Title 18 – Sustainability
Chapter 18.02 Sustainable Green Building Requirements for Private Development

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Article I - Intent

Section 18.02.010 Title

This Chapter shall be known as the "Sustainable Green Building Requirements for Private Development" and is referred to herein as this Chapter.

Section 18.02.020 Purpose and Intent

This Chapter is intended to promote economic development and enhance the health, safety, and welfare of its residents, workers, and visitors through the integration of environmentally sustainable strategies in building construction and landscapes in the City. The minimum

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standards, set forth herein, are intended to minimize the use of natural resources and the production of waste and maximize the healthfulness of enclosed environments.

Article II - Administrative

Section 18.02.030 Definitions

As used in this Chapter, the following terms shall have the meanings set forth hereto or as otherwise specified in the regulations referenced herein. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used.

ADDITION/ ALTERATION for the purposes of this Chapter only means any change, addition, or modification to an existing building or structure, including, but not limited to, remodeling, renovations, tenant improvements, and expansion in floor area.

ADDITION/ ALTERATION - MAJOR for the purposes of this Chapter only means Addition/Alteration of non-residential buildings where (a) interior finishes are removed, (b) major upgrades to mechanical, electrical and/or plumbing systems are proposed, and (c) where such Addition/Alteration is 25,000 square feet or more.

APPLICANT means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality (other than the City of Oakland),, industry, public or private corporation, or any other entity that applies to the City for permits to undertake any construction within the City subject to this Chapter.

BUILDING is defined under Chapter 15.35.030.

CHECKLIST means the most recent green building methodology and rating system suitable for the type of construction proposed in evaluating the conformance with provisions of this Chapter, as determined by the City's Planning and Zoning Division.

CHECKLIST - BAY-FRIENDLY BASIC LANDSCAPE means the most recent version of the Checklist developed by StopWaste.Org for use in the professional design, construction and alterations of landscapes, and any subsequent Checklists associated with the green building methodology.

CHECKLIST - GREENPOINT RATED AND GREENPOINTS (GPR) means the most recent versions of the Checklists, associated with the green building rating system and certification methodology developed by Build It Green, including but not limited to, the Single-Family GreenPoint Rated Checklist, the Multifamily GreenPoint Rated Checklist, the GreenPoint Rated Checklist Existing Home (Elements Label), and any subsequent Checklists.

CHECKLIST - LEED™ means the most recent versions of the Checklists, associated with the green building rating system and certification methodology developed by the United States Green Building Council (USGBC), including but not limited to, LEED for New Construction, LEED for Existing Buildings, LEED for Commercial Interior, LEED for

Homes, LEED for Schools, LEED for Retail, LEED for Neighborhood Development and any subsequent Checklists.

CHECKLIST - SMALL COMMERCIAL means the most recent version of the Checklist, associated with the green building methodology developed by StopWaste.Org, for use in the professional design, construction, and additions and/or alterations of small commercial (non-residential) buildings and any subsequent Checklists.

COMPLIANCE STANDARDS TABLE means the tables located in Section 18.02.090 and Section 18.02.100of this Chapter which outlines the applicable size thresholds, checklist(s), and minimum compliance requirements for each construction type.

CONSTRUCTION means work which is subject to the Oakland Building Construction Code.

CONSTRUCTION PHASE - PERMITTING means the engineering approval process for a permit, including but not limited to a demolition, grading, and building permit, issued pursuant to the Oakland Building Construction Code.

CONSTRUCTION PHASE - INSPECTIONS means the site inspection process for a permit including but not limited to a demolition, grading, and building permit, issued pursuant to the Oakland Building Construction Code.

DECONSTRUCTION for the purposes of this Chapter means the systematic dismantling of a Building to preserve the useful value of its component materials.

DEMOLITION for the purposes of this Chapter only means the full or partial razing, ruining, tearing down or wrecking of any Building's exterior structure not withstanding the provisions of Chapter 15.36 of the Oakland Municipal Code.

ENTITLEMENT PHASE means the land use approval process per the Oakland Planning Code for a planning permit such as, but not limited to, a conditional use permit, design review or variance permit , and the continued compliance with the Conditions of Approval under which such permit was approved.

