



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Cohen and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Richard Thompson, Director of Community Development
Carol Jacobson, Building Official
Sona Kalapura, Environmental Programs Manager

DATE: July 7, 2009

SUBJECT: Adoption of an Ordinance Amending the Municipal Code for Sustainable Building Program and Energy Efficiency Standards for Municipal Buildings and Large Non-Residential Construction.

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance No. 2124 amending Manhattan Beach Municipal Code Title 9 Building Regulations to require U.S. Green Building Council "Leadership in Energy and Environmental Design" (LEED™) certification for municipal buildings and for large non-residential construction as recommended by the Environmental Task Force (Exhibit A).

BACKGROUND AND DISCUSSION :

On June 16, 2009 the City Council introduced, waived further reading, and approved several changes that have been incorporated in this ordinance (Exhibit B - red-lined modifications, Exhibit A - final proposed ordinance). These requirements are:

- New City buildings of 5,000 square feet or more shall be LEED Gold certified or better
- Renovations of City buildings of 5,000 gross square feet or more where the project exceeds the total building replacement valuation of 50%, shall be LEED Gold certified or better
- Private new non-residential projects of 10,000 square feet or more shall show LEED Silver equivalence or better, attested to by a LEED Accredited Professional.
- Renovations of non-residential projects of 10,000 square feet or more where the project exceeds the total building replacement valuation of 50%, shall show LEED Silver equivalence or better, attested to by a LEED Accredited Professional.

Next steps

After adoption of this ordinance, the Green Building Subcommittee will conduct public outreach through additional focus meetings, construction community meetings and newsletter, City cable television public service announcements, and the City's website.

The Green Building Subcommittee will next concentrate on other aspects of the sustainable building program, presenting the following to the Environmental Task Force by Fall 2009:

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- Sustainable practice requirements for all new construction, such as drainage, landscaping, storm water retention, water and energy conservation.
- Zoning issues, such as wind turbines, third-level green roof decks, solar panels above height

By Spring 2010, the Subcommittee expects to present to the Environmental Task Force:

- Tiered new residential requirements, which entails progressively more energy efficiency for larger new homes, similar to the Marin County program

Exhibits: A. Final Proposed Ordinance No. 2124
 B. Red-lined Ordinance No. 2124

ORDINANCE NO. 2124

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTIONS 9.01.100 AND 9.36 REGARDING SUSTAINABLE BUILDING PROGRAM AND ENERGY EFFICIENCY STANDARDS

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Manhattan Beach City Council hereby finds as follows:

- a. In April of 2007, the City Council endorsed the US Mayors Climate Protection Agreement. Manhattan Beach acknowledges the dangers associated with climate change and has made a commitment to take steps to reduce greenhouse gas (GHG) emissions to seven percent below 1990 levels by 2012, a goal often referred to as the Kyoto Protocol; and
- b. In June of 2008, City Council decided to form a resident-based Environmental Task Force (Task Force) to study environmental issues of priority to the community. The Task Force is divided into four subcommittees to tackle priority environmental issues identified by City Council: the Development of a Climate Action Plan; Water Conservation and Storm Water Management Issues; Waste Reduction and Recycling; and Sustainable ("Green") Design; and
- c. The Green Building Subcommittee presented recommendations on LEED standards for public and large non-residential construction, which have been vetted with City staff, and approved by unanimous vote of the Environmental Task Force; and
- d. The Subcommittee also conducted a focus group session with local developers, architects and contractors to gather feedback on the practicality of the group's initial recommendation areas, any challenges, and suggestions for improvement; and
- e. On March 17, 2009, the City Council directed staff to prepare amendments to Manhattan Beach Municipal Code Title 9 Building Regulations to require U.S. Green Building Council "Leadership in Energy and Environmental Design" (LEED™) certification for municipal buildings and for large non-residential construction as recommended by the Environmental Task Force; and
- f. The design, construction, and maintenance of buildings and structures within the City can have a significant impact on the City's environmental sustainability, resource usage, energy efficiency, waste management, and the health and productivity of residents, workers, and visitors; and
- g. In accordance with CEQA Section 15061 (b) (3), "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed ordinance would not have a significant effect on the environment as defined by CEQA and would result in positive benefits to the environment, public health, safety and welfare; and therefore, the ordinance is exempt from CEQA review; and
- h. The California Health and Safety Code Sections 17958, 17985.7 and 17958.5 provide for certain amendments to the California Building Standard Codes provided findings of necessity can be made. Adverse climate conditions such as salt fog air and strong winds such as those in existence in the City of Manhattan Beach increase the likelihood of fire spreading (conflagration) from one building to another. Additionally, we must reduce potential impact to climate change through energy efficient materials and sustainable practices.

