

Chapter 15.80 GREEN BUILDING REQUIREMENTS (Ordinance No. 524, 2007)

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15.80.010 Purpose.

The purpose of this chapter is to enhance the public welfare and assure that further commercial, residential 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 conserve natural resources;
- B. To reduce the waste generated by construction projects;
- C. To increase energy efficiency;
- D. To promote the health and productivity of residents, workers, and visitors to the city; and
- E. To implement the green building policy and programs set forth in the conservation element of the city's general plan.

15.80.020 Findings.

The city of Brisbane finds that:

- A. Green building practices recognize the relationship between natural and built environments. Green building design, siting, construction, and operation can have a significant positive effect on energy and resource efficiency, reduction of waste and pollution generation, and the health and productivity of a building's occupants over the life of the building. This is a critical component of sustainable development that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- 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, siting, 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.
- D. Green building design, siting, construction, and operational techniques have become

increasingly widespread in commercial and residential building construction. National and regional systems have been established to serve as guides and objective standards for green building practices. At the national level, the U.S. Green Building Council has established the Leadership in Energy and Environmental Design (LEED) Green Building Rating System for new construction and major renovation of commercial projects. At the regional level, Build It Green, a nonprofit organization headquartered in the Bay Area, has developed New Home Construction Green Building Guidelines and a Green Points Rating System for single-family residences. Build It Green has also developed a Multi-family Green Point Checklist, based upon the Multi-family Green Building Guidelines established by the Alameda County Waste Management Authority.

E. The conservation element of the city's general plan requires certain commercial, residential, and city-sponsored projects to comply with green building standards and encourages voluntary implementation of green building measures for all other projects. The provisions of this chapter are intended to achieve the goals of green building design, construction and operation as prescribed by the city's general plan.

15.80.030 Definitions.

As used in this chapter, certain words and terms shall be defined as follows:

“ACWMA” means the Alameda County Waste Management Authority.

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

“Build It Green” means the nonprofit organization that publishes the New Home Construction Green Building Guidelines, the New Home Green Points Checklist, and the Multifamily GreenPoint Checklist, and any successor nonprofit entity that assumes responsibility for the programs and operations of Build It Green.

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

“City” means the city of Brisbane and includes the Brisbane Redevelopment Agency.

“City-sponsored project” means any new construction of a building for which substantial funding is provided by the city, as determined by the city council, or is located on land owned or intended to be acquired by the city.

“Commercial core and shell project” means a commercial project constructed with energy using building systems (such as mechanical, electrical and plumbing systems), but without interior finish work.

“Commercial interior project” means new construction within the interior of a commercial structure for which the core and shell of the structure has been completed, including interior walls and partitions, drop ceilings, electrical and plumbing connections and fixtures and HVAC systems (commonly referred to as tenant improvements). A commercial interior project also includes the construction of mechanical, electrical, plumbing, or other energy using building systems (other than any fire or life safety systems required by the city or the fire department) within a commercial shell project.

“Commercial project” means any new construction of a retail, office, industrial, warehouse, or service building, or portion of a building, which is not a residential project or a city-sponsored project.

“Commercial shell project,” also known as a commercial cold and dark project, means a commercial project having no energy using building systems, including no mechanical, electrical or plumbing systems (other than any fire or life safety systems required by the city or the fire department), and no interior build-outs or finishes.

“Conditioned space” means any area within a building that is heated or cooled by any equipment.

“Covered project” means any of the following, subject to Section 15.80.100:

1. City-Sponsored Projects. A city-sponsored nonresidential project having a gross floor area of five thousand (5,000) square feet or more of conditioned space.

2. Commercial Projects.

a. A commercial project having a gross floor area of ten thousand (10,000) square feet or more of conditioned space.

b. A commercial core and shell project or a commercial shell project involving a structure having a gross floor area of ten thousand (10,000) square feet or more of unfinished space.

c. A commercial interior project involving a gross floor area of ten thousand (10,000) square feet or more of interior space; provided, however, where the commercial interior project involves only a portion of a covered core and shell project or a covered shell project, such portion shall be a covered commercial interior project even though the interior space of that portion is less than ten thousand (10,000) square feet.

d. Any addition or modification to an existing commercial project that increases the gross floor area by ten thousand (10,000) square feet or more of conditioned space. Except as otherwise provided in subsection (2)(e) of this definition, the requirements of this chapter shall be applied only to the additional floor area of conditioned space being added to the existing commercial project.

e. Any addition or modification to an existing commercial project that increases the gross floor area of conditioned space by fifty percent (50%) or more and, when added to the gross floor area of the existing conditioned space, will result in ten thousand (10,000) square feet or more of conditioned space in the entire project. The requirements of this chapter shall be applied to both the existing floor area and the additional floor area of conditioned space.