GREEN BUILDING CERTIFICATION means the certification that the construction complies with the provisions of this Chapter by (a) Build It Green for GreenPoint Rated projects, (b) the Green Building Certification Institution (GBCI) or U.S. Green Building Council for LEED projects, (c) the City's Building Services Division for the Checklist - Small Commercial, the Checklist - Bay-Friendly Basic Landscape, or (d) the City's Environmental Services Division for deconstruction.

GREEN BUILDING CERTIFIER means an individual who (1) can certify that the Applicant is in compliance with this Chapter; (2) does not have financial interest in the project for which Green Building Certification is being sought; provided however, that compensation for providing such certification only shall not be deemed a financial interest, and (3) is (a) currently certified by the United States Green Building Council as a LEED™ Accredited Professional, or (b) currently certified by Build It Green as a GreenPoint Rater. However, if

the Green Building Compliance Officer is the Green Building Certifier than conditions 3(a) and 3(b) in this paragraph is not applicable. The Green Building Certifier must comply with the conflict of interest or code of conduct policies of the rating system, as may be applicable. The Green Building Compliance Officer acts as the Green Building Certifier for projects subject, but not limited to, LEED for Neighborhood Development, Checklist - Small Commercial, Checklist - Bay-Friendly Basic Landscape, and Deconstruction.

GREEN BUILDING COMPLIANCE OFFICER means the City Administrator or designee(s) who is/are responsible for enforcement of this Chapter during the entitlement phase and all phases of construction.

GREEN BUILDING DOCUMENTATION means the information required by the Green Building Compliance Officer sufficient to confirm compliance with the provisions of this Chapter.

HISTORIC PRESERVATION PLANNER for the purposes of this Chapter means a City of Oakland Planning and Zoning Division staff person or designee assigned to review the application submitted pursuant to this Chapter to ensure that the historic integrity of a Historic Resources is not adversely altered by implementation of this Chapter.

HISTORIC RESOURCE for the purposes of this Chapter only means a Historic Resource, including any Designated Historic Property, any Potentially Designated Historic Property rated A or B by the Oakland Cultural Heritage Survey, not including the contingency rating, and any Potentially Designated Historic Property that is located within an Area of Primary Importance as these capitalized terms are defined in Oakland's Historic Preservation Element.

LEED™ means Leadership in Energy and Environmental Design.

MIXED-USE for the purposes of this Chapter means a Building or group of Buildings located on a single tract of land, or on two or more tracts of land which may be separated only by a street or other right-of-way, or in a single building and which contain both residential and non-residential occupancies.

OAKLAND BUILDING CONSTRUCTION CODE means Chapter 15.04 of the Oakland Municipal Code.

OAKLAND PLANNING CODE means Title 17 of the Oakland Municipal Code.

OCCUPANCY for the purposes of this Chapter only means the assigned use of a Building or a portion a Building unless otherwise indicated.

RATING SYSTEM means the green building methodology determined by the City Planning and Zoning Division for evaluating compliance with the provisions of this Chapter for the Entitlement Phase and Construction Phases – Permitting and Inspections.

RECORD TITLE HOLDER means the current owner(s) of the fee simple interest of a real property.

REMOVAL for the purposes of this Chapter only shall mean either demolition or deconstruction of a Building, but does not include relocation of a Building.

REQUEST FOR REVISION PLANCHECK PROCESS for the purposes of this Chapter is the process by which a project Applicant may formally request a revision to the Entitlement Phase and/or Construction Phase-Permitting or Construction Phase-Inspection permits.

RESIDENTIAL for the purposes of this Chapter only means a Building or group of Buildings containing a residential Group R occupancy and not do not contain a non-residential occupancy, which is used or designed or intended to be used for human habitation including living, sleeping, cooking or eating or any combination thereof, including residentially oriented live/work units and HBX live/work units as such classifications are defined under Section 17.09.040 of the Oakland Planning Code.

SHALL/ WILL means a determinative directive which includes the common meaning of the word *must*.

UNREASONABLE HARDSHIP for the purposes of this Chapter shall mean practical infeasibilities, difficulties, or results inconsistent with the general purposes of this Chapter that are only applicable during the Entitlement Phase.

Section 18.02.040 Scope and Applicability

This Chapter establishes the scope and applicability of construction, related to siting, designing, constructing, remodeling, demolishing, and landscaping that reduces the environmental and economic impacts of conventional construction practices.