SECTION 2. Section 9.01.100 of the Manhattan Beach Municipal Code is hereby deleted in its entirety.

SECTION 3. Chapter 9.36 of the Manhattan Beach Municipal Code is hereby amended in its entirety to read as follows:

“9.36 Sustainable Building Program and Energy Efficiency Standards.

9.36.010 Program and purpose.

A. This chapter sets forth Sustainable Building Program as well as minimum Energy Efficiency Standards within the City of Manhattan Beach for new construction and renovation as set forth below.

B. The purpose of the chapter is to enhance the public health and welfare by promoting the environmental and economic health of the City through the design, construction, maintenance, operation and demolition of buildings and other site development by incorporating sustainable building practices into all development. The sustainable building provisions referred to in this Chapter are designed to achieve the following goals:

1. Increase energy efficiency in buildings;
2. Encourage water and resource conservation through efficient fixtures and irrigation, recycled and renewable materials;
3. Improve indoor air quality; increased natural lighting, and improved thermal comfort/control.
3. Reduce waste generated by construction projects;
4. Provide durable buildings that are efficient and economical to own and operate; and
5. Promote the health and productivity of residents, workers, and visitors to the City.

9.36.020 Definitions.

City: the City of Manhattan Beach, State of California

City building: a building primarily funded by the City or on City owned land.

Compliance official: the Building Official or his or her designee.

Good faith effort: a project that has not met the required compliance threshold, but for extenuating reasons, the Compliance official has found the project meets the good faith effort provisions of Section 9.36.060.

LEED™: the “Leadership in Energy and Environmental Design” green building rating system developed by the U.S. Green Building Council (USGBC).

LEED® AP: A person who has been designated a LEED Accredited Professional by the Green Building Certification Institute (GBCI).

LEED™ checklist: The credit and point checklists developed by the Leadership in Energy and Environmental Design Green Building Rating System for measuring the sustainability, efficiency, and environmentally soundness of a building.

Project: Any proposal for new or changed use, or for new construction, alteration, or enlargement of any structure, that is subject to the provisions of this title.

Renovation: any rehabilitation, repair, remodeling, change, or modification to an existing building, where changes to floor area and the footprint of the building are negligible. The valuation of renovation improvements shall be determined by the Director of Community Development per Section 10.68.030(E) of the Manhattan Beach Municipal Code. Additionally, the compliance official may exclude from such valuation the cost of (a) seismic upgrades, (b) accessibility upgrades, or (c) photovoltaic panels or other solar energy or similar devices exterior to the building.

Sustainable building rating system: the rating system associated with specific sustainable building criteria and used to determine compliance thresholds. An example of a rating system includes, but is not limited to, the LEED rating system.

9.36.030 Applicability.

- A. Projects meeting the following thresholds and for which no use permit, variance, vesting subdivision, or any other discretionary Planning approval has been granted, or for which no valid building permit has been lawfully issued by the City prior to the effective date of this ordinance shall comply with the provisions of this chapter:
1. City buildings of 5,000 square feet or more of new “gross floor area” (new construction), as defined by Section 10.04.030.
 2. Renovations of or in City buildings of 5,000 gross square feet or more, where the project exceeds the total building replacement valuation of 50% of the entire existing building as defined by Section 10.68.030(E) of the Manhattan Beach Municipal Code. For the purposes of this section, estimated construction and reconstruction costs shall be determined by the Community Development Director in the same manner as the Community Development Director determines final valuation for the purposes of building permit fees.
 3. Non-residential buildings of 10,000 square feet or more of “new gross floor area” (new construction) as defined by Section 10.04.030.
 4. Renovations of or in non-residential buildings 10,000 gross square feet or greater, where the project exceeds the total building replacement valuation of 50% of the entire existing building as defined by Section 10.68.030(E) of the Manhattan Beach Municipal Code. For the purposes of this section, estimated construction and reconstruction costs shall be determined by the Community Development Director in the same manner as the Community Development Director determines final valuation for the purposes of building permit fees.

