TOWN OF KEARNY
2007 - (O) - 54

AN ORDINANCE TO ADOPT SUSTAINABLE GREEN BUILDING STANDARDS FOR CONSTRUCTION IN THE TOWN OF KEARNY AND ENACTING CHAPTER 27 ENTITLED “GREEN BUILDING DESIGN” OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF KEARNY

WHEREAS the Governing Body of the Town of Kearny shall desires to promote sustainable green building standards in accordance with the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) guidelines;

WHEREAS, it is the intent that sustainable green building practices will encourage resource conservation, reduce waste generated by construction projects, increase energy efficiency and promote the health and productivity of residents, workers and visitors to the Town;

WHEREAS, it shall be the policy of the Governing Body to require Town-funded projects to incorporate the LEED Rating System and to encourage, but not require, that all projects consider implementing LEED Rating System criteria.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Kearny, Hudson County, New Jersey that the Chapter 27 of the Revised General Ordinances be and hereby is enacted to provide for sustainable Green Building standards in and for the Town of Kearny as follows:

27-1. Title: GREEN BUILDING DESIGN.

The “Leadership in Energy & Environmental Design (LEED) standards and guidelines are herein incorporated by reference, as amended and supplemented and may be found at http://www.usgbc.org, or by contacting the U.S. Green Building Council, 1015 18th Street, NW, Suite 508, Washington, DC 20036.

27-2. Town-funded projects.

(a) The Town of Kearny supports the use of green building practices and adopts the USGBC’s Leadership in Energy Design (“LEED”) Rating System for the design and construction of new buildings and major renovations and additions to Town-funded facility projects.

(b) The Town adopts a policy that town-funded facility projects and Town-owned facilities meet a minimum LEED “Silver” rating.
27-3. Redevelopment projects.

(a) Applicants for projects within a formally designated Redevelopment Area are encouraged, but not required, to comply with LEED criteria.
(b) Only projects proposing to meet a minimum accreditation level of LEED Certification shall be eligible for the incentives in this section.

27-4 Green Building Density Incentive

To encourage redevelopment projects to achieve formal LEED certification from the USGBC, the Town of Kearny has established a Green Building Density Incentive, which shall be provided to applications for new buildings and additions within a formally designated Redevelopment Area upon compliance with the requirements of section 27-5 below.

In all designated Redevelopment Areas, unless otherwise specifically provided, the following incentives shall apply:

1. LEED Platinum - additional 0.30 floor area ratio (FAR) or additional three (3) dwelling units per acre, where residential uses are permitted;
2. LEED Gold - additional 0.25 floor area ratio (FAR) or additional two (2) dwelling units per acre, where residential uses are permitted;
3. LEED Silver - additional 0.20 floor area ratio (FAR) or additional one (1) dwelling unit per acre;
4. LEED Certified - additional 0.15 floor area ratio (FAR) or additional 0.5 dwelling unit per acre, where residential uses are permitted.

27-5. Requirements for LEED qualification

Redevelopment projects seeking the incentives available for LEED accreditation must submit the following information to the Town for each project application:

(a) USGBC registration. The applicant shall register the proposed project with the USGBC, and shall submit written proof of such registration, prior to any incentive being granted by the Town.

(b) Name of LEED Accredited Professional working on the project: Each project must include a LEED accredited professional as part of the project team. This team member advises the project team on LEED issues and ensures that the specific LEED credits for the project are achieved.
(c) LEED Scorecard: A LEED scorecard must be submitted as part of its plan. The scorecard must be accompanied by an explanation of how each credit will be achieved or why the credit cannot be achieved for the project. Prior to the issuance of specific permits, reports must be submitted outlining progress on achieving LEED credits.

(d) Plans. All plans submitted for review and approval shall contain the project components listed on the LEED scorecard.

(e) Maintenance Plan. A maintenance plan for each of the proposed LEED components on the scorecard shall be submitted for review and approval.

(f) Certificate of Zoning. A Certificate of Zoning or resolution of variance approval granted pursuant to green building incentives as provided in this section shall contain conditions that such LEED certification be achieved and maintained.

(g) Performance Guarantee. Prior to the issuance of a Certificate of Zoning or resolution of variance approval, a performance guarantee shall be delivered by the applicant and property owner to assure that the conditions of the approval are satisfied.

(h) Monthly Reports. Progress of the implementation of the green building components shall be monitored on a monthly basis with report by the project’s LEED accredited professional to the Construction Official.

(i) As-built Analysis. An as-built analysis of the project in relation to the approved project shall be prepared by an independent LEED accredited professional architect upon completion of the project. The cost of the independent LEED accredited professional architect shall be borne by the applicant.

(j) Application for LEED. Applicant shall be required to apply for LEED certification and rating to the USGBC near or at completion of the project.

(k) LEED Certification. Upon delivery by applicant of certification by the USGBC that the project achieved the approved level of LEED certification, the Town shall issue a final Certificate of Occupancy.

27-6 Inability or Failure to achieve approved LEED certification.

1. If the applicant is unable to include the approved LEED components during the project implementation, any comparable alternate green building components must be approved in writing by the Town. All such alternate shall maintain the minimum required rating for the level of LEED certification sought.
2. In cases where an application cannot comply with the approved green building design requirements due solely to the inability to install a LEED-recognized green building component, the applicant may seek a waiver from the original approving authority from such requirement.

   i. A request for LEED waiver must be made by the applicant in writing.
   ii. A request for LEED waiver shall specify the regulation from which the waiver is requested and a detailed reasons(s) for the request.
   iii. The issuer of the Certificate of Zoning or Variance approval shall consider the request for waiver and grant such waiver, upon finding that the LEED waiver is necessary to install the green building component and that such waiver shall not result in a threat to public health, safety and/or order.
   iv. The issuer of the Certificate of Zoning or Variance approval shall have 10 business days to render a decision on the waiver request.
   v. The Town reserves the right to require a waived requirement when deemed necessary by the issuer of the Certificate of Zoning or Variance, upon evidence of a substantive change of an application or unforeseen circumstances.

Repealer: All Ordinances and parts thereof conflicting herewith be, and the same hereby are, repealed.

Severability: If any section, paragraph subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed to be valid and effective.
Effective Date: This Ordinance shall be effective upon passage and publication as required by law.

I certify that the foregoing ordinance was introduced by the Council on first reading on August 7, 2007 duly published according to law, and passed on second reading and final passage on September 11, 2007.

__________________________
JILL E. WALLER
ACTING TOWN CLERK

I hereby approve the foregoing Ordinance this September 11, 2007.

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ALBERTO G. SANTOS, MAYOR

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