

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1539

AN ORDINANCE OF THE NOVATO CITY COUNCIL,  
ADDING SECTION 4-17 TO THE NOVATO MUNICIPAL  
CODE TO ADOPT AND AMEND THE 2007 CALIFORNIA  
GREEN BUILDING STANDARDS CODE FOR NON-  
RESIDENTIAL CONSTRUCTION PROJECTS WITHIN THE  
CITY OF NOVATO

SECTION 1: Section 4-17 of the Novato Municipal Code is hereby added to read as follows:

SECTION 4-17 ADOPTION OF THE 2007 CALIFORNIA GREEN BUILDING STANDARDS  
CODE AS AMENDED

4-17.1 Purpose. The purpose of this section is to improve public health, safety and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories:

- 1. Planning and design.
- 2. Energy efficiency.
- 3. Water efficiency and conservation.
- 4. Material conservation and resource efficiency.
- 5. Environmental air quality.

The City of Novato in order to achieve these goals adopts the 2007 California Green Building Standards Code with amendments for the City of Novato, prior to the effective date applicable to State-regulated buildings, structures and applications and in compliance with Health and Safety Code Section 17958.

4-17.2 Findings. The City of Novato finds pursuant to Health and Safety Code Section 17958.7 the adoption of the 2007 California Green Building Standards Code with amendments is needed and is reasonably necessary because of local climatic, geographic and topographic conditions and factual findings set forth by the Findings of Fact for Adoption of the 2007 California Green Building Standards Code With Amendments Based on Local Conditions, which is attached as *Exhibit "A"* and incorporated into this section as if set forth in full.

4-17.3 Codes Adopted by Reference. The following codes or portions thereof hereafter set forth or hereinafter set out by amendment or revisions are hereby adopted and are made part of this section by reference, without further publication or posting thereof. Three copies of each code listed herein shall be kept on file for use and examination by the public in the office of the city clerk.

4-17.4 Green Building Standards Code. The city hereby adopts by reference the 2007 Edition of the California Green Building Standards Code, which is incorporated by reference into Title 24 of the California Code of Regulations, with those amendments set forth by this section, as the Green Building Standards Code for the City of Novato, which shall be specifically comprised of all of the following:

- a. Chapter 1 is deleted with the exception of Sections 101.7, 101.10, 102.1, 102.2 and 102.3
- b. Chapter 2 adopted in entirety
- c. Chapter 3 adopted in entirety
- d. Chapter 4 is deleted with the exception of Sections 401.1, 402.1, 406.1 and 406.2
- e. Chapter 5 is adopted with the exception of Sections 505, 507, 508, 509 and 510
- f. Chapter 6 is adopted with the exception of Section 606
- g. Chapter 7 is adopted with the exception of Section 703
- h. Chapter 8 is adopted with the exception of Section 808
- i. Chapter 9 is adopted in entirety
- j. Chapter 10 is deleted
- k. In lieu of adoption of Chapter 11, the City Council shall establish by resolution the application matrix for green building measures to provide standards for compliance.
- l. Appendix A is adopted with the exception of Sections A504.1, A505.1, A506.1, A507.1, A509.1, A701.1, A702.1, A706.1, A708.1, A709.1, A710.1 and A801

4-17.5 Standards for compliance.

- a. New construction of non-residential buildings shall comply with applicable mandatory measures and achieve a minimum number of green points as established by resolution within the following specific categories; Site Development, Energy Efficiency, Water Efficiency & Conservation, Material Conservation & Resource Efficiency, Indoor Environmental Quality. The remaining required green points may be from any of these categories.
- b. Renovations, alterations, or additions to existing non-residential buildings shall comply with applicable mandatory measures and achieve a minimum number of green points as established by resolution within the following specific categories; Energy Efficiency, Material Conservation & Resource Efficiency, Indoor Environmental Quality. The remaining required green points may be from any of these categories.
  - (1) Exception: If the building official determines that the renovation or alteration project is minor in scope and that the total number of green points are not reasonably feasible, the building official shall have the discretion to approve the project with less than the minimum number of green points required by section 4-17.5b. The building division may require documentation to be furnished by an applicant requesting this exception.

