

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS ADDING ARTICLE 8.20 TO CHAPTER 8 OF THE MUNICIPAL CODE CONCERNING GREEN BUILDINGS**

**Article 8.20 Green Buildings**

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**8.20.010 Purpose**

- A. The purpose of this article is to enhance public health and 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 and construction of buildings. The green building provisions referenced in this article are designed to achieve the following goals:
1. Encourage water and resource conservation;
  2. Reduce waste generated by construction projects;
  3. Increase energy efficiency in buildings;
  4. Provide durable buildings that are efficient and economical to own and operate; and
  5. Promote the health and productivity of residents, workers, and visitors to the City.
- B. This article is consistent with the City's goal of significantly reducing the greenhouse gas emissions of the City and the community as a whole. Based upon climatic conditions including the need to reduce energy use during times of peak demand (usually hot weather), to help minimize the number of rolling blackouts, and the need to mitigate the effect of further development on the City's water supply, increasing the energy efficiency and water conservation in buildings is not only "reasonably necessary," but cost-effective.

**8.20.020 Definitions**

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

"Applicant" means any person or entity that applies to the city for the applicable permits to undertake any covered project within the city.

"Approved green building inspector" means a person certified or designated by a green building rating system body, as specified in Table 3 of Section 8.20.050, to perform inspections and provide documentation related to the inspection and verification of covered projects. An approved green building inspector also means the green building compliance official.

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

“Building commissioning” means the testing of a building’s equipment and systems to ensure that systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the design intent.

“City” means the city of Davis.

“City Council” means the Davis city council, or a board or commission, designated by the Davis city council.

“City-sponsored project” means a building or buildings funded more than 50 percent by the city and sponsored by the city. A city-sponsored project may, or may not, be on city-owned land.

“Code” means the Davis Municipal Code.

“Commercial new” means the construction of an entirely new retail, office, industrial, warehouse, or service building(s) within city limits that is not a city-sponsored project, a residential project, or a mixed-use project.

“Commercial tenant improvement (TI)” means the renovation, remodeling, or rehabilitation of any existing retail, office, industrial warehouse, or service building(s), including additions, within city limits that is not a city-sponsored project, a residential project, or a mixed-use project.

“Compliance documentation” means all documentation required by a green building rating system indicating the compliance threshold level that has been achieved. Compliance documentation includes, or excludes, specific requirements as set forth by this ordinance.

“Compliance threshold” means the minimum number of points or rating level of a green building rating system, as specified by section 8.20.050 that must be attained for a particular covered project type and tier for a covered project.

“Community Development Director” means the community development director of Davis or her or his designee.

“Construction” means the building or renovation, whether adding additional square footage or not, of any structure or any portion thereof.

“Covered project” means any project that is not a “non-covered project.”

“Covered project type” means the type and use of a building as defined in this article for the express purpose of determining application of a specific guideline. Covered project types include single-family dwelling new, single-family dwelling addition, single-family remodel, multi-family dwelling new, multi-family dwelling remodel, commercial new, commercial tenant improvement, mixed-use, and city-sponsored.

“Final inspection” means the final inspection and approval required by the California Building Standards Code when a building is completed and ready for occupancy and use.

“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 green building compliance official has found the project meets the provisions of good faith effort pursuant to Section 8.20.070(D)1.

“Green building” means the design, construction, and operation of buildings that mitigates the environmental and economic impacts of buildings.

“Green building compliance official” means the building official or her or his designee.

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

“Green building rating” means the point or performance threshold proposed or achieved for the respective rating system used for a covered project.

“Green building rating system” means the rating system associated with a specific guideline as set forth in section 8.20.050 and used to determine compliance thresholds.

“Guidelines” means the specified green building rating system that applies to a covered project as set forth in section 8.20.050.

“Hearing of non-compliant project” means a hearing held by the community development director to determine what equivalent measures must be taken by a project’s applicant to change the status of a project from non-compliant to compliant by satisfying compliance threshold requirements through alternate means.

“Infeasible” means the existence of obstacles, as set forth in section 8.20.080, that render the applicant incapable of fulfilling the requirements of meeting this article.

“LEED®” means any one of the U.S. Green Building Council’s Leadership in Energy and Environmental Design green building programs.

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

“Multi-family residential project (MFD)” means a residential project containing more than two attached dwelling units, including apartments, condominiums, and townhouses, excepting townhouses that meet the definition of single-family dwellings.