3. Residential Projects.

a. A residential project having twenty (20) or more dwelling units constructed pursuant to the same development permit or approval, whether composed of single family or multi-family or any combination thereof.

b. Any addition or modification to an existing residential project that adds twenty (20) or more dwelling units to the existing project, or any addition or modification to an existing residential project that adds a number of dwelling units which, when combined with the number of existing dwelling units, will total twenty (20) or more dwelling units in the entire project. The requirements of this chapter shall be applied only to the additional dwelling units in the residential project.

4. Mixed Use Projects. A mixed use project where the commercial portion of the development includes a gross floor area of ten thousand (10,000) square feet or more of conditioned space, or the residential portion of the development includes twenty (20) or more dwelling units. If only the commercial portion or the residential portion of a development qualifies as a covered project, as defined herein, the requirements of this

chapter shall be applied only to that qualified portion.

“Credits” means points assigned under the applicable rating system using the appropriate checklist for a covered project.

“Dwelling unit” means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, designed, occupied, or intended for occupancy by one family on a permanent basis.

“Green building” means a whole system approach to the design, siting, construction, and operation of buildings that helps mitigate the environmental impacts of buildings by seeking to minimize the use of energy, water, and other natural resources and by providing a healthy, productive indoor environment. The term applies to those measures, techniques, materials and technologies that implement the green building approach, as well as to development projects that properly utilize them.

“Green building accredited professional” means an individual who satisfies either of the following requirements, as may be applicable:

1. Where the covered project involves application of any LEED rating system, the individual must be a LEED Accredited Professional (LEED AP) who has taken and passed an exam administered by the U.S. Green Building Council to recognize the knowledge and skills necessary to support integrated design and streamline the LEED application and certification process.
2. Where the covered project involves application of any GreenPoint Rating System, the individual must be a Certified GreenPoint Rater who has completed the training and been certified as such by Build It Green.

“Green building compliance official” means the city’s director of community development or his or her authorized representative.

“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 LEED Commercial Core and Shell Rating System, the LEED Commercial Interior Rating System, the Build It Green New Home Green Points Checklist, or the Build It Green Multifamily GreenPoint Checklist. Covered projects shall utilize the green building project checklist that corresponds with the green building rating system approved for use.

“Green Building Worksheet” means a form provided by the city to be used by applicants to explain how their project qualifies for credits listed on the submitted green building project checklist.

“Gross floor area” means the sum of the gross horizontal areas of all floors of a building measured from the interior face of the exterior walls or columns.

“LEED” means Leadership in Energy and Environmental Design.

“LEED Commercial Core and Shell Rating System” means the most recent version of the LEED core and shell rating system approved by the U.S. Green Building Council.

“LEED Commercial Interior Rating System” means the most recent version of the LEED commercial interior rating system approved by the U.S. Green Building Council.

“LEED New Commercial Construction Rating System” means the most recent version of the LEED New Commercial Construction Rating System, also referred to as “LEED-NC (New Construction),” 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.

“Mixed use project” means one or more buildings that combine the uses of a commercial project and a residential project.

“Multifamily GreenPoint Checklist” means the most recent version of the checklist developed by Build It Green for use in determining rating points under the Multi-family Green Building Guidelines.

“Multi-family Green Building Guidelines” means the most recent version of ACWMA’s green building rating system for multi-family residential projects that provides detailed information, resources, and standards for the multi-family green building rating system, including information regarding the documentation required for certification. 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.

“New Home Construction Green Building Guidelines” means the most recent version of the single-family green building guidelines published by Build It Green that provides detailed information, resources, and standards for the single-family green building rating system, including information regarding the documentation required for certification. As new rating systems are developed by Build It Green, the green building compliance official shall have the authority to specify the applicable single-family green building rating system for a covered project.

“New Home Green Points Checklist” means the most recent version of the checklist developed by Build It Green for use in determining rating points under the New Home Construction Green Building Guidelines.

“Residential project” means a residential development containing twenty (20) or more dwelling units constructed pursuant to the same development approval or permit, including single-family residences, apartments, condominiums and townhouses. Facilities wherein rooms or suites are rented for transient occupancy, such as hotels, motels or similar accommodations, shall be considered commercial projects.