A. Inclusions

This Chapter shall apply to the following:

- Residential New Construction
- One and Two-Family Additions /Alterations of more than 1,000 square feet of contiguous or non-contiguous gross floor area
- Multi-Family (3+units) Additions/Alterations
- Non-Residential New Construction of more than 5,000 square feet of contiguous or non-contiguous gross floor area
- Non-Residential Additions/Alterations of more than 5,000 square feet of contiguous or non-contiguous gross floor area
- Removal of a Historic Resource and construction of a new building
- Historic Residential Additions/Alterations

a) One and Two-Family Additions/Alterations of more than 1,000 square feet of contiguous or non-contiguous gross floor area
b) Multi-Family (3+ units) Additions/Alterations

- Historic Non-Residential Additions/Alterations of more than 5,000 square feet of contiguous or non-contiguous gross floor area

- Affordable housing new construction and rehabilitation which receives City/ Redevelopment Agency funding and has restrictions on income and rent/sales price.

- Mixed-use construction

- Construction of more than 500 square feet of contiguous or non-contiguous gross floor area requiring a Design Review Permit and a landscape plan subject to the Bay Friendly Landscape Basic Landscape Guidelines.

B. Exclusions

This Chapter shall not apply to the following:

- Fences, decks, arbors, pergolas, retaining walls, and signs.

- Secondary dwelling units, as defined in the Oakland Planning Code Section 17.102.360.

- Repair or replacement of roof covering, fenestration, and façade materials.

- Group U detached accessory buildings which do not exceed 1,000 square feet of floor area.

- Construction, additions, and alterations which are exempted from the permitting requirements both of the Oakland Building Construction Code and the Oakland Planning Code.

- Factory-built buildings approved by the State of California and manufactured housing approved by the United States Department of Housing and Urban Development.

- City and Redevelopment Agency capital improvement construction, alterations, and additions which are subject to Chapter 15.68 of the Oakland Municipal Code or the Bay-Friendly Landscaping Guidelines.

- Seismic retrofits only.

- Fire repairs to buildings that are damaged less than 75% of the current replacement cost per Section 17.114.120 of the Oakland Planning Code.

Section 18.02.050 Authority

A. General

The Green Building Compliance Officer is hereby authorized to enforce the provisions of this Chapter. The Green Building Compliance Officer may also adopt rules and regulations to implement this Chapter.

B. Abatement of Violations

It shall be unlawful for any person, firm, or corporation to maintain any Building or portion thereof or real property or cause or allow the same to be done in violation of this Chapter. In addition to the civil penalties provided by pursuant to Oakland Municipal Code Chapter 1.08, a violator shall be liable for such costs, expenses, accruing interest, and disbursements paid or incurred by the City or any of its contractors in correcting, abating, and/or prosecuting such violation pursuant to Oakland Municipal Code Section 15.08.110.

C. Notification of Violations

A notice of violation under this Chapter shall be served in accordance with Oakland Municipal Code Section 15.08.110(B).

D. Fees, Costs, Penalties and Interest

The fees and costs incurred and the civil penalties assessed and the interest accrued in ascertaining violations or affecting abatement thereof and in collecting such fees, costs, penalties, accruing interest, and attorneys' fees shall be a charge against the real property and record title holder. Such fees, costs, penalties, and accruing interest shall be as established in the Master Fee Schedule and may be recovered by all appropriate legal means, including nuisance abatement liens, prospective and priority liens, special assessments of the general tax levy, and civil and small claims court action brought by the City, and combinations of such actions.

E. Service and Collection

The methods of service for collection actions and the types and contents of the instruments of collection shall be as set forth in Chapter 15.08 of the Oakland Municipal Code, as may be amended.

Section 18.02.060 Conflict

Wherever the provisions of this Chapter conflict with each other or with the provisions of other associated codes, regulations, or ordinances, the more restrictive provision or standard shall control.

Section 18.02.070 Amendments

Where any section, subsection, sentence, clause, phrase, or other part of this Chapter and the referenced law recited herein are amended subsequently, all provisions of the original recitation not so specifically amended shall remain in full force and effect and all amended provisions shall be considered as added thereto.

Section 18.02.080 Payments

The Record Title Holder shall pay all fees as established in the Master Fee Schedule associated with this Chapter, including but not limited to, the submittal of Green Building Documentation, requests for determinations, unreasonable hardship, alternative methods, appeals, and administrative hearings to the City.

