

Effective Date: January 29, 2010

1/11/2010
12/8/2009

124-O-09

AN ORDINANCE

**Amending Ordinance 14-O-09,
Commonly Known as the "Green Building Ordinance"**

WHEREAS, at its meeting of October 26, 2009, the City Council enacted Ordinance 14-O-09, "Adopting the U.S. Green Building Council's Leadership in Energy and Environmental Design Green Building Rating System™ for Certain Construction and Renovation Projects in the City"; and

WHEREAS, at said meeting, the City Council confirmed the Mayor's appointments to a newly-created Green Building Ordinance Committee; and

WHEREAS, the City Council charged said Committee to make recommendations to the Council regarding amendments to Ordinance 14-O-09 that would govern interior renovations; and

WHEREAS, at its meeting of December 7, 2009, said Committee issued its final recommendations; and

WHEREAS, at its meetings of December 14, 2009 and January 11, 2010, the City Council considered and adopted said recommendations,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: That the foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: That Ordinance 14-O-09 is hereby amended to read as set forth in Exhibit A, attached hereto and made a part hereof.

SECTION 3: That if any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 4: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: December 14, 2009

Adopted: January 11, 2010

Approved:

January 14, 2010

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar
W. Grant Farrar, City Attorney

EXHIBIT A

SECTION 1: That, for the purposes of this ordinance, the following terms shall have the following meanings:

- (A) "Commercial" shall refer to all uses as defined and included in the scope of the International Building Code as adopted by the City.
- (B) "Interior renovations" shall refer to interior alteration, including remodeling, rehabilitation, or work otherwise contained mainly within the interior of a structure; this shall not include work for the sole purpose of improving a building's system, such as HVAC, electrical, or plumbing.
- (C) "Square feet" shall be the gross square footage being constructed or renovated as listed on the building permit.
- (D) "Addition" shall refer only to a portion added to an existing building.

SECTION 2: That new construction and additions ten thousand square feet (10,000 sq. ft.) or greater to City-owned or fully or partly City-financed buildings, and new construction and additions 10,000 square feet or greater to all commercial and multi-family buildings, shall employ the version of the LEED for New Construction and Major Renovations ("LEED-NC") in effect one hundred eighty (180) days prior to the date of application for a building permit, and shall achieve the following level of LEED certification:

- (A) for City-owned or City-financed facilities: Silver Rating or higher;
- (B) for all commercial and multi-family buildings: Silver Rating or higher.

SECTION 3: That interior renovations of all City-owned or City-financed facilities, all commercial buildings, and all multi-family buildings shall:

- (A) employ the version of the LEED for Commercial Interiors ("LEED-CI") in effect one hundred eighty (180) days prior to the date of application for a building permit and that each project shall achieve Silver Rating or higher of LEED certification; or
- (B) employ the version of the City of Evanston Sustainable Building Measures for Interior Renovations ("ESBMIR"), attached hereto as Appendix A and made a

part hereof, in effect one hundred eighty (180) days prior to the date of application for a building permit and that each project shall employ no fewer than:

1. three (3) bulleted measures from the ESBMIR for projects less than five thousand square feet (5,000 sq. ft.);
2. five (5) measures from the ESBMIR for projects five thousand square feet (5,000 sq. ft.) to twenty thousand square feet (20,000 sq. ft.);
3. seven (7) measures from the ESBMIR for projects greater than twenty thousand square feet (20,000 sq. ft.).

SECTION 4: That the City shall meet with potential developers to discuss possible incentives, including expedited plan review or financial assistance for the costs that may be associated with a LEED Certified Silver project. Such meetings shall occur prior to any such developer making a permit application.

SECTION 5: That all developers who propose projects that, per this ordinance, must be certified LEED Silver or higher, shall submit to the Building Official, as a required part of any application for a building permit related to the project:

- (A) a proposed USGBC LEED credit checklist, signed by an accredited LEED Professional, that identifies the LEED credits the developer intends to pursue for the project, the parties responsible for each credit, and a brief description of how each credit shall be earned; and
- (B) documentation that said project has been registered with USGBC.

SECTION 6: That all proposed interior renovation projects that proceed pursuant to Section 3 (B) hereof shall submit to the Building Official, as a required part of any application for a building permit related to the project, a completed ESBMIR checklist that identifies the sustainable building measures the applicant shall employ. The Building Official shall require documentation of measures actually employed and may withhold a Final Certificate of Occupancy ("FCO") if fewer measures were employed than required by Section 3 (B) hereof.

SECTION 7: That for any project that must be certified LEED Silver or higher pursuant to this ordinance, the developer shall submit to the Building Official a completed USGBC LEED Design Phase Review Approval letter before the Building Official may issue an FCO for the project. The Building Official may request documentation related to the LEED credits earned prior to issuing the FCO.

SECTION 8: Penalty:

- (A) For any project that must be certified LEED Silver or higher pursuant to this ordinance, the developer of said project shall demonstrate compliance with the applicable LEED requirements by means of an independent report provided by the USGBC. Should a project fail to obtain the required LEED certification, the developer of said project, or its agents, successors, or assigns, shall owe the City a penalty to be calculated by the following formula:

$$P = [(LSM-CE) / LSM] \times CV \times 0.75\%$$

P is the Penalty in dollars; LSM is the minimum credits needed to earn a LEED Silver rating, or LEED Silver Minimum; CE is the number of Credits Earned as documented in the USGBC report; and CV is the Construction Value as set forth in the building permit for the project.

