

ORDINANCE NO. 2009-12

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTERS 2 AND 7 RELATING TO THE CREATION OF THE CITY OF PORT ORANGE GREEN BUILDING PROGRAM; AMENDING CHAPTER 16 RELATING TO RAIN BARRELS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of Port Orange (the "City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Port Orange (the "City") to create procedures and incentives for the implementation of green building practices; and

WHEREAS, today's buildings consume 40 percent of total energy used, 16 percent of water used, and generate 40 percent of all municipal solid waste¹; and

WHEREAS, commercial buildings account for approximately 10.5 percent of global carbon dioxide (CO₂) emissions from fossil fuel energy used directly or as electricity to power equipment and condition the air (including both heating and cooling); and

WHEREAS, commercial buildings consume approximately 35 percent of all electricity produced annually in the United States; and

WHEREAS, the amount of salvageable structural lumber disposed of annually in the U.S. is approximately one billion board feet²; and

WHEREAS, the average per person use of publicly supplied water in Port Orange is 4.2 gallons per hour or 36,500 gallons per year; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens of the City to promote energy efficiency, water conservation, and the responsible use of resources; and

WHEREAS, for purposes of this Ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (strikethrough) type shall constitute deletions to the original text.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF PORT ORANGE, FLORIDA:

SECTION 1. FINDINGS INCORPORATED. The recitals provided above are recognized as true and correct representations and are incorporated herein.

¹ World Watch Institute as reported in ULI, November, 2000

² Green Sustainable Growth Symposium, Lake County, Florida

SECTION 2. The City Council hereby amends Chapter 2 Definitions of the Land Development Code by adding definitions as follows:

Chapter 2 DEFINITIONS AND INTERPRETATIONS

Section 2: Definitions.

CONSERVE FLORIDA: Name of a statewide water conservation effort by water management districts and Florida DEP to develop and implement an accountable and measurable program to allow public water supply utilities to tailor cost effective conservation programs to reflect their individual circumstances to achieve greater efficiency for water use.

DARK SKY: Lighting technology intended to provide safe exterior lighting while emphasizing the reduction or elimination of night glare above the light source. Various technologies are approved by the International Dark Sky Association.

ENERGY STAR: A joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy to encourage use of energy efficient products and practices. Qualified projects may receive Energy Star certification.

FGBC: An acronym for the Florida Green Building Coalition, Inc., a Florida 501(c)3 not-for-profit corporation whose mission is to establish and maintain a Florida system of statewide green building standards and third party certification programs with environmental and economic benefits.

FGBC GREEN LOCAL GOVERNMENT DESIGNATION: A designation given by FGBC that recognizes outstanding efforts and practices in environmental stewardship. Green Local Governments have demonstrated a certain level of commitment to environmental performance as measured by a ranking system of best practices for all local government functions. Levels of "Gold", "Silver", "Bronze", and "Certified" can be achieved.

FLORIDA FRIENDLY LANDSCAPING: Nine principles to guide Florida Yard and Neighborhood Landscaping programs. The nine principles are to locate the right plant in the right place, water efficiently, fertilize appropriately, mulch, attract wildlife, manage pests responsibly, recycle, reduce stormwater runoff and protect the waterfront.

GBI: Acronym for the Green Building Initiative, a not-for-profit organization whose mission is to accelerate the adoption of building practices that result in energy-efficient, healthier and environmentally sustainable buildings by promoting credible and practical green building approaches for residential and commercial construction.

GREEN BUILDING: A designation given to buildings that have achieved the requirements of the green building rating system defined in the green building program in Chapter 7, Section 8 of this Code.

GREEN BUILDING PROGRAM: The program outlined in Chapter 7, Section 8 of this Code for obtaining incentives for green buildings.

GREEN BUILDING PROGRAM CERTIFICATION: The final designation awarded to a Green Building Program (Chapter 7, Section 8) participant for satisfying all requirements associated with the program for a particular project.

GREEN BUILDING PROGRAM PARTICIPANT: Any person or entity seeking Green Building Program (Chapter 7, Section 8) certification for a particular project.

GREEN BUILDING PROJECT: Any construction associated with the creation, development, or erection of any building eligible for the Green Building Program (Chapter 7, Section 8).

GREEN BUILDING SUB-PROGRAM: Any area of construction covered by the Green Building Program (Chapter 7, Section 8).

GREEN DEVELOPMENT: A development approach that goes beyond conventional development practice by integrating the following elements: environmental responsiveness, resource efficiency, sensitivity to existing culture and community and brings these elements together through the green development approach and provides numerous environmental and economic benefits by capitalizing on the interconnections between them.

