ORDINANCE #06-016
AN ORDINANCE OF THE ALBANY CITY COUNCIL REGARDING
GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING
REGULATIONS.

WHEREAS, the City of Albany’s (City) General Plan sets forth goals for
preserving and improving the City’s natural and built environment, protecting the
health of its residents and visitors, and fostering its economy; and

WHEREAS, the City finds that the design, construction, and maintenance of
buildings and landscapes within the City can have a significant impact on the City’s
environmental sustainability, resource usage and efficiency, waste management, and
the health and productivity of residents, workers, and visitors to the City; and

WHEREAS, the City finds that green building and Bay-Friendly landscape
design, construction, operation and maintenance can have a significant positive effect
on energy, water and resource efficiency, waste and pollution generation, wildlife
habitat and the health and productivity of a property’s occupants over the life of the
building and/or landscape; and

WHEREAS, the City finds that green building and Bay-Friendly landscaping
benefits are spread throughout the systems and features of the building and the
landscape, the larger San Francisco Bay Area ecosystem and the community. Green
buildings use recycled-content materials, consume less energy and water, have better
indoor air quality, and use much less natural resources than conventional buildings.
Construction waste is often recycled and remanufactured into other building products.
Bay-Friendly landscaping is a whole systems approach to the design, construction and
maintenance of the landscape in order to support the integrity of the San Francisco
Bay watershed. Key components of Bay-Friendly landscaping include reducing waste
and using materials that contain recycled content; nurturing healthy soils while
reducing fertilizer use; conserving water, energy and topsoil; using Integrated Pest
Management (IPM) to minimize chemical use; reducing stormwater runoff; and
creating wildlife habitat; and

WHEREAS, the City finds that green building and Bay-Friendly landscape
design and construction decisions made by the City in the construction and
remodeling of City buildings and/or landscapes can result in significant cost savings
to the City over the life of the projects; and

WHEREAS, the City finds that it is critical to both the economic and
environmental health of the City that the City provide leadership to both the private
and public sectors in the area of green building and Bay-Friendly landscaping; and

WHEREAS, the most immediate and meaningful way to do so is to include
green building and Bay-Friendly landscaping elements in City projects and in projects
WHEREAS, green building and Bay-Friendly landscaping design, construction, operations and maintenance techniques are increasingly widespread in residential and commercial building construction; and

WHEREAS, at the national level, the U.S. Green Building Council has taken the lead in promoting and defining commercial green building by developing the Leadership in Energy and Environmental Design (LEED)™ Rating System; and

WHEREAS, in Alameda County, StopWaste.Org has taken the lead in defining and promoting residential green building by developing the Alameda County Residential Green Building Guidelines (New Home Construction, Home Remodeling, Multifamily); and

WHEREAS, the Planning and Zoning Commission held duly-noticed public hearings and heard public testimony on green building and bay friendly landscaping regulations on March 28 and April 25, 2005; and

WHEREAS, the City Council held a study session on the green building proposals on July 24, 2006; and

WHEREAS, the proposed ordinance is categorically exempt from the requirements of California Environmental Quality Act (“CEQA”) per Section 15308, “Actions by Regulatory Agencies for Protection of the Environment” of the CEQA Guidelines, which exempts actions taken by regulatory agencies for protection of the environment; and

WHEREAS, the Albany City Council, on November 20, 2006, after due public notice, held a public hearing on the proposed amendment to Chapter 20 regarding green building and Bay-Friendly landscaping and introduced this Ordinance for First Reading.

NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 20-64 GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING REGULATIONS

20.68.010 Purpose.

To promote economic and environmental health in the City, it is essential that the City itself, through the design, construction, operation and deconstruction of its own facilities and facilities it funds, provide leadership to both the private and public
sectors by incorporating green building and Bay-Friendly landscaping practices. The
most immediate and meaningful way to do this is to require the integration of green
building and Bay-Friendly landscaping strategies in City and public-private
partnerships buildings and landscapes.

20.68.020 Definitions.

As used in this section:

Compliance Official. The Community Development Director shall be
authorized and responsible for implementing this Article as the Green Building and
Bay-Friendly Landscaping Compliance Official.

20.68.030 Standard for Compliance
The City Council shall establish by resolution, and periodically review and
update as necessary, Green Building and Bay Friendly Landscaping Standards of
Compliance. The Standards of Compliance shall include, but not be limited to, the
following elements:

a) Types of projects subject to regulation
b) Guidelines or checklists to be applied to various types of projects
c) Minimum threshold of compliance for various types of projects; and
d) Timing and method of verification of compliance with regulations
e) Definitions of terms used in the Standards of Compliance

The Standards of Compliance shall be based on the recommendation of the Planning
and Zoning Commission.

20.68.040 Promulgation of Implementing Regulations.

A. Implementation of this section shall commence July 1, 2007. The Community
Development Director shall promulgate any rules and regulations necessary or
appropriate to achieve compliance with the requirements of this Article. The
initial rules and regulations shall be promulgated after securing and reviewing
comments from affected City agencies and departments.

B. The rules and regulations promulgated by the Community Development
Department under this section shall provide for at least the following:

1. The incorporation of the green building and Bay-Friendly
landscaping requirements of this Article into the appropriate design,
construction, maintenance and development agreement documents prepared for
the applicable Projects.

2. The Compliance Official(s) shall have the responsibility to
administer and monitor compliance with the green building and Bay-Friendly
landscaping requirements set forth in this Article and with any rules and regulations promulgated thereunder, and to grant waivers or exemptions from the requirements of this Article.

20.68.050  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, they 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 of application submittal. The Applicant shall indicate the maximum number of credits 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 other government requirements and building standards.

C. Meeting with Compliance Official. The 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 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 Compliance Official shall determine the maximum feasible number of credits reasonably achievable for the Project. 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 Compliance Official.

E. Denial of Exemption. If the Compliance Official determines that it is possible for the Applicant to fully meet the requirements of this Chapter, they shall so notify the Applicant in writing.

20.68.060  Appeal.

A. Any aggrieved Applicant or person may appeal the determination of the Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section 20.68.060; or (ii) compliance with the ordinance pursuant to Section 20.68.060.

B. Any appeal must be filed in writing with the Community Development Department within fourteen (14) days of the determination by the Compliance Official. 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 or Compliance Official. The Planning and Zoning
Commission shall hold a public hearing regarding the appeal within forty (40) days of
the date when the appeal was filed.

**20.68.070  Severability**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this
Article, or any part thereof, is for any reason held to be unconstitutional,
invalid, or ineffective by any court of competent jurisdiction, such decision
shall not affect the validity or effectiveness of the remaining portions of this
Article or any part thereof. The City Council hereby declares that it would
have passed each section, subsection, subdivision, paragraph, sentence, clause,
and phrase of this Article irrespective of the fact that one or more sections,
subsections, subdivisions, paragraphs, sentences, clauses, or phrases be
declared unconstitutional, invalid, or effective. To this end, the provisions of
this Article are declared to be severable.

**PASSED AND ADOPTED** by the City Council of the City of Albany, after a
duly noticed public hearing, at its meeting held on the 4th day of December, 2006, by
the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

[Signature]
Mayor Allan Maris