Article III - Green Building Compliance Standards

Section 18.02.090 Compliance Standards Table Effective until December 31, 2010

The criteria in the Compliance Standards Table, below, applies 30 days after adoption of this Chapter and ends December 31, 2010.

1. Residential New Construction	
A. One and Two Family Dwellings (Group R Occupancy)	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • LEED for Homes	Completed checklist
B. Multi-Family Dwellings (3+ units) (Group R Occupancy)	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • Build It Green: Multi-Family GPR • LEED New Construction	Completed checklist

2. Residential Additions and Alterations	
A. One and Two-Family Additions and Alterations that exceed 1,000 sq. ft. of floor area (Group R Occupancy)	
Checklists	***Minimum Requirements***
Build It Green: Existing Home GPR	Completed checklist (Elements Label)

3. Non-Residential New Construction	
A. Non-Residential projects between 5,000 to 10,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
Small Commercial Checklist	Completed checklist
B. Non-Residential projects between 10,000 to 25,000 sq. ft. of total floor area	
Checklists	***Minimum Requirements***
• LEED New Construction • Other LEED checklist • Small Commercial Checklist	Completed LEED checklist and Small Commercial Checklist
C. Non-Residential projects over 25,000 sq. ft. of total floor area	
Checklists	***Minimum Requirements***
• LEED New Construction • Other LEED checklist	Completed checklist

4. Non-Residential Additions and Alterations	
A. Non-Residential Additions and Alterations between 5,000 - 25,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
Small Commercial Checklist	Completed checklist
B. Non-Residential Additions and Alterations (see Major Alteration definition) over 25,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist	Completed checklist
***C.* Non-Residential Additions and Alterations <u>not</u> meeting the Major Alteration definition and over 25,000 sq. ft. of floor area**	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist • Small Commercial Checklist	Completed LEED checklist and Small Commercial checklist

5. Removal of a Historic Resource and New Construction	
A. New Construction projects resulting in removal of a Historic Resource	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • Build It Green: Multi-Family GPR • LEED Homes • LEED New Construction • Other LEED checklist	Completed checklist

6. Historic Residential Additions and Alterations	
A. Single-Family Additions and Alterations of Potentially Designated Historic Resources rated C or higher that exceed 1,000 sq. ft of floor area	
Checklists	***Minimum Requirements***
Build It Green: Existing Home GPR	Completed Checklist

7. Historic Non-Residential Additions and Alterations	
A. Non-Residential Additions and Alterations of a Historic Resource between 5,000 - 25,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
Small Commercial Checklist	Completed checklist
B. Non-Residential Additions and Alterations of a Historic Resource over 25,000 sq. ft. of floor area (see Major Alteration definition)	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist	Completed checklist
***C.* Alternate compliance: Non-Residential Additions and Alterations not meeting the Major Alteration definition and over 25,000 sq. ft. of floor area**	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist • Small Commercial Checklist	Completed LEED checklist and Small Commercial checklist

8. Affordable Housing Construction receiving City/Redevelopment Agency Funds	
A. One, Two, and Multi-Family New Construction	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • Build It Green: Multi-Family GPR • LEED for Homes • LEED for New Construction	• Completed checklist • The minimum point requirement for certification • Certification
B. One and Two-Family Additions and Alterations that exceed 1,000 sq. ft. of floor area (Group R Occupancy)	
Checklists	***Minimum Requirements***
Build It Green: Existing Home GPR	Completed checklist

9. Mixed-Use Construction	
A. Portion of project exceeding thresholds as defined above will determine the rating system and checklist for whole project	
Checklists	***Minimum Requirements***
• Build It Green • LEED Checklist • Small Commercial Checklist	Completed checklist
B. Alternate compliance path: Certify each portion of the building separately per the appropriate GreenPoint Rated, LEED or Stopwaste.Org checklist)	
Checklists	***Minimum Requirements***
• Build It Green • LEED Checklist • Small Commercial Checklist	Completed checklist

10. Construction Requiring a Landscape Plan	
A. Construction projects between 500 - 25,000 sq. ft. of total floor area requiring a Design Review permit and a Landscape Plan	
Checklists	***Minimum Requirements***
Bay Friendly Basic Landscape Checklist	Completed checklist
B. Construction projects greater than 25,000 sq. ft. of total floor area requiring a Design Review permit and a Landscape Plan	
Checklists	***Minimum Requirements***
Bay Friendly Basic Landscape Checklist	Completed checklist