GREEN GLOBES: The U.S. commercial/institutional building rating system of the Green Building Initiative.

LEED: The Leadership in Energy and Environmental Design Rating System of the U.S. Green Building Council.

RAIN BARREL: A barrel that is used to collect and store rain water runoff, typically from rooftops via rain gutters. A rain barrel is usually outfitted with a fine mesh screen to keep out debris and insects, a spigot for accessing the stored water, overflow portals and possibly a pump.

SUSTAINABLE DESIGN: Utilizing environmentally sensitive, resource-efficient site selection, preparation, design, construction, and building operation techniques.

USGBC: An acronym for the United States Green Building Council, a non-profit organization whose mission is to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy and prosperous environment that improves the quality of life.

SECTION 3: The City Council hereby amends Chapter 7, Building Plans and Permits Approval of the Land Development Code by adding the Green Building Program as follows:

Chapter 7 BUILDING PLANS AND PERMITS APPROVAL

Sec. 1: In general.

Sec. 2: Permit application.

Sec. 3: Building permit.

Sec. 4: Inspections.

Sec. 5: Certificate of occupancy, temporary use permit and certificate of completion.

Sec. 6: Early start permits.

Sec. 7: Master files.

Sec. 8: Green Building Program

Section 8: Green Building Program.

(a) Purpose and Intent. The Green Building Program establishes procedures and incentives for the implementation of green building standards. The program is intended to encourage the incorporation of green building practices into development projects. The program may be applied to any development within the City, including redevelopment projects and government initiated development projects, submitted for City review.

(b) Terms. The following terms may be used in this section and are defined in Chapter 2 of this Code:

Conserve Florida; Dark Sky; Energy Star; FGBC; FGBC Green Local Government Designation; Florida Friendly Landscaping; GBI; Green Building; Green Building Program; Green Building Program Certification; Green Building Program Participant; Green Building Project; Green Building Sub-Program; Green Development; Green Globes; LEED; Sustainable Design; and USGBC.

(c) Government Leadership. To demonstrate the City's commitment to a green building program, the City shall comply with the green building programs established herein for all government buildings pursuant to Section 255.2575(2) Florida Statutes, and

(1) Track and report the City's monthly water and energy use;
and

(2) Publish an annual report that outlines the City's energy and water use performance for the prior year and outlines methodologies for potential reductions in the subsequent year.

(d) Scope and Applicability. This program applies to all lands private and public within the City and the City-owned wellfields. The scope of its application shall be for development approvals and building permits submitted for the voluntary green building program. Such plans and approvals shall be reviewed for compliance with the appropriate parts of the adopted City Comprehensive Plan and the Land Development Code.

(e) Green Building Program Coverage. The program shall be comprised of the following sub-programs:

- (1) New residential construction;
 - (2) Residential retrofitting/remodeling;
 - (3) New commercial/mixed-use/institutional construction; and
 - (4) Existing commercial/mixed-use/institutional retrofitting/remodeling.
- (f) Green Building Standards. In addition to the Florida Building Code's minimum standards and Volusia County's Water Wise Ordinance (No. 2004-20, section V, 12-16-04), the program shall be administered using standards developed by the Florida Green Building Coalition (the "FGBC"), the U.S. Green Building Council (the "USGBC"), the Green Building Initiative's (GBI) Green Globes rating system, or a nationally recognized, high-performance green building rating system as approved in writing by the City Manager or his designee, including but not limited to, any monetary or certification requirements.
- (1) New residential construction. New residential project participants shall obtain certification from the entity and satisfy the certification requirements associated with either:
 - (a) the current Green Home Designation Standard of the FGBC for projects with fewer than three (3) floors or Green High Rise Residential Designation Standard of FGBC for projects of three (3) floors or more;
 - (b) the current USGBC LEED for Homes program; or
 - (c) the GBI new home designation.
 - (2) Residential retrofitting/remodeling. The participant shall obtain certification from the entity and meet requirements of remodeling certification for either:
 - (a) the current Green Home Designation Standard of the FGBC for projects with fewer than three (3) floors or Green High Rise Residential Designation Standard of FGBC for projects of three (3) floors or more;
 - (b) the current LEED for Homes program requirements for "remodeling" or "existing home" of the designation; or
 - (c) the GBI.
 - (3) New commercial/mixed-use/institutional construction. The participant shall obtain certification from the entity and satisfy all of the requirements associated with:

- (a) the current Green Commercial Designation Standard of the FGBC;
 - (b) the current LEED for new construction or derived USGBC LEED rating system; or
 - (c) the Green Globes environmental assessment system for new designs.
- (4) Existing commercial/mixed-use/institutional retrofitting/remodeling. The program participant shall obtain certification from the entity and satisfy all of the requirements associated with:
- (a) the current Green Commercial Designation Standard of the FGBC;
 - (b) the current LEED for existing buildings or derived USGBC LEED rating system program; or
 - (c) the Green Globes environmental assessment system for existing designs.
- (5) Review. For the purpose of this section of the program, a program participant shall be bound by the standard designated for a particular subprogram unless the participant requests to be certified under a more current version of a designated standard and the request is approved by the jurisdiction responsible for administering the particular program.
- (g) Tiered Qualification. A project certified by the Florida Green Building Coalition may qualify for one of four levels: "Certified", "Bronze", "Silver" or "Gold". A project certified by the U.S. Green Building Council may qualify for one of four levels: "Certified", "Silver", "Gold" or "Platinum". A project certified by the Green Building Initiative may qualify for a certification of one, two, three, or four Green Globes.
- (h) Incentives. The City shall provide the following incentives to encourage the use of this program and are hereby authorized:
- (1) Fast-Track Permitting. For any voluntary program participant actively seeking a program certification, the City shall provide fast-track permitting. All such applications for fast-track permitting shall be accompanied by the appropriate green building program application form, evidence of a completed green building certification application according to the requirements of the certifying entity, and proof of payment of the application fee required to process the application for certification. A City staff member shall be designated as project manager and shall work in close

contact with the applicant and his/her agent(s). The project manager shall oversee an expedited review of the project once formal plans have been prepared and submitted to the city.

(2) Signage. The City shall allow the following bonuses to the currently allowed signage regulations:

(a) One additional temporary construction sign may be installed that notes that "This project is a City of Port Orange Green Certified project by [COMPANY NAME]." This additional temporary construction sign must meet the standard dimensional requirements for a temporary construction sign in this Code.

(b) The notation "City of Port Orange Green Certified Project" may be added on project entry monument signage. The additional sign area to include the City approved notation letters and logo shall be a maximum of four-inches high by 42-inches wide. Additional sign area on the monument signage shall be permitted for this notation only if the minimum area necessary to display the notation will cause the monument sign to exceed its maximum allowable sign area, as set forth in this Code.

(3) Marketing. For any program participant seeking program certification, the City shall provide the following marketing incentives, including but not limited to:

(a) The inclusion of program participants on a webpage dedicated to the program;

(b) The creation of promotional documents such as a program logo for a participant's advertisements or brochures; and

(c) Press releases.

(4) Green Building Award. For the purpose of publicly recognizing outstanding commitment to green building, the program shall provide for an award called the "City of Port Orange Green Building Award" to be awarded annually by the City to one program participant in each sub-program.

(i) Certification Verification. The applicant shall provide documentation to the City verifying the authenticity of a project's green certification. The program shall be subject to certification by a qualified third party who has been trained and certified as a green building certifier. For the purpose of this section of the program, "third party" means any person or entity authorized according to the requirements of the certifying entity, FGBC, USGBC, or GBI.

(j) Education and Training. The City, in conjunction with FGBC, USBGC, GBI, or other nationally recognized high-performance green building rating system, may conduct training workshops for the purpose of educating potential or current program participants about the program.

(1) The City will attempt to make available a meeting space at a government facility when available for green building programs offered by organizations that are of a general nature (not product specific). Organizations shall contact the facility's staff to make arrangements.

(2) City staff shall be encouraged to attend at least of 8 hours of green building training a year.

SECTION 4. The City Council hereby amends Chapter 16, Miscellaneous Regulations, Section 5, Special setbacks for a Rain Barrel and screen requirements for generators, fuel storage tanks and rain barrels as follows:

Chapter 16 MISCELLANEOUS REGULATIONS

- Sec. 1: Accessory uses and structures.
- Sec. 2: Home occupations.
- Sec. 3: Fences and walls.
- Sec. 4: Height.
- Sec. 5: Special setbacks.
- Sec. 6: Visual clearance.
- Sec. 7: Reserved.
- Sec. 8: Administrative variance procedure.
- Sec. 9: Personal wireless communications.

Section 5: Special setbacks.

(a) *In general.* This section provides for specific accessory structures and architectural appurtenances and features to be located within required building setback areas. Recorded easements and required landscaped buffers shall supersede the minimum dimensions permitted by this section.