“Non-covered project” means:

- A. Any new construction that is subject to the provisions of any development agreement existing on the date this ordinance takes effect.
- B. Any design review application deemed complete or any building permit application meeting the standards for building permit acceptance by the Building Division prior to the effective adoption date of this article. If any such applications expire prior to issuance of a building permit, those projects will become subject to the requirements of this article.
- C. Repair or renovation of any structure (regulated by the California Building Standards Code) for the express and sole purpose of performing seismic upgrades or accessibility upgrades.
- D. Structural and non-structural work authorized under the same building permit for seismic upgrades or accessibility upgrades that is required as a result of performing seismic upgrades or accessibility upgrades.
- E. Any project where a building permit is issued for the sole purpose of performing plumbing, electrical, or mechanical work.
- F. Installation of a roof covering on any existing building.
- G. Any covered project type that has not yet had a compliance threshold set, as specified in section 8.20.050.
- H. Repair of any structure (regulated by the California Building Standards Code) that is necessary when the structure has been damaged by fire, flood, wind, earthquake, or accident.
- I. Swimming pools
- J. Any project not specified in section 8.20.050.

“Planning review” means a review performed to establish or verify compliance with Chapter 40 of the Municipal Code for a covered project including, but not limited to, a building’s architectural components, specific plan, final development plan, design guidelines, or site plan architectural review.

“Renovation” means any rehabilitation, repair, remodeling, change, addition, or modification to an existing building.

“Residential project” means any building within city limits used for living, sleeping, eating, and cooking. Residential project includes single-family new, single-family addition, single-family remodel, multi-family new and multi-family remodel. For the purposes of this article, 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.

“Self-certified” means a project where, after completion, the designer, architect or engineer of record has submitted compliance documentation to the green building compliance official certifying that the project has met the standards specified in the guidelines and has attained the compliance threshold as indicated for the covered project type and tier as set forth in section 8.20.050.

“Single-family addition” means any residential project that adds new floor area to an existing residence. Single-family residential additions may be attached or detached.

“Single-family dwelling” (SFD) means a residential project on a single parcel containing one dwelling unit, or one dwelling unit with a legal second unit, or a duplex. For the purposes of this article, townhouses shall be considered single-family residential projects provided there are recorded property lines between each unit and the occupancy group and division of each unit is designated as an R-3 as defined in the California Building Standards Code.

“Single-family remodel” means rehabilitation, repair, change, or modification to an existing single-family dwelling.

“Stop order” means a written notice to stop work, as defined in the California Building Standards Code, that is served by the building official on any person engaging in work contrary to the provisions of this code.

“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.

“Tier” means the level of compliance, as indicated by Table 1 - Tiers, set forth in Section 8.20.050 and specifying Tier 1, Tier 2, or Tier 3, for a given covered project type. Tier levels are determined by floor area. Specified green building standards and compliance thresholds for each tier of each covered project type are set forth in section 8.20.050.

### **8.20.030 General Provisions – Applicability**

- A. Neither this article, nor any related green building resolution, shall affect in any manner the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirement of this code, all of which shall be operative and remain in full force and effect without limitation.
- B. If the provisions of this article conflict with state law, state law shall govern.

**8.20.040 Standard for Compliance**

- A. Covered Projects. All covered projects shall be constructed using the guidelines, green building rating systems, and green building project checklists as set forth in section 8.20.050.
- B. Compliance as a Condition of Approval. Compliance with the provisions of this article shall be a condition of approval on any planning approval issued by the planning division for a covered project. Failure to comply with any of the terms of this article shall subject the applicant of the covered project to the full range of enforcement mechanisms authorized by the Davis Municipal Code.
- C. Non-Covered Projects. Non-covered projects are exempt from the requirements of this section.

**8.20.050 Compliance Threshold and Standards for Green Buildings**

- A. Compliance threshold levels for green buildings are hereby established for all covered projects within the city.
- B. The specific compliance threshold required for each covered project type, tiers, and standards for compliance are set forth as follows:

**COMPLIANCE THRESHOLDS AND STANDARDS FOR COMPLIANCE**

**Table 1 – Tiers**

<b>Covered Project Type</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>SFD New</b>	< 1500 square feet	1500 – 2500 square feet	> 2500 square feet
<b>SFD Addition</b>	< 100 square feet	100 – 500 square feet	> 500 square feet
<b>SFD Remodel</b>	all		
<b>MFD New</b>	all		
<b>MFD Remodel</b>	all		
<b>Non-Residential New</b>	< 20,000 square feet	20,000 – 50,000 square feet	> 50,000 square feet
<b>Non-Residential TI</b>	< 20,000 square feet	20,000 – 50,000 square feet	> 50,000 square feet
<b>City Sponsored</b>	< 10,000 square feet	10,000 – 20,000 square feet	> 20,000 square feet

**Table 2 - Thresholds**

<b>Covered Project Type</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>SFD New</b>	70 points (Exceed by 40 for recognition)	80 points (Exceed by 40 for recognition)	90 points (Exceed by 40 for recognition)
<b>SFD Addition</b>	20 points (Exceed by 40 for recognition)	30 points (Exceed by 40 for recognition)	40 points (Exceed by 40 for recognition)
<b>SFD Remodel</b>	10 points		

