

ORDINANCE NO. 1076

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
AMENDING THE MUNICIPAL CODE INCLUDING:**

- 1) CREATING CHAPTER 19 GREEN BUILDING REQUIREMENTS;**
- 2) AMENDMENTS TO CHAPTER 1 – CONSTRUCTION CODES OF TITLE 9 INCLUDING REQUIREMENTS FOR PRE-WIRING AND PRE-PLUMBING NEW RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS FOR SOLAR PHOTOVOLTAIC OR SOLAR HOT WATER SYSTEMS;**
- 3) AMENDING CHAPTER 12.16 (CALIFORNIA PLUMBING CODE) TO INCLUDE A REQUIREMENT FOR INSULATING HOT WATER PIPES WHEN EXPOSED DURING REMODELING;**
- 4) AMENDING CHAPTER 12.12 (CALIFORNIA BUILDING CODE) TO INCLUDE A REQUIREMENT FOR INSTALLATION OF A RADIANT BARRIER DURING REROOFING;
AND**

WHEREAS, The San Anselmo General Plan 1989 promotes energy and resource efficiency in new construction and the 2007-2014 Preliminary Draft The Housing Element encourages the development of Green Building policies and programs for new residential development and existing residential units; and

WHEREAS, the San Anselmo 2005 Greenhouse Gas Emissions Analysis determined that of the four sectors studied (Residential, Commercial/Industrial, Transportation and Waste Generation) the residential sector produced the second highest quantity of emissions (34.2%) behind transportation (52.1%); and

WHEREAS, the California Global Warming Solutions Act of 2006, known as AB 32, established a statewide goal of reducing greenhouse gas emissions to 1990 levels by 2020 and to a level 80% below 1990 levels by 2050, and directs the California Air Resources Board to develop a strategy to achieve such reductions; and

WHEREAS, the California Air Resources Board adopted its Climate Change Scoping Plan on December 12, 2008, which identified the imposition of mandatory green building techniques as achieving 15% of the AB 32 greenhouse gas reduction goal for 2020; and

WHEREAS, the California Public Utilities Commission has adopted a goal of 40% improved energy efficiency in all buildings by 2020; and

WHEREAS, the San Francisco Bay Conservation and Development Commission has indicated that the level of San Francisco Bay has increased by 8 inches over the past century and projects that sea level will rise between 20 and 55 inches by 2100, which will inundate properties currently valued at over \$48 billion dollars cumulatively, will inundate over 700 miles of state and local roadways, and will require the installation of seawalls and levee increases costing over \$1 billion; and

WHEREAS, the United Nations Intergovernmental Panel on Climate Change has warned that failure to address the causes of global climate change within the next few years will result in significantly increasing sea levels and frequency of wildland fires and reduced freshwater resources, which will significantly increase the cost of providing local governmental services and protecting public infrastructure; and

WHEREAS, the United States Environmental Protection Agency (EPA) states that the construction and operation of buildings in the United States collectively account for 39% of total energy use, 68% of total electricity consumption, 12% of total freshwater consumption, 40% of all raw materials used, and 38% of total carbon dioxide emissions; and

WHEREAS, the total energy consumption by residential dwelling units in Marin County increased from 619 million kWh to 734 million kWh (a 19% increase) from 1995 to 2000; and

WHEREAS, the California Health and Safety Code Sections 18938 and 17958 provide that the California Building Standards Code establishes building codes and standards for all building throughout the State, and Section 17958.5 provides that a local government may establish more stringent building standards if they are reasonably necessary due to local climatic, geological or topographical conditions; and

WHEREAS, California Assembly Bill 210 states that a city is authorized to change or modify green building standards if the California Building Standards Commission determines such changes are reasonably necessary because of local climatic, geological or topographical conditions, and Section 18941.5(2)(b) of the California Health and Safety Code states that, "neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city or county to establish more restrictive building standards, including, but not limited to, green building standards, reasonably necessary because of local climatic, geological, or topographical conditions;" and

