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OFFICE OF THE CITY CLERK
APPROVED AS TO FORM AND LEGALITY

BY COUNCILMEMBER _____

ORDINANCE NO. 12658 C.M.S.

2009 APR 21 PM 5:49

ADOPT AN ORDINANCE ESTABLISHING GREEN BUILDING (E.G. SUSTAINABLE SITE DEVELOPMENT, WATER SAVINGS, ENERGY EFFICIENCY MATERIALS SELECTION AND INDOOR ENVIRONMENTAL QUALITY) REQUIREMENTS FOR CERTAIN CITY PROJECTS

WHEREAS, the Oakland City Council adopted the Sustainable Community Development Initiative (SCDI) through Resolution No. 74678 on December 1, 1998; and

WHEREAS, a fundamental goal of the SCDI is to “Make the City of Oakland’s operations and services a model of sustainable community development practices;” and

WHEREAS, one of the adopted goals of the Oakland City Council is to “Develop a Sustainable City” and to “maximize socially and environmentally sustainable economic growth, including conserving natural resources;” and

WHEREAS, in 1996, the Oakland City Council adopted Resolution No. 72809 authorizing the City to join the Cities for Climate Protection Campaign which has a stated goal of reducing greenhouse gas emissions; and

WHEREAS, the demolition, design, construction, and maintenance of buildings and structures within the City has a significant impact on the City’s environmental sustainability, resource usage and efficiency, greenhouse gas emissions, waste management, and the health and productivity of residents, workers, and visitors; and

WHEREAS, emissions from conventional construction materials such as paints, carpets, and particleboard can lead to health problems associated with poor indoor air quality and these health problems can result in lost productivity, lowered employee morale, and increased health care costs; and

WHEREAS, conventional building design, construction and operation methods not only can negatively affect the health of the people who live and work in them, but can also negatively impact the environment; and

WHEREAS, building construction, operations and demolition consume 40% of total energy and raw material use, and each year in the U.S., building-related activities are responsible for 30% of the nation’s carbon dioxide emissions, 40% of ozone pollution, and 35% of municipal solid waste; and

WHEREAS, based on studies by the Alameda County Waste Management

Authority (ACWMA), construction and demolition debris comprises up to 21% of materials disposed in Alameda County landfills; and

WHEREAS, Green Building refers to a whole systems approach to the design, construction, and operation of buildings, the benefits of which are spread throughout the systems and features of the building; and

WHEREAS, building “green” can include, among other things, the use of certified sustainable wood products; a substantial increase in the use of high recycled content products; recycling of waste that occurs during deconstruction, demolition, and construction; enhancement of indoor air quality by selection and use of construction materials that do not have chemical emissions that are toxic or irritating to building occupants; modification of heating, ventilation, and air-conditioning systems to provide energy efficiency and improved indoor air; use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production; and

WHEREAS, Green Building design and construction decisions made by the City in the construction and remodeling of City buildings can result in significant cost savings and environmental benefits to the City over the life of the buildings; and

WHEREAS, it is critical to both the economic and environmental health of the City of Oakland that the City provide leadership to both the private and public sectors in the arena of energy efficiency and “green” construction; and

WHEREAS, the most immediate and meaningful way to do so is to include energy efficiency and green building elements in as many public City buildings and other projects as feasible; and

WHEREAS, green building design, construction and operational techniques are increasingly widespread in residential and commercial building construction; and

WHEREAS, at the national level, the U.S. Green Building Council has taken the lead in promoting and guiding green building by developing the Leadership in Energy and Environmental Design (LEED) Rating System and Reference Guide; and

WHEREAS, requiring City Building projects to incorporate LEED green building measures is necessary and appropriate to achieve the benefits of green building in the City of Oakland; and

WHEREAS, it is in the public interest to address the appropriateness of mandating green building requirements for private projects separately from, and subsequent to, applying such requirements to City Projects, and accordingly, unless and until the City Council determines otherwise, the provisions of this Chapter shall not apply to private sector development, including, but not limited to, joint ventures between the City and a private developer; City redevelopment projects; privately developed roads, bridges, and streetlights; and private sector commercial, industrial, and residential

construction, and renovation activities; and

WHEREAS, it is also in the public interest to strongly promote and support the inclusion of green building strategies in private development projects through the provision of incentives from the City of Oakland.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1

Chapter 15.35 entitled “**GREEN BUILDING REQUIREMENTS FOR CITY BUILDING PROJECTS AND TRADITIONAL PUBLIC WORKS PROJECTS**” is hereby added to the Oakland Municipal Code to read as follows:

CHAPTER 15.35

15.35.010 TITLE

The provisions of Section 15.035.20 through Section 15.035.60 inclusive, shall be known as the City of Oakland “**GREEN BUILDING REQUIREMENTS FOR CITY BUILDING PROJECTS AND TRADITIONAL PUBLIC WORKS PROJECTS**”

15.35.020 PURPOSE AND INTENT

To promote economic and environmental health in Oakland, it is key that the City itself, through the design, construction, operations and deconstruction of its own facilities, provide leadership to both the private and public sectors in the arena of energy efficiency and “green” building practices. The most immediate and meaningful way to do this is to require the integration of green building strategies in as many public City buildings as feasible.

Therefore, the purpose of these provisions is to prescribe Green Building requirements to Covered City Building Projects and Traditional Public Works Projects.

The City Administrator or designee is authorized to develop rules and regulations to implement the requirements of this Chapter, which may be amended from time to time.

