

ORDINANCE NO. O-11-08

AN ORDINANCE TO AMEND CHAPTER 5 OF THE CITY CODE, ENTITLED "BUILDINGS," TO INCLUDE IN ARTICLE I, ENTITLED "THE INTERNATIONAL BUILDING CODE (2003)," SECTION 5-3, ENTITLED "SAME—MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE 2003," A NEW SECTION 3110, ENTITLED "GREEN BUILDING REQUIREMENTS"

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Chapter 5 of the City Code is hereby amended to read as follows:

CHAPTER 5

BUILDINGS

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ARTICLE I. THE INTERNATIONAL BUILDING CODE (2003)

SEC. 5-3 Same—Modifications to the International Building Code 2003

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(59) Add new Section 3110, Green Building Requirements to read as follows:

3110.1 Scope. All buildings, and the accompanying building sites, listed in this section shall be constructed in accordance with the green building standards that are referenced herein.

3110.2 Commercial and High Rise Residential Buildings

3110.2.1 Scope. For the purpose of this subsection, these requirements shall pertain to newly constructed or "substantially improved" commercial and high rise residential buildings equal to or larger than 10,000 square feet. "Substantially improved" structures include renovations or reconstruction of existing buildings with at least 10,000 square feet of gross floor area that alter more than 50% of the GFA, additions that double the building's footprint or add at least 10,000 square feet of GFA, and/or

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* * *	<i>Existing law unaffected by bill.</i>

any repair, alteration, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure, before the improvement or repair is started.

3110.2.2 Requirements. Applicable structures equal to or larger than 10,000 square feet, but no larger than 99,999 square feet, must achieve a certification from the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED®) green building rating system of a Certified-level rating or higher in the currently approved version of the LEED rating system that is applicable to the project OR comply with energy and environmental design standards that the City Manager may adopt by regulation, pursuant to Section 2-10 of the City Code, as equivalent to a Certified-level rating in the appropriate LEED rating system. Applicable structures equal to or larger than 100,000 square feet must achieve a certification from the USGBC LEED green building rating system of a Silver-level rating or higher in the currently approved version of the LEED rating system that is applicable to the project OR comply with energy and environmental design standards that the City Manager may adopt by regulation, pursuant to Section 2-10 of the City Code, as equivalent to a Silver-level rating in the appropriate LEED rating system.

3110.2.3 Submittals. Prior to the issuance of grading permits, the applicant shall submit documentation showing the project has been registered with the USGBC and the applicable LEED registration fee has been paid OR meets the standards that the City Manager may adopt by regulation as equivalent to the appropriate LEED rating system. The applicant shall also submit a checklist that is prepared, signed, and dated by the project LEED accredited professional OR a checklist that is approved by the City Manager that demonstrates the applicant meets with the equivalent standards.

3110.2.4 Verification. Within eighteen (18) months after the receipt of a Certificate of Use and Occupancy, the applicant shall provide proof to that the required LEED-level rating was obtained. Failure to submit the required proof shall be grounds for revocation of the Certificate of Use and Occupancy.

3110.2.5 Waiver. A waiver or modification of the green building requirements may be granted by the Planning Commission, upon recommendation by the City Manager or his designee, based upon a finding that unique physical characteristics of the property or the project make strict compliance with Section 3110 impracticable; however, financial hardship of meeting LEED shall not be the sole basis for approving a waiver or modification.

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3110.3 Multifamily Residential Structures

3110.3 Multifamily Buildings

3110.3.1 Scope. For the purpose of this subsection, the scope shall include multifamily buildings and sites designed as Use R-2 and R-3 buildings that are type V construction and 4 stories or less in height, and do not fall under the purview of the International Residential Code as single family dwellings. This shall include the multifamily portion of any mixed or multi-use building. These requirements shall pertain to new construction of, reconstruction of, additions to, or substantial improvement, defined as any repair, alteration, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure, before the improvement or repair is started, of multi-family buildings as described above.

3110.3.2 Requirements. The green building requirements for projects outlined in Section 3110.3.1 shall be regulated by Chapter 5 of the City Code (“Buildings”), Article II (“The International Residential Code (2003)”), Section 5-5 (“Same—Modifications”), Section R326 (“Gaithersburg Green Residential Criteria”), Subsection 1 (“Energy Performance”), Subsection 2 (“Healthy Living Environment”), Subsection 3 (“Waste Management”), and Subsection 4 (“Homeowner Education”).