WHEREAS, the Public Resources Code Section 25402.1(h)(2) states that a local enforcement agency may adopt more restrictive energy standards when they are cost-effective and approved by the California Energy Commission; and

WHEREAS, green building is a practice of design, construction and maintenance techniques that have been demonstrated to have a significant positive effect on energy, water and resource conservation, waste management and pollution generation and on the health and productivity of building occupants over the life of the building; and

WHEREAS, green building benefits are spread throughout the systems and features of a building. Green buildings can include, among other things, the use of certified sustainable wood products, extensive use of high-recycled-content products; recycling of waste that occurs during deconstruction, demolition and construction; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production; and

WHEREAS, in recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. A number of local

and national systems have been developed to serve as guides and rating systems for green building practices. The U.S. Green Building Council, developer of the Leadership in Energy and Environmental Design (LEED®) Green Building Rating Systems, has become a leader in promoting and guiding green building, particularly for non-residential structures. Build It Green has developed the New Home, Existing Home and Multi-Family Green Building Guidelines and associated GreenPoints Calculators, which have been adopted for use in approximately 70 Bay Area jurisdictions; and

WHEREAS, it is estimated that construction of buildings in accordance with the GreenPoint Rated and LEED® rating systems results in average energy savings of approximately 20% compared with buildings constructed in accordance with current minimum standards of the state building code; and

WHEREAS, representatives of all municipalities within Marin County and of the county government participated in a collaborative effort known as the Marin Green BERST (Green Building, Energy Retrofit and Solar Transformation) Task Force, held meetings on June 11, July 13, September 29 and 30, and November 19, 2009 and endorsed a model green building ordinance recommended by a Technical Advisory Committee comprised of over 50 experts in the fields of architecture, building construction, green building, building energy systems, energy conservation, water conservation, building inspection, planning and real estate over the course of 11 meetings; and

WHEREAS, study sessions on the proposed model green building regulations were held by the San Anselmo Town Council on June 22, 2010 and by the San Anselmo Planning Commission on March 1, 2010, March 15, 2010, May 3, 2010 and a joint public workshop with the Council and the Commission was held on April 12, 2010; and

WHEREAS, on May 3, 2010 the San Anselmo Planning Commission conducted a public hearing and recommended adoption of the proposed Municipal Code amendments to the Town Council;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

DIVISION 1: The Town Council finds as follows:

- A. The adoption of this ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines (14 Cal. Code §15308) because it is an action taken by a regulatory agency for the protection of the environment ..
- B. The proposed amendments are consistent with the policies and programs of the San Anselmo General Plan 1989 in that the proposed green building requirements are designed to result in greater energy efficiency and water conservation and the use of recycled and sustainably produced building materials.
- C. The public health, safety and general welfare will not be adversely impacted by the proposed amendments which are designed to reduce impacts on respiratory health and chemical sensitivity of building occupants, reduce production of greenhouse gases, reduce impacts on wildlife and vegetative habitats and reduce the generation and disposal of waste products.
- D. In conformance with California Health and Safety Code Section 17958.5, local climatic conditions require the adoption of local building code amendments to implement green building techniques and increase building energy efficiency since total energy consumption from residential structures in Marin County increased 18.5% between 1995 and 2000 and the

Greenhouse Gas Emissions Analysis determined that the of the four sectors studied (Residential, Commercial/Industrial, Transportation and Waste Generation) the residential sector produced the second highest quantity of emissions (34.2%) behind transportation (52.1%). The increased contribution to greenhouse gas production from local sources will contribute to overall climate change, potentially resulting in the increased height of San Francisco Bay, more wildland fires, reduced water supply and significantly increased Town costs for public services and infrastructure protection.

- E. In conformance with Public Resources Code Section 25402.1(h)(2) Gabel Associates, LLC has prepared a study which will be submitted as evidence to the California Energy Commission which demonstrates the feasibility and cost-effectiveness of the proposed municipal code amendments.

