

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2008-__

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF DORAVILLE, GEORGIA AS AMENDED TO ADOPT A NEW SECTION, CHAPTER 5 BUILDINGS AND BUILDING REGULATIONS, ARTICLE VI LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED) CERTIFICATION, SECTIONS 5-210 THROUGH 5-218; TO PROVIDE SEVERABILITY; TO PROVIDE PENALTIES; TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN ADOPTION AND EFFECTIVE DATE; TO PROVIDE FOR CODIFICATION; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the City of Doraville, Georgia is undergoing a massive redevelopment effort at the former General Motors plant site and throughout the city limits;

WHEREAS, throughout the United States of America local governments have become increasingly aware of the impact new construction is having on the livable environment for local populations;

WHEREAS, in an effort to minimize both the short and long term negative impacts construction has on the environment and in order to promote buildings that are constructed in resource-efficient and energy conserving ways, many communities are turning to Leadership in Energy and Environmental Design (LEED) ratings and requiring LEED certifications or their equivalent prior to the issuance of certificate of occupancy;

WHEREAS, the Mayor and Council of the City of Doraville, Georgia desire to accomplish the goals of improving the short and long term energy efficiency and recycling of building material goals by adopting a LEED certification program locally;

WHEREAS, the duly elected Mayor and Council of the City have determined that using LEED and other similar systems will promote the best living conditions for the citizens of and visitors to the City of Doraville; and

WHEREAS, the health, safety, welfare and aesthetics of the citizens of the City of Doraville shall be improved and protected by adoption and implementation of this Ordinance.

THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA
HEREBY ORDAIN:

Section 1.

That the Code of Ordinances, City of Doraville, Georgia is hereby amended by adding an article to be numbered Article VI. LEED Certification, Chapter 5 Buildings and Building Regulation, Section 5-210 through 5-218, which said section reads as follows:

"Chapter 5 Buildings and Building Regulation

. . .

Article VI. LEED Certification.

Sec. 5-210. Purpose.

The City of Doraville is committed to minimizing the short term and long term negative impacts construction has on the environment. The intent of this article is to provide owners and occupants of commercial buildings, offices, industrial buildings, multiple residences and senior citizen multiple residences with energy and water savings, good indoor air quality and healthy,

pleasant and productive surroundings. A further purpose of this article is to benefit the community by having buildings constructed that are resource-efficient and conserve energy.

Sec. 5-211. Definitions.

Leadership in Energy and Environmental Design (LEED-NC) Rating System, Version 2.2 and as amended as provided herein below. A regulatory system for new construction that establishes several levels of environmental achievement from a Certified rating to a Platinum rating.

United States Green Building Council (USGBC). An entity that promulgates the LEED-NC Rating System, Version 2.2 and as amended.

Sec. 5-212. Applicability.

This article adopts the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED-NC) Rating System, Version 2.2. any future amendments thereto will be reviewed by the City before consideration is given to the adoption of such amendments. The LEED-NC system (for new construction) establishes several levels of environment achievement from Certified rating to a Platinum rating. The ratings are attained by earning LEED points in the categories of Sustainable Sites, Water Efficiency, Energy & Atmosphere, Materials & Resources, Indoor Environmental Quality and Innovation & Design Process.

This article shall be applicable to all new construction of a commercial building, office building, industrial building, multiple residence or senior citizen multiple residence equal to or greater than 20,000 square feet of gross floor area space and the provisions of this article are mandatory for any building permit application for such structures containing gross floor area space of equal to or greater than 20,000 square feet which are received by the City on or before

April 1, 2009. Furthermore, this article shall be applicable to all new construction of municipal buildings regardless of square footage.

Sec. 5-213. LEED Checklist.

a. Every applicant who files a building permit application for construction of a commercial building, office building, industrial building, multiple residence or senior citizen multiple residence, to contain equal to or greater than 20,000 square feet of gross floor area, shall provide a completed LEED checklist on a form acceptable to the Building Inspector or his designee.

b. Neither a land development permit nor a building permit shall be issued unless the LEED checklist shows that the proposed building will achieve enough points to attain LEED Certified status. No applicant shall be issued any permits until there is presented both (1) copies of the LEED checklist and (2) the registration of the proposed project with the USGBC.