- (B) Any such developer shall have two (2) years from the date of the issuance of the project's FCO to supply to the Building Official the independent report from the USGBC certifying the project's LEED certification. Should any such developer fail to submit such a report in the time allowed, it shall owe the City a penalty calculated pursuant to Section 6 (A) of this ordinance with a CE equal to zero (0).
- (C) If there is a dispute as to whether the project has complied with the applicable requirements set forth in Section 2 and/or 3, or if the developer requires more time, the developer may appeal to the City Manager or his/her designee. The City Manager may reduce a penalty in whole or in part for good cause shown, taking into consideration the failure to comply with said requirements and the project's impact on the City.
- (D) The City shall invest any monies collected pursuant to Section 6 of this ordinance in a fund, established hereby, to be called the Sustainable Evanston Fund (the "Fund"). Monies deposited in the Fund shall be used exclusively to support the City's Office of Sustainability, provide technical assistance and plan review for proposed green buildings, support education, training and outreach to the public and private sectors on green building practices, and other initiatives designed to

support environmental sustainability. The City Manager shall administer the Fund in accordance with the City's investment policy.

SECTION 9: That this ordinance shall not apply to any project:

- (A) that, prior to the effective date of this ordinance, has received a building permit, Variation, Special Use, or Unique Use from the City; or
- (B) for which the developer of said project can demonstrate, to the City's reasonable satisfaction, that he/she has substantially changed his/her position prior to the effective date of this ordinance and based on reasonable reliance on the applicable City Code requirements in effect at the time of said change in position.

SECTION 10: That the terms of this ordinance shall neither limit nor prohibit the applicability of the terms of Title 2, Chapter 9 of the City Code (the "Historic Preservation Ordinance") to any construction or renovation project.

SECTION 11: That the City strongly recommends ongoing training regarding green building practices for all City project managers, operation staff, and maintenance staff who supervise building design, construction, and operations.

SECTION 12: That the City shall encourage the application of LEED criteria to any construction or renovation project not subject to this ordinance, whenever such application is practicable.

SECTION 13: That if any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 14: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 15: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

APPENDIX A

City of Evanston Sustainable Building Measures for Interior Renovations

Each bullet point below shall count for one measure unless otherwise noted below. Applicants may choose measures from various categories or several from one category.

Stormwater Management:

- All hardscape no less than 50% permeable.

Water Use:

- All plumbing fixtures - use WaterSense labeled as applicable.
- Install a greywater or stormwater harvesting system.

Lighting:

- Install automatic daylighting controls in no less than 50% of interior spaces within 15 feet of perimeter.
- Exceed the Lighting Power Density (LPD's) of the current City of Evanston Energy Code by no less than 5%. Compliance to be shown using COMcheck.

Mechanical:

- All warm air combustion furnaces: minimum Annual Fuel Utilization Efficiency (AFUE) of 90%.
- All Air Conditioners and Condensing Units < 65,000 btu/h: minimum SEER rating of 15.
- All Electronically Operated Unitary Air Conditioners and Condensing Units > 65,000 btu/h: minimum EER rating of 12.
- Commission the mechanical and lighting systems in accordance with ASHRAE guideline 0.
- Provide mechanical, lighting and miscellaneous electrical system monitoring with the capability to log the data for a minimum of 1 year.
- Perform Retro Commissioning under the Energy Star program for existing commercial building guidelines.
- Provide for 3% of the building annual energy use with onsite renewable energy production.
- Register and obtain Building Operator Certification via the Midwest Energy Efficiency Alliance (MEEA) Program.

Building Enclosure:

- Exceed the prescriptive envelope provisions of current City of Evanston Energy Code by no less than 17.5%. Compliance shall be shown using COMcheck.
- Exceed the prescriptive envelope provisions of current City of Evanston Energy Code by no less than 35%. Compliance shall be shown using COMcheck. (Worth 2 measures)

- Install an Energy Star-compliant roof.
- Provide a vegetative roof over no less than 20% of the roof area.

Materials and Resources:

- Building reuse – maintain no less than 75% of existing walls, floors and roof.
- Building reuse – maintain no less than 50% of non-shell elements.
- No less than 75% of all new wood to be Forest Stewardship Council (FSC) certified.
- Reuse of resources – no less than 10% of project materials (sell, donate, reuse)
 - a. Non-code windows for non-conditioned space;
 - b. Lumber, wood scraps, reusable forms;
 - c. Unused supplies;
 - d. Fixtures and appliances.
- Use of recycled content materials – no less than 10% of project materials.
- Use of recycled content materials – no less than 20% of project materials. (Worth 2 measures)
- Local/Regional Materials – No less than 10% of project materials or products that have been extracted, harvested or recovered, as well as manufactured, within 500 miles of the project site.
- Use 40 – 50 year material rated for roof replacements.
- Rapidly Renewable Materials - no less than 2.5% of the project.

Interior Finishes:

- Use low VOC finishes (Worth 1 measure for every 2 of the following):
 - a. All paints and coatings;
 - b. All field applied adhesives;
 - c. All carpeting;
 - d. All furniture systems - Greenguard Certified;
 - e. All composite wood shall be free from urea-formaldehyde.