Section 18.02.100 Compliance Standards Table Effective January 1, 2011

The following green building requirements shall **be effective January 1, 2011 and thereafter** as follows:

1. Residential New Construction	
A. One and Two Family Dwellings (Group R Occupancy)	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • LEED for Homes	• Completed checklist • Minimum point requirement for certification • Green Building Certification
B. Multi-Family Dwellings (3+ units) (Group R Occupancy)	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • Build It Green: Multi-Family GPR • LEED New Construction	• Completed checklist • Minimum point requirement for certification • Green Building Certification

2. Residential Additions and Alterations	
A. One and Two-Family Additions and Alterations that exceed 1,000 sq. ft. of floor area (Group R Occupancy)	
Checklists	***Minimum Requirements***
Build It Green: Existing Home GPR	• Completed checklist • Minimum point requirement for certification (Elements Label) • Green Building Certification (Elements Label)
B. Multi-Family Additions and Alterations (3+ units) (Group R Occupancy)	
Checklists	***Minimum Requirements***
Not available	When available: • Completed checklist • Minimum point requirement for certification • Green Building Certification

3. Non-Residential New Construction	
A. Non-Residential projects between 5,000 to 10,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
Small Commercial Checklist	• Completed checklist • All applicable measures on the Small Commercial Checklist • Green Building Certification
B. Non-Residential projects between 10,000 to 25,000 sq. ft. of total floor area	
Checklists	***Minimum Requirements***
• LEED New Construction • Other LEED checklist • Small Commercial Checklist	• Completed LEED checklist and Small Commercial Checklist • All applicable measures on the Small Commercial Checklist • Green Building Certification
C. Non-Residential projects over 25,000 sq. ft. of total floor area	
Checklists	***Minimum Requirements***
• LEED New Construction • Other LEED checklist	• Completed checklist • LEED Silver point requirement • Green Building Certification

4. Non-Residential Additions and Alterations	
A. Non-Residential Additions and Alterations between 5,000 - 25,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
Small Commercial Checklist	• Completed checklist • All applicable measures on the Small Commercial checklist • Green Building Certification
B. Non-Residential Additions and Alterations (see Major Alteration definition) over 25,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist	• Completed checklist • LEED Silver point requirement • Green Building Certification
***C.* Non-Residential Additions and Alterations <u>not</u> meeting the Major Alteration definition and over 25,000 sq. ft. of floor area**	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist • Small Commercial Checklist	• Completed LEED checklist and Small Commercial checklist • All applicable measures on the Small Commercial checklist • Green Building Certification

5. Removal of a Historic Resource and New Construction	
A. New Construction projects resulting in removal of a Historic Resource	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • Build It Green: Multi-Family GPR • LEED Homes • LEED New Construction • Other LEED checklist	• Completed checklist • Consultation with a Historic Preservation Planner • LEED Gold for non-residential construction or 75 GPR points for residential construction • Green Building Certification • Deconstruction of the Historic Resource

6. Historic Residential Additions and Alterations	
A. Single-Family Additions and Alterations of Potentially Designated Historic Resources rated C or higher that exceed 1,000 sq. ft of floor area	
Checklists	***Minimum Requirements***
Build It Green: Existing Home GPR	• Completed Checklist • Consultation with a Historic Preservation Planner • Minimum point requirement for certification (Elements Label) • Green Building Certification
B. Multi-Family Additions and Alterations of Potentially Designated Historic Resources rated C or higher	
Checklists	***Minimum Requirements***
Not available	When available: • Completed checklist • Consultation with a Historic Preservation Planner • Minimum point requirement for certification • Green Building Certification

7. Historic Non-Residential Additions and Alterations	
A. Non-Residential Additions and Alterations of a Historic Resource between 5,000 - 25,000 sq. ft. of floor area	
Checklists	***Minimum Requirements***
Small Commercial Checklist	• Completed checklist • Consultation with a Historic Preservation Planner • All applicable measures on the Small Commercial checklist • Green Building Certification
B. Non-Residential Additions and Alterations of a Historic Resource over 25,000 sq. ft. of floor area (see Major Alteration definition)	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist	• Completed checklist • Consultation with a Historic Preservation Planner • LEED "Certified" point requirement • Green Building Certification
***C.* Alternate compliance: Non-Residential Additions and Alterations not meeting the Major Alteration definition and over 25,000 sq. ft. of floor area**	
Checklists	***Minimum Requirements***
• LEED New Construction • LEED Commercial Interiors • Other LEED checklist • Small Commercial Checklist	• Completed LEED checklist and Small Commercial checklist • All applicable measures on the Small Commercial checklist • Green Building Certification