DIVISION 2: Chapter 19 (Green Building Regulations) is hereby added to read as follows:

Title 9, Chapter 19 Green Building Requirements.

Sections:

<u>9-19.010</u>	Purpose
<u>9-19.020</u>	Applicability
<u>9-19.030</u>	Definitions
<u>9-19.040</u>	Covered Projects Green Building Standards
<u>9-19.050</u>	Incentives for Compliance
<u>9-19.060</u>	Administrative Procedures
<u>9-19.070</u>	Exemptions
<u>9-19.080</u>	Appeal

9-19.010 Purpose.

The purpose of this Chapter is to enhance the long-term public health and welfare by contributing to the overall reduction of greenhouse gas production and emissions and improving the environmental and economic health of the Town through the efficient design, construction, operation, maintenance and deconstruction of buildings and site development by incorporating green building practices and materials. The green building provisions referenced in this Chapter are designed to achieve the following objectives:

- a. Increase energy efficiency in buildings;
- b. Encourage water and resource conservation;
- c. Reduce waste generated by construction projects;
- d. Reduce long-term building operating and maintenance costs; and
- e. Improve indoor air quality and occupant health; and
- f. Contribute to meeting the state and local commitments to reduce greenhouse gas production and emissions.

9-19.020 Applicability.

The provisions of this Chapter shall apply to all construction or development projects defined below as a "Covered Project."

9-19.030 Definitions.

For the purposes of interpreting this Chapter and the associated Green Building Standards Tables A and B, the following terms are defined as follows. When the definitions below differ from those contained elsewhere in this Title, the provisions of this Chapter shall apply.

- a. "Addition" means the addition of building square footage to an existing structure.
- b. "BIG" means Build It Green, a non-profit organization which established and maintains the Green Point Rated system for evaluating and certifying residential green buildings and green building professionals.
- c. "BPI" means the Building Performance Institute, a non-profit organization which provides training and certification of green building professionals.
- d. "Building envelope" means the ensemble of exterior and demising partitions of a building and roof structure that enclose conditioned space.
- e. "Compliance threshold" means the minimum number of points or rating level required to be achieved by a particular Covered Project as set forth by the Green Building Standards Tables A and B.
- f. "Conditioned space" means any area within a building or structure that is heated or cooled by any equipment.
- g. "Covered project" means a development project for new construction or renovations for which one or more building permits are required and which is also designated as a "Covered Project" by resolution of the Town Council in the Green Building Standards Tables A and B.
- h. "GBCI" means the Green Building Certification Institute, a non-profit organization which certifies green buildings and green building professionals under the LEED[®] rating system.
- i. "Green building" means a comprehensive process of design and construction that employs techniques to increase the efficiency of resource use, including energy, water and building materials, while minimizing adverse impacts on human health and the natural environment.
- j. "Green building checklist" means a checklist or rating sheet used for calculating a green building rating.
- k. "Green building rating system" means a standardized rating system providing specific criteria to determine the level of compliance of building projects as set forth by the Green Building Standards Tables A and B.
- l. "GreenPoint Rated" means a residential building certified as complying with the green building rating systems developed by the Build It Green organization.
- m. "GreenPoint Rater" means an individual certified by Build It Green as capable of evaluating and rating residential construction projects for compliance with the GreenPoint Rated green building rating systems.
- n. "HERS" means the Home Energy Rating System adopted by the California Energy Commission.
- o. "LEED[®]" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.
- p. "LEED[®] AP" means an individual who has been certified a LEED[®] Accredited Professional by the U.S. Green Building Council or the Green Building Certification Institute as capable of evaluating and rating construction projects for compliance with the LEED[®] green building rating systems.
- q. "Net Zero Energy" means a building that has a net annual Time Dependent Valued (TDV) Energy Consumption, as defined by Title 24 of the California Code of Regulations, of zero, accounting for both energy consumption and the use of on-site renewable energy production.
- r. "New construction" means the construction of a new or replacement residential dwelling unit or a new or expanded non-residential building.

