

**Topic:** Green Buildings & Energy Efficiency  
**Resource Type:** Regulations  
**State:** California  
**Jurisdiction Type:** Municipal  
**Municipality:** City of Hayward  
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**Community Type – applicable to:** Urban; Suburban  
**Title:** City of Hayward Green Buildings Requirements for Municipal and Private Developments  
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### ***Abstract***

The City of Hayward is the sixth largest city in the San Francisco Bay Area. As of 2007, Hayward's estimated population was 155,312 residents. The City has a total area of 63 square miles, of which 29.68% is water. The City is located on the Hayward Fault, an earthquake fault, which is still the center of town. Hayward has transit stations for the Bay Area Rapid Transit (BART), a heavy-rail system that connects San Francisco with various East Bay cities.

Hayward is located in the environmentally active California San Francisco Bay, and the City's ordinance is placed in the context of many California environmental regulations. Hayward has set forth green building regulations in two parts: municipal buildings and private development. Hayward's municipal green building requirements are set forth in Article 21, and Hayward's requirements for private development are set forth in Article 22. While the general spirit of both Article 21 and 22 are very similar, the City has effectively taken into account that when mandating private projects meet green standards, more flexibility may be necessary. The City has managed to grant such flexibility without compromising the actual sustainability of privately constructed buildings. However, Hayward's 'flexibility' is only allowed for private structures, as Hayward holds its own municipal structures to a high standard. Of course historically sensitive buildings are allowed an exemption regardless of whether such structure is private or municipal. Also important to note, the City of Hayward utilizes two forms of green building standards, GreenPoints (predominantly for private buildings) and Leadership in Energy and Environmental Design (LEED).

The municipal building regulations are very definite, all municipal construction projects, including minor projects and public-private partnerships must build to meet LEED Silver standards. In addition to achieving LEED Silver, municipal works must have a LEED accredited professional involved in the development and certification process. Municipal projects are not allowed the alternative third party rating of GreenPoint Rated, which private developers are allowed to use. Municipal projects that are public-private partnerships may

be allowed an exemption from the LEED Silver requirement if such goal is financially unattainable and that the proposed (non-LEED certified project) building will provide an over-riding benefit to the community. Perhaps the most impressive aspect of the City's regulation is that within the mandate, it specifies that the law will be reviewed each year and improved upon to ensure further green building success.

Article 22 partitions private projects into two groups: residential oriented structures and commercial projects. Private projects that are residential oriented include Multi-Family Residential and Mixed-Use Buildings, New Single Family Dwellings, or Residential Additions/Remodels greater than 500 square feet, in which these projects are encouraged to attain GreenPoint Rated. Regardless of whether a residential oriented project is actually seeking attainment of GreenPoint Rated, all residential projects must submit with building permit applications the appropriate GreenPoint Rated check list and green building criteria. With respect to the second group of private projects, the Commercial Covered Projects, are required to meet all GreenPoint Rated criteria prior to a certificate of occupancy. The City of Hayward requires that both types of private development use the private development checklist submittal as a way to familiarize all private developers with green standards that will ultimately be promulgated to mandate that all buildings comply. Hayward does allow for hardship exemption for instances where projects valued at less than \$50,000 where the Project Applicant can demonstrate the cost of complete compliance will exceed 20.0% of construction costs. In these cases, the applicant may limit compliance to 20.0% of the cost of the project.

## **Resource**

MUNICIPAL CODE – HAYWARD, CALIFORNIA  
Chapter 10 – Planning, Zoning and Subdivisions  
ARTICLE 21: GREEN BUILDING REQUIREMENTS FOR MUNICIPAL BUILDINGS  
§ 10-21.100 to § 10.21-150

§ 10-21.100 TITLE.

This Article shall be known and may be cited as the Municipal Buildings Green Building Ordinance of the City of Hayward.

§ 10-21.110 DEFINITIONS.

For the purposes of this Article, certain terms are defined as follows:

a. "Applicant" means any individual, firm, Limited Liability Company, association, partnership, political subdivision, government agency, industry, public or private corporation or any other entity that applies to the City of Hayward for permit(s) to construct a Project subject to the provisions of this Article.

b. "City Project" means any new construction or renovation of a building owned or occupied by the City or the Redevelopment Agency of the City.

c. "Covered Project" means all new building or Renovation projects that equal or exceed 20,000 square feet in area or \$5 million in construction costs adjusted annually to the Building Cost Index published in the Engineering News-Record Magazine, and are either owned or occupied by the City or the Redevelopment Agency of the City or developed as a Public/Private Partnership.

d. "LEED" and "LEED Checklist" mean the Leadership in Energy and Environmental Design rating system, certification methodology, and checklist used by the United States Green Building Council (USGBC). City staff shall maintain the most recent version of the LEED Rating system at all times.