8. Affordable Housing Construction receiving City/Redevelopment Agency Funds	
A. One, Two, and Multi-Family New Construction	
Checklists	***Minimum Requirements***
• Build It Green: Single Family GPR • Build It Green: Multi-Family GPR • LEED for Homes • LEED for New Construction	• Completed checklist • Minimum point requirement for certification • Green Building Certification
B. One and Two-Family Additions and Alterations that exceed 1,000 sq. ft. of floor area (Group R Occupancy)	
Checklists	***Minimum Requirements***
Build It Green: Existing Home GPR	• Completed checklist • Minimum point requirement for certification (Elements Label) • Green Building Certification
B. Multi-Family Additions and Alterations (3+ units) (Group R Occupancy)	
Checklists	***Minimum Requirements***
Not available	When available: • Completed checklist • Minimum point requirement for certification • Green Building Certification

9. Mixed-Use Construction	
A. Portion of project exceeding thresholds as defined above will determine the rating system and checklist for whole project	
Checklists	***Minimum Requirements***
• Build It Green • LEED Checklist • Small Commercial Checklist	• Completed checklist • Minimum point requirement for certification • Green Building Certification
B. Alternate compliance path: Certify each portion of the building separately per the appropriate GreenPoint Rated, LEED or Stopwaste.Org checklist)	
Checklists	***Minimum Requirements***
• Build It Green • LEED Checklist • Small Commercial Checklist	• Completed checklist • Minimum point requirement for certification • Green Building Certification

10. Construction Requiring a Landscape Plan	
A. Construction projects between 500 - 25,000 sq. ft. of total floor area requiring a Design Review permit and a Landscape Plan	
Checklists	***Minimum Requirements***
Bay Friendly Basic Landscape Checklist	Completed checklist
B. Construction projects greater than 25,000 sq. ft. of total floor area requiring a Design Review permit and a Landscape Plan	
Checklists	***Minimum Requirements***
Bay Friendly Basic Landscape Checklist	• Completed checklist • All applicable measures on the Bay Friendly Basic Landscape Checklist • Green Building Certification

Article IV- Entitlement Phase

Section 18.02.110 Green Building Documentation Requirements

A. Green Building Documentation

Application submittals during the Entitlement Phase shall include:

a) A completed copy of the applicable Checklist(s).
b) Permit plans shall indicate, in general notes or individual drawings where appropriate, the green building measures used to achieve the minimum requirements. The Green Building Documentation shall indicate how many points the project will achieve in each category pursuant to the appropriate rating system.
c) A signed statement by the Green Building Certifier that the project complies with the minimum requirements upon approval of the Entitlement Phase permit subject.
d) Any other Green Building Documentation the Green Building Compliance Officer determines, in his/her discretion, to be necessary to determine compliance with this Chapter.

B. Peer Review of Green Building Documentation.

The Green Building Compliance Officer reserves the right to retain an independent, green building qualified peer review of the Green Building Documentation at the sole expense of the Applicant.

C. Completion

An application shall not be deemed complete until all required Green Building Documentation has been submitted by the Applicant and reviewed and approved by the Green Building Compliance Officer.

Section 18.02.120 Review and Consideration of Green Building Documentation

The Applicant is responsible for verifying with the Green Building Compliance Officer that the minimum requirements of this Chapter have been met based on the Green Building Documentation. The Green Building Compliance Officer shall approve or disapprove the Green Building Documentation subject to the conditions of approval based on conformance to this Chapter's minimum green building requirements, as applicable.

If during the Entitlement Phase, the Green Building Compliance Officer determines that the Green Building Documentation fails to achieve the minimum requirements of this Chapter, the Green Building Compliance Officer shall reject and return the Green Building Documentation to the Applicant. The Applicant may resubmit the Green Building Documentation to the Green

Building Compliance Officer with such modifications and additions, as may be required for permit applications submitted during the Entitlement Phase.