Sec. 5-214. LEED Certification.

No permanent Certificate of Occupancy shall be issued unless and until the applicant produces verifiable documentation from the USGBC which affirms that the project is LEED Certified. However, upon completion of construction, satisfactory inspection by the City Building Inspector or his designee and confirmation that all documentation has been submitted for required certification, the City Building Inspector or his designee may issue a temporary Certificate of Occupancy. Upon issuance of a temporary Certificate of Occupancy, the applicant shall pay a fee to ensure successful completion of the Certification as set forth below. If the applicant achieves Certification status, the fee paid shall be refunded to the applicant, exclusive of a \$50.00 administrative processing charge.

| <i>Certification Fees</i> | | | |
|--------------------------------------------------|-------------------------------------|------------------------------------|-------------------------------------|
| | <i>Less than 20,000 Square Feet</i> | <i>20,000 – 50,000 Square Feet</i> | <i>More than 50,000 Square Feet</i> |
| <i>Design Review</i> | | | |
| | | <i>\$0.25/Square Ft.</i> | <i>\$12,500.00</i> |
| <i>Construction Review</i> | | | |
| | | <i>\$0.01/Square Ft.</i> | <i>\$5,000.00</i> |
| <i>LEED-NC</i> | | <i>Based on Sq. Ft.</i> | <i>Fixed Rate</i> |
| <i>Combined Design & Construction Review</i> | | | |
| | | <i>\$0.26/Square Ft.</i> | <i>\$17,500.00</i> |

Sec. 5-215. Green building certification.

a. Compliance and Enforcement. The Building Inspector or his designee shall determine whether the requirements under this pre-permitting documentation are implemented at each stage of construction, including at the foundation inspection, framing inspection, and prior to issuance of a final certificate of occupancy. The Building Inspector or his designee may conduct other inspections, as needed, to ensure compliance with this article.

The Building Inspector or his designee shall review the information submitted by the applicant and determine whether the applicant will achieve the required certification as set forth herein. If the Building Inspector or his designee finds that the applicant is not reasonably expected to achieve LEED certification, the Building Inspector or his designee shall make the following findings:

- (1) If the covered project has not met the requirements for certification as set forth herein, whether the applicant has made a good faith effort to comply with the article;*
- (2) If the applicant has not made a good faith effort to comply, or if the applicant fails to submit the documentation within the time period as set forth in the regulations, or fails to submit such documentation within a reasonable time*

period as determined by the Building Inspector or his designee, whether the final building permit approval or Certificate of Occupancy should be withheld;

(3) If the applicant has not complied with this article, whether the applicant should be required to undertake further actions to mitigate this non-compliance.

b. Infeasibility exemption. The Building Inspector or his designee may issue an exemption from any of the requirements of this article upon finding that circumstances exist that make it a hardship or infeasible for the applicant to meet those requirements. These circumstances may include, but are not limited to:

(1) The availability of markets for materials to be recycled;

(2) The availability of green building materials and technologies; and

(3) The compatibility of green building requirements with existing building standards.

The burden shall be on the applicant to show circumstances to establish infeasibility.

Sec. 5-216. No Certificate of Occupancy.

No Certificate of Occupancy shall be issued unless and until the applicant produces documentation acceptable to the Building Inspector or his designee that the constructed commercial building, industrial building, office building, multiple residence, senior citizens residence or municipal building has achieved sufficient points to attain LEED status.

Sec. 5-217. Appeals.

Any applicant may appeal to the City Council the determination of non-compliance.

Sec. 5-208. Reserved."

Section 2.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor or Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3.

Penalties provided for violations of this Ordinance are set out in Section 1-12, as amended, of the Code of Ordinances, City of Doraville, Georgia and are hereby incorporated as if set out fully.

Section 4.

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 6.

The Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Doraville.

Section 7.

It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Code Ordinances, City of Doraville, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

Section 8.

This Ordinance shall become effective on February 1, 2009.

SO ORDAINED, this ____ day of _____, 2008.

CITY OF DORAVILLE, GEORGIA

Ray Jenkins, Mayor

First Reading

Second Reading

ATTEST:

_____(SEAL)
Rhonda Blackmon, City Clerk

APPROVED AS TO FORM:

Murray J. Weed, City Attorney

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