- s. "Qualified green building rater" means an individual who has been trained and certified as a LEED® AP, GreenPoint Rater or has similar qualifications and certifications if acceptable to the Chief Building Official.
- t. "Renovation" means any remodeling, modification or tenant improvement to an existing building that includes replacement or alteration of at least two of the following: heating/ventilating/air conditioning system, building envelope, hot water system or lighting system, but excluding improvements and project valuation related to seismic upgrades,, disabled access, or installation of renewable energy systems. Renovation shall include any addition of conditioned space to an existing dwelling unit.
- u. "USGBC" means the U.S. Green Building Council, a non-profit organization which established and maintains the LEED® rating systems for evaluating and certifying residential green buildings and green building professionals.

9-19.040 Covered Projects - Green Building Standards.

The Town Council shall adopt a resolution defining which projects shall be deemed to be "Covered Projects" within the meaning of this Chapter, and establishing "Green Building Standards" applicable to those Covered Projects, which standards shall include, but not be limited to, the green building rating system(s) applicable to various types and sizes of Covered Projects; minimum compliance thresholds for various types and sizes of Covered Projects; and methods for verification of compliance with the adopted standards. In applying Green Building Standards under this Chapter:

- a. Cumulative new construction or renovations over any one-year period shall be considered as a single Covered Project, and subject to the highest compliance threshold based on the cumulative project size or valuation.
- b. The Chief Building Official shall determine the appropriate project valuation based on the cost of similar improvements, and may request substantiating documentation from the applicant. Where Compliance Thresholds contain project size ranges expressed as both building square footage and project valuation, the intent is to base project requirements upon the project valuation range. However the Chief Building Official shall have the authority to determine whether the building square footage or valuation range most accurately reflects the scope of the proposed project for purposes of determining the required minimum Compliance Threshold.
- c. Mixed use (residential and non-residential) projects must comply either with the applicable Covered Project requirements for the respective residential and non-residential portions of the project, or may propose to utilize a mixed use rating system, subject to approval by the Chief Building Official.
- d. All buildings submitted for permit must meet all applicable requirements of the 2008 Building Energy Efficiency Standards, California Code of Regulations ("C.C.R."), Title 24, Part 6,.
- e. The applicable green building rating system shall be that which is most recently adopted by Build It Green or the U.S. Green Building Council. The green building rating system in effect at the time of building permit submittal shall be that which is applicable to the development project throughout the project construction.

9-19.050 Incentives for Compliance.

In addition to the required Green Building Standards, the Town Council may establish by resolution, financial or application processing incentives and/or award or recognition programs to encourage higher levels of green building compliance for a project.

9-19.060 Administrative Procedures.

The procedures for compliance with the provisions of this Chapter shall include, but not be limited to, the following:

- a. Project design. Applicants for a Covered Project are strongly encouraged to involve a qualified green building rater in the initial design phases of the project in advance of submittal of an application to determine applicable green building compliance thresholds and the most cost effective and appropriate means of achieving compliance.
- b. Planning applications. If a discretionary planning application is required for a Covered Project, applicants should be prepared to identify expected green building measures to be included in the project to achieve the compliance thresholds. Applicants should identify any anticipated difficulties in achieving compliance and any exemptions from the requirements of this Chapter that may be requested.
- c. Building plan check review. Upon submittal of an application for a building permit, building plans for any Covered Project shall include a green building program description and completed checklist. The checklist shall be incorporated onto a separate full-sized plan sheet included with the building plans. A qualified green building rater, if required, shall provide evidence that the project, as indicated by the project plans and green building program description, will achieve the Green Building Standards Tables A and B prior to issuance of a building permit.
- d. Changes during construction. During the construction process, alternate green building measures may be substituted, provided that the qualified green building rater or applicable individual provides documentation of the proposed change and the project's continued ability to achieve the Green Building Standards to the Chief Building Official.
- e. Final building inspection. Prior to final building inspection and occupancy for any Covered Project, a qualified green building rater, if required, shall provide evidence that project construction has achieved the required compliance set forth in the Green Building Standards Tables A and B. The Chief Building Official shall review the documentation submitted by the applicant, and determine whether the project has achieved the compliance threshold as set forth in the Green Building Standards Tables A and B. Where subsequent certification of the building is required by the Green Building Standards, the Chief Building Official shall also determine whether the applicant has demonstrated that such certification is in process and will be achieved not later than one year after approval of final building inspection. If the Chief Building Official determines that the applicant has met these requirements, the final building inspection may proceed.
- f. Post final inspection requirement. Where certification through GreenPoint Rated or Leadership in Energy and Environmental Design (LEED) of the building is required by the Green Building Standards Tables A and B, and such certification is only available subsequent to occupancy of the completed building, the applicant shall provide documentation of such certification within one year of the date of the final building inspection for the project. Failure to provide evidence of this certification within this timeframe, or within an alternate timeframe as determined by the Chief Building Official, will result in a determination that the Covered Project is not in compliance with the requirements of this Chapter and Code Enforcement proceedings may be implemented by the Town.
- g. Conflict with other laws. The provisions of this Chapter are intended to be in addition to and not in conflict with other laws, regulations and ordinances relating to building construction and site development. If any provision of this Chapter conflicts with any duly adopted and valid statutes or regulations of the federal government or the State of California, the federal or state statutes or regulations shall take precedence.

- a. The provisions of this Chapter shall not apply to the following exemptions; however, none of the exemptions listed shall provide the applicant with relief from the compliance requirements of the 2008 California Building Energy Efficiency Standards of the California Building Code (C.C.R. Title 24, Part 6):
 1. Buildings which are temporary (such as construction trailers).
 2. Building area which is not or is not intended to be conditioned space.
 3. Any work required by this Chapter which would impair the historic integrity of any building listed on a local, state or federal register of historic structures, as determined by the Chief Building Official and as regulated by the California Historic Building Code (C.C.R. Title 24, Part 8). In making such a determination, the Chief Building Official may require the submittal of an evaluation by an architectural historian or similar expert.
- b. Hardship or Infeasibility 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 request an exemption as set forth below. In applying for an exemption, the burden shall be on the applicant to show hardship or infeasibility, and to demonstrate clearly the applicant's continued compliance with all requirements of the 2008 California Building Energy Efficiency Standards of the California Building Code (C.C.R. Title 24, Part 6).
 1. Application. The applicant shall identify in writing the specific requirements of the Green Building Standards Tables A and B that the project is unable to achieve and the circumstances that make it a hardship or infeasible for the project to comply with this Chapter. Circumstances that constitute hardship or infeasibility shall include, but are not limited to, the following:
 - i. There is a conflict between the provisions of the applicable green building rating system and the California Building Standards Code, other State code provisions, other requirements of this Title or conditions imposed on the project through a previously approved planning application;
 - ii. There is a lack of commercially available green building materials and technologies to comply with the green building rating system;
 - iii. That the cost of achieving compliance is disproportionate to the overall cost of the project;
 - iv. That physical conditions of the project site make it impractical to incorporate necessary green building measures or achieve the requirements of Green Building Standards Tables A and B;
 - v. That compliance with certain requirements would impair the historic integrity of buildings listed on a local, state or federal list or register of historic structures;
 2. Granting of exemption. If the Chief Building Official determines that the granting of the exemption will not cause the building to violate the compliance requirements of the 2008 California Building Energy Efficiency Standards of the California Building Code (C.C.R. Title 24, Part 6) and that it is a hardship or infeasible for the applicant to fully meet the requirements of this Chapter, the Chief Building Official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. In making this determination, the Chief Building Official shall consider whether alternate, practical means of achieving the objectives of this Chapter can be satisfied, such as reducing comparable energy use at an offsite location within the Town. 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 the threshold of compliance determined to be achievable by the Chief Building Official.

