate of Occupancy may be issued, provided the Covered Project receives approval of all other inspections required by the Building Official, and the refundable deposit is returned. If the Compliance Official determines that the required Standards for Compliance have not been achieved, and that a hardship or infeasibility exemption was not filed within eighteen (18) months from Temporary Certificate of Occupancy, pursuant to Section 15.12.080, claims on the City for the refundable deposit will be deemed waived by the applicant.
- G. The Compliance Official is responsible for administering and monitoring compliance with the green building requirements set forth in this chapter and with any rules and regulations promulgated thereunder, and to grant exemptions from the requirements, where so authorized.
- H. Compliance with the provisions of this chapter must be listed as a condition of approval on any permit approval for a Covered Project, and on the building plans for building permit approval, for any Covered Project.

#### 15.12.080 Hardship or Infeasibility Exemption.

- A. Exemption. If an applicant for a Covered Project, or project pursuing incentives using third party standards, believes that circumstances exist that make it a physical or technical hardship or infeasibility 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 physical or technical hardship or infeasibility.
- B. If an applicant for a Covered Project, or project pursuing incentives using

third party standards, believes such circumstances exist, the applicant may apply for an exemption from specific green building criteria at the time of application submittal. The applicant must indicate the maximum threshold of compliance that is feasible for the covered project and the circumstances that create a hardship or make it infeasible to fully comply with this Chapter. Circumstances that constitute hardship or infeasibility include, without limitation, the following:

1. Historic Preservation. Conflict between the Standards of Compliance and historic preservation goals.
  2. Conflict with other Provisions. There is conflict with the compatibility of the Standards of Compliance, the California Building Code, the City's General Plan, and/or zoning regulations;
  3. Scope of Project. The project scope is limited such that the minimum number of green building measures needed for compliance cannot be achieved.
  4. Innovation. The project will include alternate methods that provide equal or greater resource conservation, energy conservation or resident health than those provided by the adopted green building measures.
- C. Granting of Exemption. If the City Manager, or designee, determines that it is a physical or technical hardship or infeasibility for the applicant to fully meet the requirements of this chapter based on the information provided, the Director must determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the Director must be provided to the applicant in writing. If an exemption is granted, the applicant is required to comply with this chapter in all other respects and is required to achieve, in accordance with this chapter, the threshold of compliance determined to be achievable by the Director.
- D. Denial of Exemption. If the City Manager, or designee, determines that it is reasonably possible for the applicant to fully meet the requirements of this chapter, the request must be denied and the Director must provide the applicant written notice of that determination. The project and compliance documentation must be modified to comply with this chapter before further review of any pending planning or building application.

#### 15.12.090 Appeal.

- A. Any person may appeal the determination of the Director regarding: (1) the granting or denial of an exemption pursuant to Section 15.12.080; or (2) compliance with any other provision of this ordinance.

- B. Any appeal must be filed in writing with the Department of Planning and Environmental Review not later than ten (10) days after the date of the determination by the Director. The appeal must state with specificity the alleged error or reason for the appeal.
- C. The appeal will be processed and considered by the City Council in accordance with the provisions of Section 35.327.3.”

**SECTION 4:** *Reliance on Record.* Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 5:** *Limitations.* The City Council’s analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council’s lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City’s ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

**SECTION 6:** *Summaries of Information.* All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 7:** *Severability.* If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the city council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 8:** *Continued Effectiveness.* Repeal of any provision of the GMC will not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Ordinance’s effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 9:** *Certification.* The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Goleta’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it

to be published or posted in accordance with California law.

**SECTION 10:** *Effective Date.* This Ordinance will become effective on January 1, 2013.

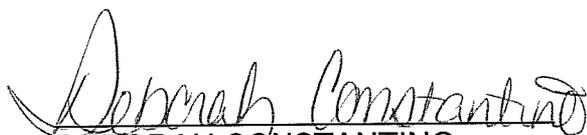
INTRODUCED ON the 2<sup>nd</sup> day of October, 2012.

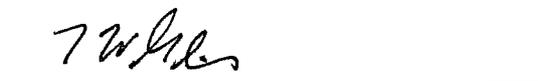
**PASSED, APPROVED, AND ADOPTED this 16<sup>th</sup> day of October, 2012,**

  
EDWARD EASTON, MAYOR

ATTEST:

APPROVED AS TO FORM:

  
DEBORAH CONSTANTINO  
CITY CLERK

  
TIM W. GILES  
CITY ATTORNEY

STATE OF CALIFORNIA                    )  
COUNTY OF SANTA BARBARA        )  
CITY OF GOLETA                        )        ss.

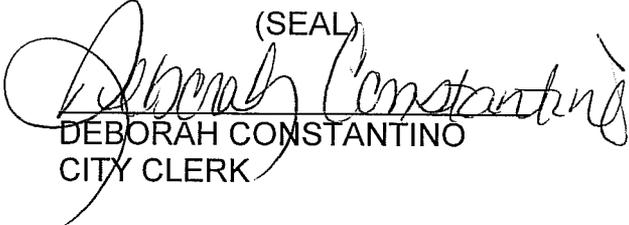
I, DEBORAH CONSTANTINO, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing City Council Resolution No. 12-13 was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 16<sup>th</sup> day of October, 2012, by the following vote of the City Council:

AYES:                    MAYOR EASTON, MAYOR PRO TEMPORE ACEVES,  
                              COUNCILMEMBERS, BENNETT, CONNELL AND PEROTTE.

NOES:                    NONE

ABSENT:                 NONE

ABSTENTIONS:        NONE

(SEAL)  
  
DEBORAH CONSTANTINO  
CITY CLERK