e. "LEED Accredited Professional" means an individual who has passed the LEED accreditation exam administered by the US Green Building Council.

f. "Minor City Project" shall mean all new building or Renovation projects that are less than 20,000 square feet in area or \$5 million in adjusted construction costs and are either owned or occupied by the City or the Redevelopment Agency of the City or developed as a Public/Private Partnership.

g. "Public-Private Partnership" means any project built on City-owned or Redevelopment Agency-owned land, funded by the City or Redevelopment Agency, of Hayward, or built under a Disposition and Development Agreement with the Redevelopment Agency, and financially assisted by the Agency or the City in a total amount of \$2,500,000 or greater in cash, land subsidies or improvements value.

h. "Renovation" means any change, addition or modification to an existing building or structure including, but not limited to, tenant improvements.

#### § 10- 21.120 APPLICATION AND EXEMPTIONS.

The provisions of this Article apply to all Covered Projects and Minor City Projects submitted for plan check review after November 1, 2008, with the following exemptions:

a. Buildings that have been designated as "Historical" pursuant to the California Historical Building Code, Title 24 Part 8.

b. Permits issued only for foundation repair, re-roofing, repair of fire damage, work required by termite reports, or other items of building or structural maintenance.

c. Exemptions or partial exemptions may be granted by the City Manager for other projects where it can be demonstrated that complete compliance is not possible because of unusual building circumstances

d. Exemptions or partial exemptions may be granted by the City Council/Agency Board for “Public/Private Partnerships” where it can be demonstrated that compliance with this Article is not financially feasible by either the private-sector developer, the City or the Redevelopment Agency, and that the proposed building will provide an over-riding benefit to the community.

§ 10-21.130 STANDARD FOR COMPLIANCE.

a. All Covered Projects shall meet a minimum LEED™ Silver rating and be so certified by the US Green Building Council. All Covered Projects shall also have a LEED-Accredited Professional as a principal member of the design team from the beginning of the project. The LEED rating option to be used shall be chosen by the LEED-Accredited professional as the one most appropriate for the project.

b. The proponents of Minor City Projects are required to complete and submit the LEED checklist as a way of documenting the green building practices incorporated into the projects, and measures identified in the checklists shall be incorporated into the design and construction of the projects, to be verified by City staff. Projects using the LEED checklist shall earn a minimum of 20 points.

c. The Director of Public Works Department or his or her designee shall regularly review the project specifications used in bidding traditional Public Works Projects to include the best green building/environmental practices applicable.

§ 10-21.140 PROMULGATION OF IMPLEMENTING REGULATIONS.

The City Manager shall promulgate and 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 departments.

§ 10-21.150 ANNUAL REVIEW.

The City Council shall review this Article annually to determine whether it needs to be updated because of new legislation enacted by the State or new standards developed by applicable organizations, such as StopWaste.org, Build It Green, and the US Green Building Council (LEED: Leadership in Energy and Environmental Design). The Building Official shall annually report to the City Manager regarding the number and types of projects built pursuant to this Article.

Chapter 10 – Planning, Zoning and Subdivisions

ARTICLE 22: GREEN BUILDING REQUIREMENTS FOR PRIVATE DEVELOPMENTS

§ 10-22.100 to § 10-22.150

§ 10- 22.100 TITLE.

This Article shall be known and may be cited as the Private Development Green Building Ordinance of the City of Hayward.

§ 10-22.110 DEFINITIONS.

For the purposes of this Article, certain terms are defined as follows:

- a. “Applicant” means any individual, firm, Limited Liability Company, association, partnership, political subdivision, government agency, industry, public or private corporation or any other entity that applies to the City of Hayward for permit(s) to construct a Project subject to the provisions of this Article.
- b. “Build It Green” is a non-profit membership organization which developed the GreenPoint Rating Systems for Residential and Mixed Use occupancies in order to promote sustainable buildings.
- c. “City” means the City of Hayward.
- d. “Commercial” means any building or space used for retail, industrial, office or other non-residential use.
- e. “Covered Project” means any privately funded construction project, except as otherwise provided herein, for which an application for a building permit is received after August 1, 2009, or after the date the California Energy Commission and California Building Standards Commission approve green building standards required by this Article, whichever date is later, consisting of:
  - i. new construction, additions or remodels over 500 square feet for residential projects, or
  - ii. new construction, additions or remodels entailing 1,000 square feet or more of new or remodeled Commercial space.
- f. “Green building” means a whole systems approach to the design, construction, and operation of buildings and structures that helps mitigate the environmental, economic, and social impacts of construction, demolition and renovation. Green building practices recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive indoor environment.