3. Denial of exemption. If the Chief Building Official determines that the denial of the exemption will not cause the building to violate the compliance requirements of the 2008 California Building Energy Efficiency Standards of the California Building Code (C.C.R. Title 24, Part 6) or that it is reasonably possible for the applicant to fully meet the requirements of this Chapter, the request shall be denied and the applicant shall be notified of the decision in writing. The project and compliance documentation shall be modified to comply with the Green Building Standards Tables A and B.

9-19.080 Appeal

Any aggrieved applicant or person may appeal a Chief Building Official's determination under this Chapter, including a determination regarding compliance with the provisions of this Chapter and a determination on the approval or denial of an exemption under Section 9-19.070, to the Planning Commission by filing a written appeal with the Town Clerk and paying the necessary filing fee within ten (10) days of the determination.

DIVISION 3: A new Section 9-1.209 (Solar water heater pre-plumbing requirements) is hereby added to the San Anselmo Municipal Code to read as follows:

9-1.209 Solar water heater pre-plumbing requirements

All new residential dwelling units shall include plumbing specifically designed to allow the later installation of a system which utilizes solar energy as a means of heating domestic potable water. Construction specifications to accomplish this requirement shall be adopted by the Chief Building Official. No building permit shall be issued unless the requirements of this section are incorporated into the approved building plans. The provisions of this section can be modified or waived when it can be satisfactorily demonstrated to the Chief Building Official that the requirements are impractical due to shading, building orientation, construction constraints or configuration of the parcel.

DIVISION 4: A new Section 9-1.210 (Photovoltaic pre-wiring requirements) is hereby added to the San Anselmo Municipal Code to read as follows:

9-1.210 Photovoltaic pre-wiring requirements

New non-residential buildings over 5,000 square feet in floor area and all new residential dwelling units shall include electrical conduit specifically designed to allow the later installation of a photovoltaic (PV) system which utilizes solar energy as a means to provide electricity. Construction specifications to accomplish this requirement shall be adopted by the Chief Building Official. No building permit shall be issued unless the requirements of this section are incorporated into the approved building plans. The provisions of this section can be modified or waived when it can be satisfactorily demonstrated to the Chief Building Official that the requirements are impractical due to shading, building orientation, construction constraints or configuration of the parcel.

DIVISION 5: Section 9-1.211 (Amendments made to the California Building Code) of the San Anselmo Municipal Code is hereby amended to add the following amendment:

Section 9-1.211 is amended by adding the following subsection:

9-1.211 Radiant Barriers. When reroofing causes more than 50% of the roof sheathing to be removed, a radiant barrier (reflective insulation) shall be installed in conjunction with the reroofing project.

DIVISION 6: Section 9-1.212 (Amendments to the California Plumbing Code) of the San Anselmo Municipal Code is hereby amended to add the following amendment:

Section 9-1.212 is amended by adding the following subsection:

9-1.212 Hot water piping insulation. When hot water pipes are exposed by removal of wall surfaces insulation shall be installed having a minimum thickness of 1 inch for pipe diameter of 2 inches or less, and having a minimum thickness of 1.5 inches for pipe diameter exceeding 2 inches.

DIVISION 7: This Ordinance shall not be applicable to any development project for which a planning application has been submitted or a complete building permit application has been filed prior to the effective date of the Ordinance.

DIVISION 8: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid.

DIVISION 9: This Ordinance shall be published once in full before its final passage in a newspaper of general circulation, published and circulated in the Town of San Anselmo, and shall be in full force and effect thirty (30) days after its final passage, and until the Ordinance provisions are approved by both the California Energy Commission and the California Building Standards Commission, whichever comes later.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the San Anselmo Town Council on the 22nd day of June, 2010 and was adopted at a regular meeting on the 24th day of August, 2010 by the following vote:

AYES: Councilmembers: Coleman, Greene, McInerney, Thornton


NOES: Councilmembers: Kroot

ABSENT: Councilmembers: None



Barbara Thornton, Mayor

ATTEST:


Barbara Chambers, Town Clerk