Section 18.02.130 Compliance

A. Green Building Certification as a Condition of Approval

Compliance with the provisions of this Chapter shall be listed as a condition of approval on the Entitlement Phase permit application approvals for construction. Failure to comply with any of the terms of this Chapter shall subject the Applicant to the full range of enforcement mechanisms set forth in Section 18.02.050 and the Oakland Planning Code.

B. Noncompliance with Post Certificate of Occupancy Condition of Approval

If the Green Building Compliance Officer determines that the project is not in compliance with the minimum requirements of this Chapter, as verified by the Green Building Certification, the project shall be referred to the City's Code Enforcement Division for further action. The Green Building Compliance Officer shall also require green building measures to mitigate the project's noncompliance or pursue other remedies available under this Chapter.

Section 18.02.0140 Appeal Procedures

A. Unreasonable Hardship Exemption

a) If compliance with this Chapter presents an Unreasonable Hardship, 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 demonstrate the Unreasonable Hardship. The City Planning and Zoning Division shall maintain the Unreasonable Hardship Exemption Application.

b) Acceptance or denial of an Unreasonable Hardship exemption is at the discretion of the Director of City Planning. Unreasonable hardship exemptions will only be granted in unusual circumstances based upon a showing of good cause and a determination that the public interest is not served by compliance or other compelling circumstances.

c) Notice of application for an exemption shall be given by posting an enlarged notice on the premises of the subject property; notice shall also be given by mail or delivery to all persons shown on the last available equalized assessment roll as owning real property in the city within three hundred (300) feet of the property involved; provided, however, that failure to send notice to any such owner where his or her address is not shown in said records shall not invalidate the affected proceedings. All such notices shall be given not less than seventeen (17) days prior to the date of the decision on the application by the Director of City Planning.

d) The determination of the Director of City Planning shall become final ten calendar days after the date of decision unless appealed to the City Planning Commission in accordance with this Chapter and Section 17.134.060 of the Oakland Planning Code. For construction involving Historic Resources, the Director of City Planning may, at

his or her discretion, refer the request for an unreasonable hardship exemption to the Landmarks Preservation Advisory Board for advisory decision to the Director of City Planning.

e) The Director of City Planning or designee shall determine the maximum feasible number of credits reasonably achievable for the project and shall confirm the number of credits on the green building documentation, which shall be marked "Approved with Exemption". The construction shall be subject to the green building approval and compliance process in this Chapter, based on the confirmed number of credits.

B. Appeal

Any aggrieved individual may appeal the Green Building Compliance Officer's determination of the applicable rating system, checklist, or the Director of City Planning's Unreasonable Hardship Determination under this Chapter to the City Planning Commission pursuant to Section 17.132 of the Oakland Planning Code during the Entitlement Phase only.

Article V - Construction Phase

Section 18.02.150 Green Building Documentation Requirements

A. Green Building Documentation

Construction Phase -Permitting and Inspection submittals shall include:

a) Construction Phase –Permitting.
   i. A completed copy of the applicable Checklist(s) approved during the Entitlement Phase, unless modified under 18.02.150, Section C.
   ii. Permit plans shall indicate in general notes, detailed design drawings and construction specifications as necessary, the green building measures used to achieve the required minimum requirements. The Green Building Documentation shall indicate how many points the project will achieve in each category pursuant to the appropriate rating system.
   iii. A copy of the signed statement by the Green Building Certifier submitted during the Entitlement Phase and a new signed statement by the Green Building Certifier that the project complies with the minimum requirements of this Chapter.
   iv. Any other Green Building Documentation required by the Green Building Compliance Officer to determine compliance with this Chapter.

b) Construction Phase - Inspections.
   i. A completed copy of the applicable Checklist(s) submitted in subsection a) above, unless modified under 18.02.150, Section C.
   ii. Any other Green Building Documentation required by the Green Building Compliance Officer to determine compliance with this Chapter.

iii. Signed statement or statements by the Green Building Certifier during all relevant phases of construction, as determined by the Green Building Compliance Officer, that the project complies with the minimum requirements of this Chapter.

B. Peer Review of Green Building Documentation

The Green Building Compliance Officer reserves the right during the Construction Phase, to retain an independent, green building qualified peer review of the Green Building Documentation at the sole expense of the Applicant.