3110.3.3 Waiver. A waiver or modification of the green building requirements may be granted by the Planning Commission, upon recommendation by the City Manager or his designee, based upon a finding that unique physical characteristics of the property or the project make strict compliance with Section 3110 impracticable; however, financial hardship shall not be the sole basis for approving a waiver or modification.

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~~(59)~~ **60** *Subsection 3302.3. Construction in Occupied Buildings.* Add new subsection to read as follows:

"Subsection 3302.3. Construction in Occupied Buildings. Existing occupied buildings and/or spaces shall not remain occupied during construction operations.

Exception: Where the building or space is adaptable to a phasing operation that clearly demonstrates to the building official that the health, safety, and welfare of the occupants of that building is not jeopardized in any way by the construction project, and that the provisions set forth in subsection 3302.3.1 can be met."

~~(60)~~ **61** *Subsection 3302.3.1. Safety Requirements.* Add new subsection to read as follows:

"Subsection 3302.3.1. Safety Requirements. All buildings/spaces approved by the building official for construction to occur while the buildings/spaces are occupied shall conform to the following requirements:

1. Construction areas shall be completely separated from occupied areas by a solid, noncombustible barrier.

- In non-sprinklered buildings, this barrier shall have a minimum fire rating of one hour, and shall extend from the floor to the underside of the next deck above, roof or floor.

- In fully sprinklered buildings, an alternative barrier of a solid, limited combustible wall, at least 6 feet in height, with a limited combustible, non-solid dust barrier (such as fire retardant plastic sheeting) extending to the ceiling above is acceptable.

- In both cases, openings for workers to access construction areas shall be through self-closing gates, constructed of material similar or equal to the walls, and posted with signage notifying occupants they are not permitted to enter the construction area.

2. All required exits, egress paths, etc., that serve the occupied area(s) shall remain open, free from obstruction or construction related hazards, at the full required width, and in complete conformance with all applicable City of Gaithersburg codes regarding egress from buildings.

3. All fire suppression and protection systems shall be kept in working order in accordance with the City Fire Code.

4. All HVAC and mechanical systems shall be completely isolated at construction areas to prevent the spread of dust, fumes, noxious odors, etc., from spreading into occupied areas.

5. Violations of this section will result in one or more of the following actions being taken:

- A Stop Work order being placed on the job.

- A municipal infraction of \$200.00 (minimum) being levied for each day the violation exists (amount is dependent upon type of violation.)

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- A Cease and Desist Occupancy order being placed on the occupied establishment that is endangered by the violation."

(64) **62** *Subsection 3401.2.* Add the following at the end of the first sentence: "Existing buildings, as defined by the Maryland Building Rehabilitation Code, undergoing repair, alterations, additions, and/or change of occupancy, shall be permitted to comply with the Maryland Building Rehabilitation Code."

(62) **63** *Appendix F.* Appendix F is hereby adopted in its entirety.

(63) **64** *Appendix G.* Appendix G is hereby adopted in its entirety and amended as follows:

"Appendix G. Section G102.1. After the words "International Building Code" insert the phrase "and the provisions of Chapter 10 of the City of Gaithersburg Code."

(64) **65** *Appendix H.* Appendix H is adopted in its entirety except for any instances where there is a conflict with the City of Gaithersburg Sign Ordinance (City Code, Chapter 24, Article IX) or amendments (49), (50), and (51) of this document, any of which shall take precedence over this appendix.

(65) **66** *Appendix I.* Appendix I is hereby adopted in its entirety.

(66) **67** *Appendix F of the 2003 International Residential Code.* Appendix F of the International Residential Code is hereby adopted in its entirety and shall apply to all residential Use and Occupancy classifications.

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ADOPTED, this 15th day of September, 2008 by the City Council of Gaithersburg, Maryland.

SIDNEY A. KATZ, Mayor and
President of the City Council

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DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 15th day of September, 2008. APPROVED by the Mayor of the City of Gaithersburg, this 15th day of September, 2008.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in a public meeting assembled, on the 15th day of September, 2008 and that the same was approved by the Mayor of the City of Gaithersburg on the 15th day of September, 2008. This Ordinance will become effective on the 6th day of October, 2008.

James D. Arnoult, Acting City Manager