15.80.040 Standards for compliance.

A. Covered Projects. Except as otherwise provided in this chapter, all covered projects shall comply with the following requirements:

1. All covered commercial projects, commercial core and shell projects, and commercial interior projects shall meet a minimum LEED “silver” rating on the Green Building Project Checklist. All covered commercial shell projects, when reviewed in conjunction with the commercial interior project to be built within the commercial shell project, shall comply with the “silver” rating on the Green Building Project Checklist for LEED new commercial construction projects as of the time plans are submitted for installation of interior mechanical, electrical, plumbing, or other energy using building systems within the commercial shell project or any portion thereof.
2. All covered city-sponsored projects that are neither residential projects nor mixed use projects shall achieve a minimum LEED “silver” rating on the Green Building Project Checklist, unless the city council determines that special circumstances or constraints justify a modification of this requirement, in which case an alternative standard shall be set by the council as close to the LEED “silver” rating as the council determines is reasonable under the circumstances.

3. All covered residential projects consisting of single-family dwelling units, including any such city-sponsored project, shall achieve a “green home” rating on the New Home Green Points Checklist by earning the minimum number of total points allocated between categories in accordance with the most recent version of such checklist. As of the date of initial adoption of the ordinance codified in this chapter, the single-family “green home” rating requires at least fifty (50) points, of which a minimum of eleven (11) points shall be in the category of Energy; a minimum of five (5) points shall be in the category of Indoor Air Quality-Health; a minimum of six (6) points shall be in the category of Resources; a minimum of three (3) points in the category of Water; and additional points can be earned from any category to achieve a total of fifty (50).

(4) All covered residential projects consisting of multi-family buildings, including any such city-sponsored project, shall achieve a “green home” rating on the Multifamily GreenPoint Checklist by earning the minimum number of total points allocated between categories in accordance with the most recent version of such checklist, unless the green building compliance official determines that the single-family New Home Green Points Checklist is more appropriate for the building. As of the date of initial adoption of the ordinance codified in this chapter, a green home rating on the Multifamily GreenPoint Checklist is achieved by earning at least fifty (50) total points, of which a minimum of six (6) points shall be in the category of Community; a minimum of eleven (11) points shall be in the category of Energy; a minimum of five (5) points shall be in the category of Indoor Air Quality/Health; a minimum of six (6) points shall be in the category of Resources; a minimum of three (3) points shall be in the category of Water; and additional points can be earned from any category to achieve a total of fifty (50). The project shall also comply with the requirements of A.3.a (fifty percent (50%) construction waste diversion), A.10.a (no shingle roofing), and N.1 (incorporate GreenPoint Checklist in blueprints), as set forth in the Multifamily Green Building Guidelines.

B. Additional Standards. In the event new guidelines or standards are adopted by the U.S. Green Building Council, or the Alameda County Waste Management Authority, or Build It Green, pertaining to types of projects that are not specifically described or defined in this chapter, the green building compliance official shall have authority to apply such guidelines or standards to the type of project to which they relate, as long as the same do not conflict with any of the provisions of this chapter.

C. Covered Project Determination. The green building compliance official shall make the determination as to: (1) whether a project qualifies as a covered project; (2) the classification of a covered project; and (3) whether a covered project has achieved the minimum rating required by this chapter. Any decision or determination by the green building compliance official may be appealed to the planning commission pursuant to Section 15.80.090 of this chapter.

15.80.050 Voluntary actions.

A. LEED Certification. Applicants are encouraged to register covered commercial projects with the U.S. Green Building Council, but LEED certification by the U.S. Green Building Council is not required under this chapter.

B. Post Occupancy Implementation. Applicants are encouraged to take such actions as may be necessary to insure that green building measures which have been incorporated into the structure are operating as intended. Such actions include proper calibration and

monitoring of building systems, regular maintenance and repair of equipment as needed, appropriate training of personnel responsible for operation of the building systems, and education of employees, tenants, and other regular occupants of the structure on practices that can be followed to promote energy conservation and other green building objectives.

C. Non-Covered Projects. Developers of non-covered projects are encouraged to incorporate green building measures, but are not required to submit any documentation pursuant to this chapter, nor is there any required verification of compliance. However, any developer of a non-covered project may voluntarily submit documentation showing compliance with the applicable green building guideline and request the green building compliance official to make a determination as to whether the project qualifies as a green building development under the applicable green building project checklist.