9.36.040 Standards for compliance:

- A. The City shall adopt by reference the USGBC LEED™ green building rating system as the standard for which a project shall be measured as a green building. Requiring projects to incorporate LEED™ green building measures is necessary and appropriate to achieve the benefits of green building. The specific actions required for project compliance with this chapter are as follows:
1. All applicable projects are required to retain the services of a LEED® Accredited Professional and complete LEED™ project registration prior to issuance of a building permit.
 2. All applicable projects shall submit a LEED checklist and supporting documentation indicating points meeting at a minimum LEED ‘Silver’ level incorporated into documentation for a building permit. Projects as described in Section 9.36.030 subsections 3. and 4. of 10,000 square feet or more of new gross square footage or more than 50% renovation shall meet LEED ‘Silver’ level. These projects would include, but not limited to, typical office, retail, medical, private club, religious, and academic buildings with occupied and conditioned spaces. A signed declaration from the LEED AP member of the Project team, stating that the plans and plan details have been reviewed, and that the Project meets the intent of the criteria for certification of the selected LEED™ Rating System. The LEED checklist shall be prepared, signed, and dated by the project LEED accredited professional. All building documents shall indicate in the general notes and/or individual detail drawing, where feasible, the green building measures employed to attain the applicable LEED rating.
 3. Applicable City buildings are required to attain LEED certification and meet, at a minimum LEED ‘Gold’ rating.
 4. Building commissioning, although specified as a prerequisite for LEED™ certification, is not required for applicable projects under this chapter except for City buildings. Applicants are encouraged to verify that fundamental building systems are designed, installed, and calibrated to operate as intended.

9.36.050 Compliance official’s responsibilities

- A. The compliance official shall review the required LEED™ checklist and supporting documentation prior to issuance of a grading or building permit. Compliance official will use the appropriate LEED™ scoring system applicable to project and categories within it.

- B. The compliance official shall verify that the building measures and provisions indicated on the project LEED™ checklist and on the supporting approved documentation, including approved plan sets, are being implemented at foundation inspection, framing inspection, and prior to issuance of a final certificate of occupancy.
- C. The compliance official shall conduct any inspections as needed to ensure compliance with this chapter.

9.36.060 Penalties and administrative remedies

- A. If, as a result of any inspection, the compliance official determines that the applicable project does not comply with the approved documentation, a stop work order may be issued. At the discretion of the compliance official or designee such a stop work order may apply to the portion of the project impacted by noncompliance or to the entire project. The stop work order shall remain in effect until the compliance official determines that the project is in compliance with the requirements of this chapter.
- B. If the compliance official determines that the applicable project has not met the requirements of the LEED™ checklist, as set forth in section 9.36.050 of this chapter, he or she shall determine on a case by case basis whether the applicant has made a good faith effort to comply with this chapter. In making this determination, the compliance official shall consider the availability of markets for materials to be recycled, the availability of sustainable building materials and technologies, and the documented efforts of the applicant to comply with this chapter. The compliance official or designee may require additional reasonable sustainable building measures be included in the operation of the covered project to mitigate the failure to comply fully with this chapter.

9.36.070 Sustainable building requirements for residential occupancies

All new R-2 and R-3 occupancies, as defined by the California Building Code, are required to incorporate all the following sustainable building practices in addition to the requirements of the California Energy Code, Title 24, Part 6 unless waived by the building official.

1. Insulate all hot water piping
2. Install low-emitting insulation in required areas of walls, floors, ceilings, and roof
3. Use low volatile organic compound (VOC) caulking
4. Pre-plumb piping and sensor wiring from water heater to attic for future solar water heating
5. Use duct mastic on all duct joints and seams
6. Install “Energy Star” or equivalent bathroom fan vented to the outside.”

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. All other provisions of the City of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 7. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 8. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby designated for that purpose.

PASSED, APPROVED, and ADOPTED this 7th day of July, 2009.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

ORDINANCE NO. 2124

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- b. In June of 2008, City Council decided to form a resident-based Environmental Task Force (Task Force) to study environmental issues of priority to the community. The Task Force is divided into four subcommittees to tackle priority environmental issues identified by City Council: the Development of a Climate Action Plan; Water Conservation and Storm Water Management Issues; Waste Reduction and Recycling; and Sustainable ("Green") Design; and
- c. The Green Building Subcommittee presented recommendations on LEED standards for public and large non-residential construction, which have been vetted with City staff, and approved by unanimous vote of the Environmental Task Force; and
- d. The Subcommittee also conducted a focus group session with local developers, architects and contractors to gather feedback on the practicality of the group's initial recommendation areas, any challenges, and suggestions for improvement; and
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- f. The design, construction, and maintenance of buildings and structures within the City can have a significant impact on the City's environmental sustainability, resource usage, energy efficiency, waste management, and the health and productivity of residents, workers, and visitors; and
- g. In accordance with CEQA Section 15061 (b) (3), "CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." The proposed ordinance would not have a significant effect on the environment as defined by CEQA and would result in positive benefits to the environment, public health, safety and welfare; and therefore, the ordinance is exempt from CEQA review; and
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4. Pre-plumb piping and sensor wiring from water heater to attic for future solar water heating
5. Use duct mastic on all duct joints and seams
6. Install "Energy Star" or equivalent bathroom fan vented to the outside."

SECTION 4. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 5. All other provisions of the City of Manhattan Beach Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 7. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 8. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby designated for that purpose.

PASSED, APPROVED, and ADOPTED this 7th day of July, 2009.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk