

# City of Cincinnati



May 9, 2007

To: Mayor and Members of City Council  
From: Milton Dohoney, Jr., City Manager  
Subject: **ORDINANCE –LEED CERTIFICATION FOR TAX EXEMPTION**

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Transmitted herewith is an ordinance captioned as follows:

AMENDING Ordinance No. 119-2007 in order to provide an automatic 100% real property tax exemption, for the maximum number of years allowable by law, of the assessed property value of newly constructed or rehabilitated commercial or residential properties, if the property is constructed or rehabilitated to Leadership in Energy and Environmental Design ("LEED") Certified, Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council; and, REPEALING Ordinance No. 274-2006, passed by City Council on September 20, 2006.

Ordinance 342-2002 established a citywide Community Reinvestment Area and determined the nature and length of exemption from real property taxation. Ordinance No. 274-2006 amended Ordinance No. 342-2002 in order to provide an automatic tax exemption for properties constructed or rehabilitated to LEED standards. Ordinance No. 119-2007 repealed Ordinance 342-2002 and extended the term of the Community Reinvestment Area Tax Exemption Program for another ten years and re-established the nature and length of exemption from real property taxation. This ordinance amends Ordinance No. 119-2007 and provides an automatic exemption for developments that meet LEED standards.

The LEED standards measure how well a developer conserves energy, reduces greenhouse gas emissions, decreases construction waste and conserves water through design and construction. This ordinance provides an incentive for developers to incorporate sustainable design and construction into new or rehabbed property.

## **RECOMMENDATION**

The administration recommends approval of this ordinance.

Attachments: Ordinance

cc: Michael L. Cervay, Department of Community Development and Planning

# City of Cincinnati

PMK *Amk for Dm*

## An Ordinance No. \_\_\_\_\_

- 2007

AMENDING Ordinance No. 119-2007 in order to provide an automatic 100% real property tax exemption, for the maximum number of years allowable by law, of the assessed property value of newly constructed or rehabilitated commercial or residential properties, if the property is constructed or rehabilitated to Leadership in Energy and Environmental Design ("LEED") Certified, Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council; and, REPEALING Ordinance No. 274-2006, passed by City Council on September 20, 2006.

WHEREAS, Ordinance No. 119-2007, passed by City Council on March 28, 2007 and effective as of October 23, 2007, repealed Ordinance No. 342-2002, established the City-Wide Community Reinvestment Area for an additional 10 year period, provided for the reconfirmation of a housing officer and the Community Reinvestment Area Housing Council and determined the nature and length of exemption from real property taxation for newly constructed or rehabilitated commercial and residential structures, all pursuant to Ohio Revised Code Sections 3735.65 through 3735.70; and

WHEREAS, Ordinance No. 274-2006, passed by City Council on September 20, 2006, amended Ordinance No. 342-2002 and City Council wishes to reestablish the nature and length of exemption from real property taxation for newly constructed or rehabilitated commercial and residential structures if the property is constructed or rehabilitated to Leadership in Energy and Environmental Design standards, all pursuant to Ohio Revised Code Sections 3735.65 through 3735.70; and

WHEREAS, Leadership in Energy and Environmental Design ("LEED") standards, as defined by the U.S. Green Building Council, is a system to measure the environmental friendliness of building construction; and, the program has four levels; certified, silver, gold and platinum; and, the U.S. Green Building Council certifies architects competent to design to LEED standards; and

WHEREAS, City Council wishes to amend the provisions of Ordinance No. 119-2007 in order to provide eligible LEED-certified remodeled or newly constructed residential or commercial properties with an automatic 100% real property tax exemption, for the maximum number of years allowable by law, of the assessed property value of newly constructed or rehabilitated commercial or residential properties, if the property is constructed or rehabilitated to Leadership in Environmental and Energy Design ("LEED") Certified, Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council, as an incentive to create green buildings; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That City Council amends Ordinance No. 119-2007 to provide an automatic real property tax exemption of the assessed property value of newly constructed or rehabilitated

commercial or residential property, for the maximum number of years allowable by law, if the property is built or rehabilitated to Leadership in Environmental and Energy Design (“LEED”) Certified, Silver, Gold or Platinum standards, as defined by the U.S. Green Building Council.

Section 2. That eligible LEED certified remodeled or newly constructed residential or commercial properties be granted:

- (a) Automatic real property tax exemption approval and not be subject to gap financing analysis;
- (b) The maximum 15-year real property tax exemption;
- (c) A maximum amount of abatement of:
  - (1) \$500,000 per dwelling unit of market improved value of the structure at the time of the original approval of the exemption for improved property meeting U.S. Green Building Council’s “Certified”, “Silver”, and “Gold” level standards; or
  - (2) No maximum per dwelling unit of market improved value for improved property meeting U.S. Green Building Council’s “Platinum” level standards; and
  - (3) The per dwelling unit market improved value limit will increase by three percent compounded each January 1 during the time that The City of Cincinnati Community Reinvestment Area remains in effect, with the first increase to be effective January 1, 2009.

And, providing that:

- (a) A completed application has been submitted to the City Department of Community Development and Planning; and
- (b) LEED-certified residential properties shall require no written agreement; and,
- (c) LEED-certified commercial properties shall require:
  - (1) That the owner:
    - (i) Register with the U.S. Green Building Council with the intent to certify; or
    - (ii) Provide third-party verification that LEED requirements for certification have been met in the final building’s design; and

- (2) A written exemption agreement, which agreement shall not require separate approval by ordinance of City Council, but must be in a form required by the City and must be signed by the city manager prior to the beginning of construction and, as provided in Ohio Revised Code Section 3735.671, specifies the period of exemption and the exemption percentage, subject to the limitations stated in Ohio Revised Code Section 3735.671(A);
- (3) The owner shall have entered into an agreement with the Board of Education of City School District of the City of Cincinnati to pay the Board an amount equal to 25 percent of the full amount of exempt real property taxes which would have been paid to Hamilton County if the Community Reinvestment Area exemption agreement were not in effect;
- (4) The owner shall have paid to the City the state-established application fee for an exemption agreement;
- (5) The owner agrees to pay the City an annual fee equal to one percent of the annual tax exemption, but not less than \$250 or more than \$2,500; and
- (6) Projects that are the subject of an Enterprise Zone Agreement shall be ineligible for a Community Reinvestment Area exemption agreement.

Provided, however, each real property tax exemption is conditioned on:

- (a) The remodeling or new construction being completed in compliance with applicable building code and zoning regulations in effect after the effective date of Ordinance No. 119-2007;
- (b) Proper application being made by the owner at any time during the period in which the exemption would otherwise apply to the property, providing that the exemption shall only be permitted for the time that remains for the exemption; and
- (c) The remodeling of any structure of historical significance being certified as appropriate as provided in Ohio Revised Code Section 3735.67(B).

Exemptions may not be granted unless and until the director of the Ohio Department of Development confirms in writing the findings set forth in Section 1 hereof.

Section 3. That City Council repeals Ordinance No. 274-2006, passed by City Council on September 20, 2006.

Section 4. That structures eligible for an exemption pursuant to the provisions of Ordinance

No. 0342-2002, as amended by Ordinance No. 274-2006, as evidenced by: (i) a final certificate of use and occupancy or closed permit with a date of October 23, 2007 or earlier for residential one, two or three dwelling units; or, (ii) an application and CRA Tax Exemption Agreement approved by the City Council on or before October 23, 2007 for commercial, industrial, or residential structures with four or more dwelling units shall continue in force in accordance with the provisions of said ordinance.

Provided, however, each exemption is conditioned on:

- (a) The remodeling or new construction being completed in compliance with applicable building code and zoning regulations;
- (b) Proper application being made by the owner at any time during the period in which the exemption would otherwise apply to the property, providing that the exemption shall only be permitted for the time that remains for the exemption;
- (c) The remodeling of any structure of historical significance being certified as appropriate as provided in Ohio Revised Code Section 3735.67(B); and
- (d) The exemption agreement being consistent with the provisions of Ordinance No. 0342-2002, as amended by Ordinance No. 274-2006, that shall have been in effect at the time of start of construction of the structure and which included the location of the structure.

Section 5. That the proper City officials are hereby authorized to do all things necessary to carry out the intent of Sections 1, 2 and 4 hereof, as more specifically described in Exhibit A attached hereto and by this reference made a part hereof.

Section 6. That the City Manager is authorized and directed to file with the director of the Ohio Department of Development the Ohio Community Reinvestment Area Program Petition for Confirmation not later than 15 days after the effective date of this ordinance.

Section 7. That the City Manager is further authorized and directed:

- (a) To forward a copy of each LEED real property tax exemption agreement entered into pursuant to this ordinance to the director of the Ohio Department of

Development and to the Ohio Tax Commission within 15 days after execution of the agreement;

(b) To submit an annual report on exemption agreements entered into by the City and projects for which exemptions have been granted to the director of the Ohio Department of Development in conformance with Ohio Revised Code Sections 3735.67(B) and 3735.69(B); and

(c) To notify the director of the Ohio Department of Development of any changes of zoning restrictions within the area.

Section 8. That the Clerk of Council is directed to send a certified copy of this ordinance to the County Auditor of Hamilton County as a matter of information.

Section 9. That the Clerk of Council is directed to publish this ordinance in the City Bulletin once a week for two consecutive weeks immediately following its adoption.

Section 10. That this ordinance shall go into effect after October 23, 2007.

Passed: \_\_\_\_\_, 2007

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
Clerk

**EXHIBIT A - COMMUNITY REINVESTMENT AREA  
LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN**

CRA Tax Abatement Program	Conditions	Percentage of Abatement on Improvements Current	Percentage of Abatement on Improvements Proposed	Term of Abatement Current	Term of Abatement Proposed
1/2/3 Unit Residential - New Construction	Entitlement - application submitted after construction complete	100% up to \$275,000	No Change	15 Years	10 Years
1/2/3 Unit Residential - Remodel	Entitlement - application submitted after construction complete	100% up to \$275,000	No Change	10 Years	No Change
Commercial/Industrial	Proof of Need required. Each agreement approved by City Council	Varies Depending on Need and/or job creation	No Change	Varies Depending on Need and/or job creation	No Change
LEED Certified 1/2/3 Unit Residential - New Construction	Entitlement - application submitted after construction complete including LEED Documents	N/A	100% up to: Certified, Silver or Gold - \$500,000 Platinum - No cap	N/A	15 Years
LEED Certified 1/2/3 Unit Residential - Remodel	Entitlement - application submitted after construction complete including LEED Documents	N/A	100% up to: Certified, Silver or Gold - \$500,000 Platinum - No cap	N/A	10 Years
LEED Certified Commercial/Industrial	No Proof of Need required. Agreements executed by City Manager	N/A	Varies depending on Need and LEED costs	N/A	Varies depending on Need and LEED costs
Small Business Commercial/Industrial	TBA	N/A	TBA	N/A	TBA