(b) *Special setbacks.*

TABLE INSET:

Structure or Building Feature	Special Setback
Air conditioning unit	3.5 feet into yard (1)
Antenna, tower (2)	15 feet from property line
Antenna, dish (2), (3), (7)	10 feet from property line
Awning	3 feet into yard (1)
Balcony, open three sides	5 feet into yard (1)
Barbecue pit, residential (2)	10 feet from property line

Boat dock/boathouse	Refer to chapter 9, article III, shoreline protection regulations
Canopy, commercial (3):	
Bank drive-through	5 feet from side property line
Gasoline pump island	5 feet from side property line
Other	5 feet from side property line
Carport, residential (attached or freestanding) (3)	15 feet from rear property line 5 feet from side property line
Clothesline (5), (7)	5 feet from property line
Deck, wood (less than one foot above grade at property line) (2), (6)	5 feet from property line
Deck, wood (greater than one foot above grade at property line) (2), (3)	5 feet from property line, plus 2 feet for every 1 foot above grade
Driveway, residential A	5 feet from property line
Driveway, residential A:	
Expansion of existing drive with pervious and nonpermanent surface	2.5 feet from property line
Fireplace and chimney (2)	3 feet into yard
Fuel storage tank (aboveground) (2), (7):	
Residential zones	10 feet from property line
LP Fuel storage tank (2), (7), (8):	
Residential zones	Refer to NFPA 58 requirements, as may be amended
Generators (stationary emergency)(1), (8)	Refer to NFPA 37 requirements, as may be amended
Outdoor play equipment (7)	7.5 feet from rear property line
Overhang	3 feet into yard (1)
Patio, at grade (2)	5 feet from property line
Pool, swimming (2)	8 feet from property line (4)
Porch:	
Entry (less than 12 square feet)	3 feet into front or rear yard
Covered, open three sides	15 feet from rear property line
Rain Barrel (2)(7)(8)	3.5 feet into yard
Screen room, residential (roof, open three sides or open two sides if dwelling is not parallel to rear lot	15 feet from rear property line

line)	
Screen pool enclosure (2)	5 feet from property line
Sill, window	1 foot into yard
Storage building (2), (7):	
Residential uses (120 square feet or less)	5 feet from property line
Residential uses (121 to 250 square feet)	10 feet from property line
Nonresidential uses (250 square feet or less)	10 feet from property line
Tennis court, residential (2)	10 feet from property line
Treehouse (2)	1 foot for every 1 foot above grade, minimum 7.5 feet
Window, bay (3)	3 feet into yard (1)
Wingwalls	3 feet into yard (1)

NOTES:

- (1) In no case shall the special setback exceed 50 percent of the minimum yard dimension.
- (2) Location within required yards permitted in rear and side yards only.
- (3) Setback shall be measured from the leading vertical edge of the structure. Where the structure is movable, creating an adjustable vertical edge, the setback dimension shall be measured from the greatest possible vertical edge.
- (4) Structures elevated and attached to the top of aboveground pools shall be set back in accordance with the special setback provisions established for decks in this section.
- (5) Location within required yards permitted in rear yards only. Structures may be allowed in side yards provided they are screened from public view by an opaque fence.
- (6) Location within the side corner yard is allowed, provided that the deck is screened by an opaque fence.
- (7) Location within the required rear yard is prohibited on an atypical lot if structure is greater than four feet in height.
- (8) Structure shall be screened from rights-of-way and adjacent properties using architectural features, opaque fencing or walls, consistent with the surrounding primary structures, or landscaping of sufficient density and maturity at planting to provide opaque screening. and For generators and LP Fuel storage tanks, there shall provide be a three-foot clearance area in front of the service panel, if applicable, for maintenance. For rain barrels, screening shall not be required if structure is decorative in nature, or if it is light or dark brown, dark green, or black, or painted light or dark brown, dark green, black, or consistent with the primary structure.

SECTION 5. CONFLICTING ORDINANCES.

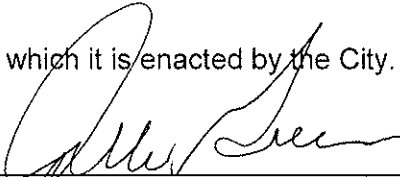
All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 6. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. EFFECTIVE DATE.

This ordinance shall take effect on the date on which it is enacted by the City.



MAYOR ALLEN GREEN

ATTEST:



Kenneth W. Parker, City Manager

Passed on first reading on the 16 day of June, 2009

Passed and adopted on second and final reading on the 28 day of July, 2009

Reviewed and Approved: 

City Attorney