15.35.030 DEFINITIONS

- A. “Building” means any Structure used or intended for supporting or sheltering any use or occupancy as defined in the California Building Code.
- B. “City Building Project” means any new construction or renovation of a building owned or occupied by a City department or Agency;
- C. “Covered City Building Project” means:

1. All new building projects owned or occupied by a City department or Agency that equal or exceed \$ 3 million in construction costs (adjusted annually to the Building Cost Index published in the Engineering News-Record Magazine); or
 2. All renovation projects of any building owned or occupied by a City department or Agency that equal or exceed \$ 3 million in construction costs (adjusted annually to the Building Cost Index published in the Engineering News-Record Magazine), excluding all costs associated with seismic improvement.
- D. “Compliance Official” means the person who is authorized and responsible for implementing this Chapter for any given project. The Director of the Public Works Agency, or his/her designee, shall be the Compliance Official for all Covered City Building Projects and Traditional Public Works Projects.
- E. “Green Building Practices” means a whole systems approach to the design, construction, and operation of Buildings and Structures that helps mitigate the environmental, economic, and social impacts of Construction, Demolition, and Renovation. Green Building Practices such as those described in the LEED Rating System, recognize the relationship between natural and built environments and seek to minimize the use of energy, water, and other natural resources and provide a healthy, productive environment.
- F. “Initiated,” means officially identified and substantially funded to offset all the costs associated with the project.
- G. LEED™ Rating System™” means the most recent version of the Leadership in Energy and Environmental Design (LEED™) Commercial Green Building Rating System™, or other related LEED™ Rating System, approved by the U.S. Green Building Council.
- H. “LEED™ accredited professional” means an individual who has passed the LEED™ accreditation exam issued by the USGBC in applying LEED™ principles to building design.
- I. “Renovation” means any change, addition, or modification to an existing Building or Structure, including, but not limited to, tenant improvements.
- J. “Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground.
- K. “Traditional Public Works Project” means heavy construction projects such as pump stations, flood control improvements, roads, bridges, as well as traffic lights, sidewalks, bike paths, bus stops, and associated infrastructure on City

owned and maintained property.

15.35.040 GREEN BUILDING PRACTICES FOR CITY BUILDING PROJECTS

- A. All Covered City Building Projects initiated on or after the final adoption of this Ordinance, shall meet a minimum LEED™ “Silver” rating under the LEED Rating System and be so certified by the U.S. Green Building Council.
- B. All Covered City Building Projects shall have a LEED-accredited professional as a principal member of the design team from the beginning of the project.
- C. For purposes of reducing operating and maintenance costs in all City facilities, City Building Projects that do not meet the threshold that triggers compliance with the requirements of this ordinance are required to meet as many LEED credits as practicable and are required to complete and submit the LEED Green Building checklist as a way of documenting the green building practices that have been incorporated into the project.

15.35.045 GREEN BUILDING PRACTICES FOR TRADITIONAL PUBLIC WORKS PROJECTS

The Public Works Agency shall continuously revise the project specifications used in bidding Traditional Public Works Projects to include the best green building practices applicable.

15.35.046 PROMOTING GREEN BUILDING PRACTICES IN PRIVATE DEVELOPMENT PROJECTS

Although the requirements of this ordinance do not extend to private development projects, the City of Oakland promotes the use of green building strategies in private development projects by offering a number of resources and incentives.

All private development projects in the City of Oakland are strongly encouraged, for example, to take advantage of free services provided by the Oakland Energy Partnership’s *Energy Efficiency Design Assistance Program* and PG & E’s *Savings by Design Program* for the purposes of integrating strong energy efficiency attributes into their projects. Other incentives include free green building technical assistance and grants, green building guidelines, and free public promotion for qualified projects. Other incentives to “green” private development projects are currently under development.

A resource sheet with more information about these incentives and resources is available at Oakland’s Green Building Resource Center on the second floor of 250 Frank Ogawa Plaza, through the Planning Department in the Community and Economic Development Agency on the third floor of 250 Frank Ogawa Plaza, and in the Mayor’s office of the City of Oakland at City Hall.

15.35.050 COMPLIANCE

- A. The City Administrator shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the Green Building Practices stated in this Chapter. The initial rules and regulations shall be promulgated after securing and reviewing comments from affected City agencies and departments.
- B. The rules and regulations promulgated by the City Administrator’s Office under this section shall provide for at least the following:
 - 1. The incorporation of the Green Building Practices of this Chapter into the appropriate design and construction contract documents prepared for the applicable City Projects;
 - 2. The designation of an appropriate Compliance Official(s) who shall have the responsibility to administer and monitor compliance with the Green Building Practices set forth in this Chapter and with any rules or regulations promulgated thereunder, and to grant waivers or exemptions from the requirements of this Chapter, and to report to the City Council regarding Green Building Compliance on all Covered City Building Projects and Traditional Public Works Projects.

SECTION 2

SEVERABILITY

If any chapter, section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each chapter, section, subsection, subdivision, paragraph, sentence, clause, and phrase of this Ordinance irrespective of the fact that one or more chapters, sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or effective. To this end, the provisions of this Ordinance are declared to be severable.

Introduction Date: MAY 3 2005

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 17 2005 , 20

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN and PRESIDENT DE LA FUENTE - 7

NOES- *Ø*
ABSENT- *Ø*
ABSTENTION- *Ø*

ATTEST: *LaTonda Simmons*
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California