<b>MFD New</b>	70 points (Exceed by 40 for recognition)		
<b>MFD Remodel</b>	N/A	N/A	N/A
<b>Non-Residential New</b>	20 LEED points Self Certified (33 for recognition)	25 LEED points Self Certified (36 for recognition)	28 LEED points Self Certified (39 for recognition)
<b>Non-Residential TI</b>	8 LEED points Self-certifying (21 for recognition)	12 LEED points Self-certifying (24 for recognition)	15 LEED points Self-certifying (27 for recognition)
<b>City Sponsored</b>	20 LEED points Self Certified	25 LEED points Self Certified	28 LEED points Self Certified

**Table 3 – Standards for Compliance**

<b>Covered Project</b>	<b>Tier 1</b>	<b>Tier 2</b>	<b>Tier 3</b>
<b>SFD New</b>	Build It Green's 2007 New Home Construction Green Building Guidelines, Rating System and Checklist		
<b>SFD Addition or Remodel</b>	Build It Green's <a href="#">2004 Home Remodeling Green Building Guidelines</a> , Rating System and Checklist		
<b>MFD New</b>	Build It Green's 2007 Multifamily Green Building Guidelines, Rating System and Checklist		
<b>MFD Remodel</b>	Not Applicable		
<b>Commercial, New</b>	U.S. Green Building Council LEED for New Construction Version 2.2 or LEED Core and Shell Version 2.0 Guidelines, Rating System and Checklist		
<b>Commercial, TI</b>	U.S. Green Building Council LEED for New Construction Version 2.2 or LEED for Commercial Interiors Version 2.0 Guidelines, Rating System and Checklist		
<b>City Sponsored</b>	As per project type above		

**8.20.060 Building Permit Documentation**

- A. Documentation. At the time of submittal for a building permit, the applicant shall submit documentation indicating the measures to be used to achieve the applicable compliance threshold. This documentation shall be referred to as compliance documentation and shall include:
- 1) Applicable green building project checklist; and
  - 2) Any other documentation that may be necessary to show compliance with this article. Building plans shall have a copy of the approved green building project checklist printed on the plans. 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 compliance documentation, including any subsequent changes to the green building project checklist, along with building construction documents and plans.
- B. Approval. The green building compliance official shall approve the compliance documentation only if it is determined that documentation indicates the covered project can achieve the applicable compliance standards and threshold, set forth in sections 8.20.040 and 8.20.050. If the green building compliance official determines these conditions have been met, the compliance documentation shall be marked "approved." A building permit shall not be issued until the compliance documentation

has been approved under this section or an exemption has been granted under Section 8.20.080.

- C. Re-Submission. If the compliance documentation is denied for being incomplete or for its failure to indicate how the covered project will comply with this article, the documentation shall be returned to the applicant. The applicant may re-submit the documentation with such additional information as may be required or may apply for an exemption under Section 8.20.080.

### **8.20.070 Compliance**

- A. Plan Review and Construction Compliance. Plan review and inspection of covered projects shall be performed to verify compliance with the approved Standards for Compliance as set forth in section 8.20.050.
- B. Non-compliance. If, as a result of any inspection, the City determines that the covered project does not comply with the approved plans, a stop order shall be issued if the green building compliance official determines that continuation of construction activities will jeopardize the project's ability to meet the required compliance threshold. The stop order shall remain in effect until the green building compliance official determines that the covered project will be brought into compliance with the approved plans.
- C. Documentation for Final Determination of Compliance. Compliance documentation shall be submitted to the green building compliance official as set forth by city council resolution.
- D. Final Determination of Compliance. Prior to approving a final inspection for a covered project, the green building compliance official shall review the documentation submitted by the applicant, along with inspection records and certificates submitted by the approved green building inspector(s), and determine whether the applicant has achieved the required compliance threshold as set forth in Sections 8.20.040 and 8.20.050. If the green building compliance official determines the applicant has met the requirements of article 8.20 for covered projects, the green building compliance official shall make a final determination that the covered project is ready for a final inspection, provided the covered project has received approval of all inspections required by the California Building Standards Code. If the green building compliance official determines the applicant has not achieved the required green building rating, the green building compliance official shall find for one of the following:
  - 1. Good Faith Effort to Comply. A good faith effort to comply shall apply to items on the green building project checklist on an individual basis. Granting of a good faith effort to comply for one item does not preclude the need for the applicant to comply with the other items on the green building project checklist. When an applicant submits a request in writing to the green building compliance official for approval of a good faith effort to comply, and when the green building compliance official determines that the covered project has not met one or more of the requirements for the applicable compliance threshold as set forth in Sections 8.20.040 and 8.20.050, the green building compliance official may determine that the applicant has made a good faith effort to comply with this article when any of the following findings can be made:
    - a. The cost for providing green building documentation is disproportionate to the overall cost of the project. That is, the cost for