15.80.060 Submittal and review of green building documentation.

A. Submittal of Documents. In conjunction with any application for approval of a planned development permit, use permit, design review approval, building permit, or other land development entitlement for a covered commercial, residential or mixed use project, the applicant shall submit to the green building compliance official documentation indicating the measures that will be taken to achieve the applicable green building rating required by this chapter (“green building documentation”). The green building documentation shall be prepared by a green building accredited professional or other qualified person approved by the green building compliance official. The green building 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. For a covered commercial shell project, the applicant shall submit documentation showing the extent to which the shell project will qualify for points under the applicable Green Building Project Checklist, along with a preliminary description of the additional measures that will be incorporated into the commercial interior project to achieve the required “silver” rating for the entire commercial project. The plans submitted for the commercial interior project may modify the items listed in the preliminary description for the commercial shell project as long as such modified plans show compliance with the required “silver” rating for the entire commercial project.

4. Any other documentation that may be necessary to show compliance with this chapter, as submitted by the applicant or requested by the green building compliance official. The application for approval of the covered project shall not be deemed complete until all green building documentation required by this subsection has been submitted to the green building compliance official and has been found by the green building compliance official to be complete in accordance with subsection B of this section.

B. Review of Green Building Documentation. For the green building documentation submittal to be complete, the green building compliance official must determine that the documentation is sufficient to support a finding that the covered project can achieve the applicable green building rating, as set forth in Section 15.80.040(A) of this chapter. The applicant, the planning and building sections of the community development department, and the public works department shall be notified of the green building compliance official’s determination. The green building compliance official may retain the services of a consultant having expertise in green building techniques to review and evaluate the

material and provide recommendations as to methods for compliance with the requirements of this chapter. The cost of such consultant shall be paid by the applicant.

C. Approval of Green Building Documentation. The green building compliance official shall only approve the green building documentation if such documentation indicates that the covered project can achieve the applicable green building rating, as set forth in Section 15.80.040(A) of this chapter. If the green building compliance official determines that these conditions have been met, the green building documentation shall be marked “approved,” and returned to the applicant. The green building compliance official shall provide a copy of the approved green building documentation at the hearing on the development application and shall notify the city’s department of public works and building department that the green building documentation has been approved.

D. Non-Approval of Green Building Documentation. If the green building compliance official determines that the green building 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 15.80.040(A) of this chapter, the green building compliance official shall either:

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

E. Resubmission of Green Building Documentation. If the green building documentation is returned to the applicant, the applicant may resubmit the green building documentation with such additional information as may be required or may apply for an exemption under Section 15.80.070 of this chapter.

F. Compliance as a Condition of Approval.

1. Compliance with the green building compliance official’s determinations regarding the provisions of this chapter shall be listed as a condition of approval on any planned development permit, use permit, design review approval, building permit, or other land development entitlement granted by the city for a covered commercial, residential, or mixed use project. No building permit shall be issued for a covered project until the green building documentation has been approved under this section or an exemption has been granted under Section 15.80.070 of this chapter.

2. Any approval of a covered commercial shell project shall include a condition that no building permit shall be issued for installation of interior mechanical, electrical, plumbing, or other energy using building systems within that project until green building documentation has been submitted by the applicant and approved by the green building compliance official showing that the interior improvements, when reviewed in conjunction with the commercial shell project, will achieve the LEED “silver” rating on the Green Building Project Checklist for LEED new commercial construction projects.

15.80.070 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, the applicant 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.

1. “Hardship,” as used in this section, means some verifiable level of difficulty or

adversity, beyond the control of the applicant, by which the applicant cannot reasonably comply with the requirements of this chapter, as determined by green building compliance official.

2. “Infeasible,” as used in this section, means the existence of verifiable obstacles, beyond the control of the applicant, which render the applicant incapable of complying with the requirements of this chapter, as determined by green building compliance official.

B. Application for Exemption. If an applicant for a covered project believes that justifiable grounds exist for granting an exemption, the applicant may apply for such exemption at the time the green building documentation is submitted in accordance with Section 15.80.060(A) of this chapter, or upon the non-approval of the submitted green building documentation by the green building compliance official under Section 15.80.060(D) of this chapter. The applicant shall indicate in the green building documentation the maximum number of credits the applicant believes is practical or feasible for the covered project and the circumstances that applicant 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 incompatibility of green building requirements with existing building standards.