4-17.6 Nonresidential Buildings.

For purposes of this Section and any resolution adopted pursuant to this Section, Nonresidential buildings, means any structure used or intended for supporting or sheltering any use or occupancy, with the exception of single family or multifamily residential occupancies.

#### 4-17.7 Compliance.

##### a. Compliance Review Community Development Department

1. The planning division shall include compliance with section 4-17.5 as a condition of approval for nonresidential buildings.
2. The building division shall review plans for compliance with section 4-17.5 and approve plans submitted in compliance with Section 102 of the 2007 California Green Building Standards Code, provided that the plans are otherwise acceptable.

#### 4-17.8 Appeal.

- a. Appeal to Housing, Zoning and Building Code Appeals Board. Any interested person may appeal a decision of the community development department to the housing, zoning and building code appeals board by filing a notice of appeal together with the fee established by resolution of the council no later than 10 days after the decision of the community development department. Upon receipt of such an appeal, the chief building official will set the matter for hearing before the board as least 20 days after the date of receipt. The procedures contained within section 4-1.5 (Housing, Zoning and Building Code Appeals Board) shall be applied to any appeal under this subsection.
- b. Council Hearing on Appeal of Board Decision. Any interested person may appeal a decision of the housing, zoning and building code appeals board to the city council by filing a notice of appeal together with the fee established by resolution of the council no later than 10 days after the decision of the board. Upon receipt of such an appeal, the city clerk will set the matter for hearing before the council on the first open agenda of the council that is at least 15 days after the date of receipt. The procedures contained within section 19.54.040(E)(2) ("Appeals to the Council") shall be applied to any appeal under this subsection.

#### 4-17.9 Enforcement.

Violation of any provision of this section may be enforced pursuant to section 4-1.6 of this chapter.

#### SECTION 2: Severability:

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

SECTION 3: Publication and Effective Date:

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in the *Novato Advance*, a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in the *Novato Advance* at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance, and

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

\* \* \* \* \*

THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 23<sup>rd</sup> day of February, 2009, and was passed and adopted at a regular meeting of the Novato City Council on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

AYES: Councilmembers

NOES: Councilmembers

ABSTAIN: Councilmembers

ABSENT: Councilmembers

\_\_\_\_\_  
Mayor of the City of Novato

Attest:

\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:

\_\_\_\_\_  
City Attorney of the City of Novato

## EXHIBIT "A"

### FINDINGS OF FACT FOR ADOPTION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE WITH AMENDMENTS BASED ON LOCAL CONDITIONS

**CHANGES OR AMENDMENTS:** Pursuant to Section 101.7.1 of the California Code of Regulations, Title 24, Part 11, also known as the California Green Building Standards Code, the City Council of the City of Novato makes express, local findings set forth by this exhibit in adopting and amending the 2007 California Green Building Standards Code (Title 24, Part 11) as it pertains to the regulation of non-residential buildings used for human habitation.

**FINDINGS:** Pursuant to Section 17958.7 of the State of California Health and Safety Code, the City Council of the City of Novato has determined and finds that the attached amendments and changes to the 2007 California Green Building Standards Code are needed and are reasonably necessary because of local climatic, geographic or topographic conditions.

**LOCAL CONDITION:** Local conditions have an adverse effect on the efficient design of non-residential buildings to improve the public health, safety and general welfare of the occupants of such buildings within the City of Novato.