- compliance documentation is more than 2.5 percent of the total construction cost; or
  - b. The green building materials and technologies on the green building project checklist are no longer available or not yet commercially available.
2. Non-compliant Project. If the green building compliance official determines that the applicant has not made a good faith effort to comply with this article, or if the applicant fails to submit the documentation required by this section 8.20.070 (D) within the required time period, then the project shall be determined to be non-compliant, and the final inspection and approval for the project shall be withheld. Applicants for projects deemed to be non-compliant may file an application for hearing of non-compliant project with the community development director. A final inspection shall not take place until the applicant has implemented equivalent alternate measures approved by the community development director at a hearing of non-compliant project.

### **8.20.080 Infeasibility Exemption**

- A. Exemption. If an applicant for a covered project believes that circumstances exist that make it infeasible to meet the requirements of this article, the applicant may apply for an exemption as set forth in this section. In applying for an exemption, the burden is on the applicant to show infeasibility.
- B. Application. If an applicant for a covered project believes such circumstances exist, the applicant may apply for an exemption of one or more items on the green building project checklist at the time that she or he submits the compliance documentation required under section 8.20.060. The applicant shall indicate in the documentation the maximum number of credits she or he believes is feasible for the covered project and the circumstances that she or he believes make it infeasible to fully comply with this article. An infeasibility exemption may be made if any one of the following conditions exist:
  - 1. There is a lack of available or affordable consulting support as described in section 8.20.070 (D)(1)(a); or
  - 2. There is a lack of commercially available green building materials and technologies; or
  - 3. There is conflict with the compatibility of the requirements of the green building rating system and the California Building Standards Code; or
  - 4. The green building compliance standards do not include enough green building measures that are compatible with the scope of the covered project.
- C. Granting of Exemption. If the green building compliance official determines it is infeasible for the applicant to meet the requirements of this article based on the information provided, the green building compliance official shall return a copy of the documentation to the applicant marked "Approved with Exemption." If an exemption is granted, the applicant must still comply with this article in all other respects and shall be required to achieve the compliance threshold, less the credits or points that would have been achieved for the exempted items. Anyone may appeal to the community development director the determination of the green building compliance official to grant or deny an exemption.
- D. Denial of Exemption: If the green building compliance official determines that it is possible for the applicant to fully meet the requirements of this article, the green

building compliance official shall so notify the applicant in writing. The applicant may resubmit the necessary compliance documentation in full compliance with sections 8.20.040 and 8.20.050. If the applicant does not resubmit the compliance documentation, or if the resubmitted compliance documentation does not comply with sections 8.20.040 and 8.20.050, the green building compliance official shall deny approval of the compliance documentation.

### **8.20.090 Appeal**

- A. Any applicant or person may appeal to the community development director the determination of the green building compliance official regarding:
  - 1. The granting or denial of an exemption pursuant to section 8.20.080; or
  - 2. Compliance with sections 8.20.040, 8.20.050, or 8.20.070.
- B. Appeals to the community development director must be filed in writing with the city clerk within 10 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 community development director may request additional written or oral information from the applicant or the green building compliance official. The community development director shall issue a written determination within 30 days of the receipt of the appeal.
- C. Any applicant or person may appeal to the city council the determination of the community development director regarding:
  - 1. Compliance with the ordinance pursuant to sections 8.20.040, 8.20.050, or 8.20.080; or
  - 2. Determination of alternate means as approved by the community development director at a hearing for non-compliant project, pursuant to section 8.20.070.
- D. Appeals to the city council must be filed in writing with the city clerk within 10 days of the mailing of written determination by the community development director. The appeal shall state the alleged error or reason for the appeal. In reviewing the appeal, the city council may request additional written or oral information from the applicant, the community development director, or the green building compliance official. The city council shall hold a hearing and issue a written determination within 45 days of the receipt of the appeal.

### **8.20.100 Enforcement**

Violation of any provision of this article due to the applicant's failure to build the covered project in accordance with the covered project's plans, including the documentation and the conditions of approval in the applicable permit, shall be a violation of the Davis Municipal Code.

### **8.20.110 Periodic Review**

Article 8.20 will be reevaluated periodically by the City Council, including a reevaluation concurrently with the state code adoption.

INTRODUCED on this \_\_\_\_\_ day of \_\_\_\_\_, 2008 and ADOPTED on \_\_\_\_\_, 2008 by the following roll call vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

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Mayor Ruth Asmundson

ATTEST:

City Clerk