C. Substitution of Credits

During the Construction Phases for Permitting and/or Inspections, flexibility may be exercised by the Applicant to substitute or eliminate points approved during the Entitlement Phase as applicable. Substitution and/or omission shall occur only at the request of the applicant. The applicant shall submit, per the Request for Revision Plancheck process, additional Green Building Documentation indicating the points to be substituted or omitted for review and approval. Substitution and/or omission of points shall only be permitted if it does not result in lowering the required minimum point threshold or eliminate points needed in each category pursuant to the appropriate rating system and as verified by the Green Building Certifier. In the case of construction involving Historic Resources, the new substituted points will require re-review and approval by the Historic Preservation Planner.

Section 18.02.160 Review and Consideration of Green Building of Documentation

A. Approval of Documents

The Green Building Compliance Officer or designees shall be responsible for verifying compliance with the minimum requirements for this Chapter based on the Green Building Documentation submitted during the following construction phases:

a) Construction Phase - Permitting. The Green Building Documentation, provided under Section 18.02.150, unless modified by the Section 18.02.150(D), shall be reviewed during the permit review process and a permit shall be issued based on conformance to the applicable minimum requirements.

b) Construction Phase - Inspections. The Green Building Compliance Officer or a designee shall verify that the green building measures and provisions indicated in the Green Building Documentation submitted during the Entitlement and Construction Phase - Permitting are implemented through inspections during the construction of the project. In lieu of or in addition to visual inspections by the Green Building Compliance Officer, the Applicant, through the Green Building Certifier, may submit Green Building Documentation verifying that green building measures have been implemented in compliance with the minimum requirements of this Chapter.

B. Non-approval of Documents

a) Construction Phase - Permitting. If during the Permitting stages, the Green Building Compliance Officer determines that the Green Building Documentation fails to achieve the minimum requirements, the Green Building Compliance Officer shall reject and return the Green Building Documentation to the Applicant, including a detailed explanation for rejection and measures required to conform to this Chapter. The Applicant may resubmit the Green Building Documentation with such modifications and additions as may be required for Permitting issuance.

b) Construction Phase - Inspections. If the Green Building Compliance Officer determines that the project under construction does not comply with any portion of the approved Green Building Documentation showing compliance with the minimum requirements, a Stop Work order may be issued. At the discretion of the Green Building Compliance Officer, the Stop Work order may apply to the portion of the project that is not in compliance or to the entire project. The Stop Work order shall remain in effect until the Green Building Compliance Officer determines that the project is in compliance with the requirements and the provisions of this Chapter as shown on the approved Green Building Documentation.

Section 18.02.170 Compliance

A. Final Determination of Compliance and Building Occupancy

Prior to signing a building permit by the Building Official and issuing of a Temporary Certificate of Occupancy, the Applicant must also submit a signed statement by the Green Building Certifier that the project meets the minimum requirements of this Chapter. The Green Building Compliance Officer may also review the verification documentation submitted by the Green Building Certifier and determine whether the Applicant has achieved the minimum requirements as set forth in this Chapter.

Section 18.02.180 Appeal Procedures

A. General

In order to hear and decide appeals of orders, decisions or determinations made by the Green Building Compliance Officer during the Construction Phase Permitting and Inspections process, relative to the application and interpretation of this Chapter, the Record Title Holder may request an administrative hearing with a Hearing Officer. The request shall be filed in writing with the Green Building Compliance Officer within twenty-one (21) calendar days following said rendering. The request for an administrative hearing shall contain a brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed that the protested order, decision, or determination should be modified or reversed or otherwise set aside.

B. Hearing

After receiving a written request and the required fee for an administrative hearing, the Green Building Compliance Officer shall fix a date, time and place for adjudication by a Hearing Officer during the Construction Phase Permitting and Inspections process. Only those technical matters or issues specifically raised by the appellant in the request shall be considered in the administrative hearing.

C. Hearing Officer

In cases of a Construction Phase Permitting and Inspections process appeal, the Hearing Officer shall not be an employee of the City and shall be qualified by experience and training to adjudicate matters pertaining to the provisions of this Chapter. The Hearing Officer shall have no authority relative to interpretations of the administrative (non-technical) provisions of this Chapter and shall not be empowered to waive or otherwise set aside the non-administrative (technical) provisions of this Chapter.

D. Effect of Hearing

Decisions of either the City Planning Commission or the Hearing Officer in all instances shall be final and conclusive. The limitation period provided pursuant to California Code of Civil Procedure Section 1094.6 shall apply to all petitions filed seeking judicial review of decisions by either the City Planning Commission or the Hearing Officer.