C. Review by Green Building Compliance Official. The green building compliance official shall review the application for exemption and may request additional information from the applicant and meet with the applicant and the applicant’s green building consultant to discuss the request. The green building compliance official may also retain the services of a consultant having expertise in green building techniques to review and evaluate the application for exemption. The cost of such consultant shall be paid by the applicant.

D. Granting or Denial of Exemption. If the green building compliance official determines that it would be a hardship or infeasible for the applicant to fully comply with the requirements of this chapter, the green building compliance official shall determine the maximum feasible number of credits reasonably achievable for the covered project and whether the documentation provided indicates that this number will be met. The applicant, the planning and building sections of the community development department, and the public works department shall be notified of the green building compliance official’s determination. The determination may be appealed in accordance with Section 15.80.090 of this chapter. If the exemption is denied, and unless the denial of an exemption has been reversed on appeal, the green building documentation shall be deemed incomplete. If an exemption is granted, the applicant shall be required to comply with this chapter in all respects and shall be required to achieve the number of credits determined by the green building compliance official or by the planning commission or city council on appeal.

15.80.080 Compliance review.

A. Building Permit Documentation. As part of the application for a building permit for any covered project, the applicant shall furnish a completed Green Building Project Checklist. All construction plans and specifications shall indicate in the general notes or individual detail drawings 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 until the green building compliance official has approved the green building documentation for the covered project, in accordance with Section 15.80.060 of this chapter, and the building department has determined that the plans and specifications submitted for the building permit are consistent with the approved green building documentation.

B. Compliance Review. The city shall verify that the green building measures and provisions indicated in the green building documentation are being implemented at foundation, framing, electrical, plumbing, mechanical, and any other required inspections, and prior to issuance of a final certificate of occupancy. Additional inspections may be conducted as needed to ensure compliance with this chapter. During the course of construction and following completion of the project, the city may require the applicant to provide information and documents showing use of products, equipment, and materials specified in the green building documentation. The compliance inspections may be conducted by the green building compliance official, the city's building department staff, or a consultant retained by the city at the expense of the applicant. If, as a result of any such inspection, the city determines that the project is not being constructed in accordance with the green building documentation, a stop work order may be issued. At the discretion of the green building compliance official, the 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 project will be brought into compliance with the green building 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, or that the substitute credit will achieve a more favorable result, and provided the project still attains the green building rating required by this chapter.

D. Final Determination of Compliance. Prior to final building approval or issuance of a final certificate of occupancy, the green building compliance official shall review the information submitted by the applicant and determine whether the applicant has constructed the project in accordance with the green building documentation approved by the city. If the green building compliance official determines that the applicant has failed to construct the project in accordance with the approved green building documentation, then the final building approval and final certificate of occupancy may be withheld.

15.80.090 Appeal.

A. Any decision or determination by the green building compliance official under this chapter, including any decisions pursuant to Section 15.80.060 relating to the approval or denial of the green building documentation, may be appealed by the applicant or any interested person to the planning commission. Notice of such appeal must be filed with the secretary of the planning commission not more than ten (10) days after the date on which the final decision or determination by the green building compliance official is rendered. The notice shall identify the decision or determination that is the subject of the

appeal and shall state the alleged error or reason for the appeal. The planning commission may uphold, reverse or modify the decision or determination which is the subject of the appeal, and may refer the matter back to the green building compliance official for such further action as may be directed by the commission.

B. The decision by the planning commission may be further appealed by the applicant or any interested person to the city council by filing a notice of appeal within ten (10) days after the date on which the final decision is rendered by the planning commission. The matters raised on an appeal to the city council shall be limited to those issues and grounds that were the subject of the appeal to the planning commission. Any two members of the city council may also initiate an appeal from the decision of the planning commission in accordance with the same procedure as set forth in Section 15.52.020(B) of this title. The city council may uphold, reverse or modify the decision of the planning commission and may refer the matter back to the planning commission or to the green building compliance official for such further action as may be directed by the city council.

15.80.100 Application of chapter.

The provisions of this chapter shall not be applied to any project that would otherwise be defined as a covered project under Section 15.80.030, where the application for approval or modification of such project was filed with the city and accepted as complete prior to January 16, 2008 (the effective date of the ordinance codified in this chapter), nor shall the provisions of this chapter apply to any extension of a permit or approval where the permit or approval was granted by the city prior to the effective date of the ordinance codified in this chapter. Notwithstanding the foregoing, this chapter shall be applicable to any project where compliance is required under the terms of a development agreement between the city and the owner or developer of the land, regardless of date on which the application for development approval was deemed to be complete.