g. “GreenPoint Rated” is a third party rating system for homes based on a set of green building measures incorporated from Build It Green’s Green Building Guidelines and used to evaluate a home’s environmental performance. City staff shall maintain the most recent version of Build It Green’s GreenPoint Rated Checklists for Single Family, Multi-Family and Existing Homes and Residential Green Building Guidelines for New Home Construction, Home Remodeling and Multifamily Green Building.

h. “Historical Building” means any structure or collection of structures deemed of importance to the history, architecture or culture of an area by an appropriate local or state governmental jurisdiction, pursuant to Section 18955 of the California Health and Safety Code and Section 8-201 of the 2007 California Historical Building Code, Title 24, Part 8.

i. “LEED” and “LEED Checklist” mean the Leadership in Energy and Environmental Design rating system, certification methodology, and checklist used by the United States Green Building Council (USGBC). City staff shall maintain the most recent version of the LEED™ Rating system at all times.

j. “Multi-family Residential Building” means a single residential building that has more than two dwelling units.

k. “Mixed-Use” means a building with residential and commercial uses.

#### § 10-22.120 APPLICATION.

The provisions of this Article apply to Covered Projects, with the following exemptions or exceptions:

a. Historical Buildings, as defined by this Article.

b. Permits issued only for foundation repair, re-roofing, repair of fire damage, work required by termite reports, upgrades for accessibility, or other items of building or structural maintenance, as determined by the Building Official.

c. Hardship exemptions may be granted by the Building Official for projects valued at less than \$50,000 where the Project Applicant can demonstrate the cost of complete compliance will exceed 20.0% of construction costs. In these cases, the applicant may limit compliance to 20.0% of the cost of the project.

d. Exemptions or partial exemptions may be granted by the City Council for other projects where it can be demonstrated that complete compliance is not possible due to unusual building circumstances. This exemption is for other than economic considerations.

e. Projects for which a Vesting Tentative Map has been approved by January 1, 2009.

f. Projects subject to a Development Agreement approved by January 1, 2009, but without a Vesting Tentative Map, shall comply with the requirements of this Article if a building permit application is received on or after January 1, 2011.

§ 10-22.130 ALTERNATIVE GREEN BUILDING REQUIREMENTS.

The following green building requirements shall apply to all Covered Projects. Wherever reference is made to the Hayward checklist or GreenPoint Rated systems, a comparable equivalent rating system may be used if the Building Official finds the proposed alternate method is satisfactory and complies with the intent of this Article. The applicable systems are those in effect at the time a complete application for the Project is submitted to the Building or Planning Division.

§ 10 -22.140 STANDARDS FOR COMPLIANCE.

a. Multi-Family Residential and Mixed-Use Buildings.

Applicants for new Multi-Family Residential Covered Projects, prior to obtaining a Certificate of Occupancy, shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

Prior to August 1, 2009, in order to promote familiarity with green building standards, applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items, if any, from the checklist; however, only completing the list and submitting it is mandatory. For such projects that are GreenPoint Rated, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

These requirements shall also apply to Mixed-Use Covered Projects.

b. New Single Family Dwellings.

Applicants for new Single Family Covered Projects prior to obtaining a Certificate of Occupancy, shall submit documentation demonstrating the building(s) has/have been GreenPoint Rated. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

Prior to August 1, 2009, in order to promote familiarity with green building standards, applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items, if any, from the checklist; however, only completing the list and submitting it is mandatory. For such projects that are GreenPoint Rated, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

c. Residential Additions/Remodels Greater Than 500 Square Feet.

Applicants for residential Covered Projects consisting of remodels and/or additions greater than 500 square feet to existing residential single family or multi-family dwellings, shall submit, with their permit application, the GreenPoint Rated Existing Homes Checklist. The Applicant shall indicate on the plans and checklist if any of the items on the checklist have been incorporated into the project. Applicants are encouraged to have their projects GreenPoint Rated, or to incorporate items from the checklist; however, only completing the list and submitting it is mandatory. For such projects that are GreenPoint Rated, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

d. Commercial Covered Projects.

Applicants for new Commercial Covered projects shall submit with their permit application the City of Hayward checklist for Private Non-Residential Development. The plans shall clearly show where each item has been incorporated into the project. The plan review, to be conducted by City staff, shall verify the incorporation of checklist items into the plans. The building inspection process, to be conducted by City staff, shall verify the inclusion of these items in the construction. A Certificate of Occupancy shall not be issued until the incorporation of the checklist items is verified by City staff. The Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

Prior to August 1, 2009, applicants are encouraged to incorporate measures from the City of Hayward Checklist for Private Non-Residential Development into their projects. For such projects that incorporate such measures, the Certificate of Occupancy shall state that the project complies with the City's Private Development Green Building Ordinance.

§ 10-22.150 PROMULGATION OF IMPLEMENTING REGULATIONS.

The City Manager 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 departments.