Below are listed adverse local climatic, geographic and topographic conditions:

#### 1. **Climatic**

a. Precipitation. Precipitation ranges from 15 to 42 inches per year with an average of approximately 27 inches per year. Approximately ninety percent (90%) falls during the months of November through April, and 10% from May through October. The lack of adequate water from precipitation within the city makes green building standards necessary to implement water conservation in non-residential buildings from which all persons in the City of Novato would benefit.

b. Relative Humidity. Humidity generally ranges from 50% during daytime to 86% at night. It drops to 20% during the summer months and occasionally drops lower. The range of humidity experienced by occupants of non-residential buildings makes green building standards necessary to implement energy efficiency in nonresidential buildings.

c. Temperatures. Temperatures have been recorded as high as 110 degrees F. (6-15-61) and as low as 20 degrees F. (12-22-90). Average summer highs are the 78 degree to 85 degree range and the average winter time lows are in the 38 degree to 44 degree range. The range of temperatures experienced by the city makes green building standards necessary to promote efficiency in the use of heating and air conditioning in non-residential buildings.

d. Winds. Prevailing winds are from the northwest. However, winds are experienced from virtually every direction at one time or another. Velocities are generally in the 5- 15 mph range, gusting to 7.4—30 mph, particularly during the summer months. Extreme winds up to 50 mph have been known to occur. The high velocity and various directions of winds within the city

make green building standards necessary to promote energy efficiency by utilizing wind velocity and wind direction in nonresidential buildings.

## 2. **Geographic and Topographic.**

a. Size and Population. The City of Novato incorporated January 20, 1960, covers 28 square miles. The State of California estimates Novato's population at 52,737 as of January 1, 2008. There is a limited amount of vacant land suitable for expansion or development because of the topography of the city. The majority of existing nonresidential development was constructed from 1960 to 2000. The limited amount of vacant land upon which non-residential development may be expanded creates a need for green building standards in order to ensure energy efficient and environmentally friendly development of property within the city.

b. Topography. The City of Novato is a conglomeration of bay plains, hills, valleys and ridges. The flatter lands (0 — 5% slope) are found in the central, eastern and south-eastern portions of the City and there is a mixture of residential and nonresidential development on these lands. The varied topography of the city creates the need for green building standards to promote efficiency and conservation in energy and water use for non-residential building occupants.

c. Water Resources. The North Marin Water District provides the City of Novato with water from three sources. The Russian River in Sonoma County supplies 80 percent of the water to the North Marin Water District and the remaining 20 percent come from Stafford Lake Water Treatment Plant located just west of the city. The third source, a newly completed recycled water plant in cooperation with the Novato Sanitary District that is currently in phase 1, supplies irrigation water to a nearby golf course. The recycled water plant will eventually replace 85 million gallons of potable water for irrigation purposes. The scarcity of water sources to provide residents and occupants of the city with adequate water supply requires that green building standards be implemented in non-residential buildings to promote water conservation from which all persons in the City of Novato would benefit.

## 3. **Summary.**

The above local climatic, geographic and topographic conditions provide sufficient needs for the City of Novato to adopt a non-residential green building ordinance to improve public health, safety and general welfare by enhancing the design and construction of buildings creating a positive environmental impact and sustainable construction practices.

The State of California does not have regulations other than Title 24 Energy Codes that mandate existing buildings increase energy efficiency or to be operated sustainably. The 2007 Green Building Standards Code will not go into effect for over a year and will require local adoption, during which time there will be construction activity that would benefit the environment with the adoption of these green building standards.

The City of Novato has a large inventory of older non-residential buildings and if expansion of these existing non-residential buildings is submitted to the city, the goal should be to increase energy efficiency, water efficiency, and conservation, along with material conservation, resource efficiency and environmental air quality. The limited land for new non-residential development

should also be enhanced by these more efficient sustainable practices with the adoption of this code. The promotion of energy efficiency, water efficiency and conservation in non-residential buildings will result in more available and environmentally friendly energy and water resources which city residents and occupants may utilize. The availability of more and better resources will benefit all residents and occupants of the city and preserve the quality of the environment within the city as well.