



# MEMORANDUM

Office of the City Attorney

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**TO:** Mayor and City Commission

**DATE:** September 23, 2002  
FIRST READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-02-05

An ordinance of the City of Gainesville, Florida, creating a new Section in Chapter 6, consisting of sections 6-5 through 6-15 inclusive; and adding said sections to the Code of Ordinances of the City of Gainesville, relating to the "Gainesville Green Building Program;" providing for definitions; providing for the intent and purpose of the Program; providing for designation of responsibility for the administration and implementation of the Program; providing for voluntary and mandatory participation in the Program; providing for scope of the program; providing for Program standards; providing for incentives to use the Program; providing for certification; providing for training; providing for review of the Program; providing for resolution of disputes; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

The Community Development Committee has worked with Gainesville Regional Utilities, Building Inspection and Community Development staff and the Conservation Clinic of the University of Florida, Levin College of Law to develop a local "green building" program for the City of Gainesville. The program was originally known as the "SmartBuilt Program." However, based on discussions in various committee meetings, staff proposes that the program now be called simply the "Gainesville Green Building Program." The Committee has hosted a workshop for additional community input on the program. For all non-city projects, the program would be a voluntary, incentive-based program run by the City of Gainesville and certified through a third party independent of the City of Gainesville, except that the standards would be required in most cases for all newly constructed City civic and office buildings. On January 28, 2002, the City Commission heard presentations from the staff of Community Development and GRU Energy and Business Services. The City Commission authorized the City Attorney to draft and the Clerk of the commission to advertise the appropriate ordinance.

The Gainesville "Green Building Program" ordinance was drafted and subsequently revised by the Regional Utilities Committee to reflect the role that GRU would have in implementing the "Gainesville Green Building Program." The revised changes were reported to the City Commission who then referred the ordinance back to the Community Development Committee so the committee could review the revisions. On July 1, 2002, the Community Development Committee reviewed the revisions and referred the ordinance back to the Commission.

Fiscal Note. \$5,000 is available in the Building Inspection Department's budget. Subsidies of fees and any marketing to be done will require additional funding in future years. Most communities with green building programs also have annual marketing funds.

Prepared by:   
Walter Mathews, IV, Assistant City Attorney

Approved and  
Submitted by:   
Marion J. Radson, City Attorney

MJR:WM:sw

**D R A F T**

9-11-02

ORDINANCE NO. \_\_\_\_\_  
0-02-05

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**An ordinance of the City of Gainesville, Florida, creating a new Section in Chapter 6, consisting of sections 6-5 through 6-15 inclusive; and adding said sections to the Code of Ordinances of the City of Gainesville, relating to the "Gainesville Green Building Program;" providing for definitions; providing for the intent and purpose of the Program; providing for designation of responsibility for the administration and implementation of the Program; providing for voluntary and mandatory participation in the Program; providing for scope of the program; providing for Program standards; providing for incentives to use the Program; providing for certification; providing for training; providing for review of the Program; providing for resolution of disputes; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.**

20       **WHEREAS**, at least 10 days notice has been given once by publication in a newspaper of  
1 general circulation notifying the public of this proposed ordinance and of a Public Hearing in the  
22 Auditorium of City Hall in the City of Gainesville; and

23       **WHEREAS**, a Public Hearing was held pursuant to the published notice described at  
24 which hearing the parties in interest and all others had an opportunity to be and were, in fact,  
25 heard; and

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27       **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
28 **CITY OF GAINESVILLE, FLORIDA:**

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30       **Section 1.** A new Section in Chapter 6, consisting of subsections 6-5 through 6-15, inclusive, is  
31 created and added to the City of Gainesville Code of Ordinances to read as follows:

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 Sec. 6-5. Gainesville Green Building Program

2 Definitions. The following words, terms and phrases, when used in this chapter, shall have the  
3 meanings ascribed to them in this section, except where the context clearly indicates a different  
4 meaning.

- 5 (a) “City” means the City of Gainesville, Florida;
- 6 (b) “City Commission” means the City Commission of the City of Gainesville, Florida;
- 7 (c) “City-owned civic or office construction project” means City owned buildings  
8 providing a public gathering place or office facilities.
- 9 (d) “construction” means any project associated with the creation, development, or  
10 erection of any building eligible for the Program;
- 11 (e) “FGBC” means the Florida Green Building Coalition;
- 12 (f) “green building” means generally the resource efficient design, construction, and  
13 operation of buildings by employing environmentally sensible construction practices,  
14 systems, and materials;
- 15 (g) “GHDS” means the Green Home Designation Standard of the Florida Green Building  
16 Coalition;
- 17 (h) “independent” or “independent of the City” means not employed by, or acting as  
18 agents of, the City of Gainesville, Florida;
- 19 (i) “L.E.E.D. 2.0” means the Leadership in Energy and Environmental Design Rating  
20 System, Version 2.0, of the U.S. Green Building Council;
- 21 (j) “municipal” means owned by the City of Gainesville, Florida;
- 22 (k) “private” means property not owned by the City of Gainesville, Florida;
- 23 (l) “Program” means the Gainesville Green Building Program;

1 (m) "program certification" means the final designation awarded to a program participant  
2 for satisfying all requirements associated with the Program for a particular project;

3 (n) "program participant" means any person or entity seeking program certification for a  
4 particular project;

5 (o) "project" means any construction associated with the creation, development, or  
6 erection of any building eligible for the Program;

7 (p) "Project Application Form" means the form submitted to the Building Inspection  
8 Department indicating that a program participant is interested in participating in the  
9 Program for a particular project.

10 (q) "sub-program" means any area of construction covered by the Program;

11 (r) "USGBC" means the U.S. Green Building Council.

12 **Sec. 6-6. Intent and Purpose.**

13 The purpose of the Program shall be to provide the City of Gainesville community with a  
14 certification-based "green building" program, which is mandatory for City owned civic or office  
15 construction projects, and voluntary for all others. This program will promote sustainable and  
16 environmentally-friendly practices of construction and design.

17 **Sec. 6-7. Designation of Responsibility for Administration and Implementation.**

18 The Program shall be jointly administered by the Building Inspection Department and  
19 Gainesville Regional Utilities, which shall be responsible for:

20 (a) funding the Program through annual funds budgeted and appropriated by the City  
21 Commission;

1 (b) marketing the Program to the Gainesville community by any reasonably effective  
2 means, including but not limited to print advertising, press releases, television  
3 advertising, or advertising in monthly mailers;

4 (c) developing any appropriate or necessary application procedures, including but not  
5 limited to, the Program Application Form;

6 (d) providing an incentive award to any program participant who has successfully  
7 satisfied the requirements associated with that incentive; and

8 (e) resolving disputes that may arise from implementing the Program.

9 **Sec. 6-8. Program.**

10 (a) For all non-city projects, the Program shall be voluntary.

11 (b) For any city-owned civic or office construction project, the Program shall be  
12 mandatory. For the purpose of this section of the Program, “mandatory” means that  
13 the City must participate in the Program unless the City Commission determines that  
14 the cost associated with participating in the Program significantly outweighs the  
15 benefits of participating in the program to the City.

16 (c) The City Manager and the General Manager for Utilities or their designees shall  
17 develop policies and procedures to implement the Green Building Program.

18 **Sec. 6-9. Scope.**

19 The Program shall be administered on a per-unit basis. For the purpose of this section of  
20 the Program, “per-unit” means each unit built, except that any multi-family dwelling or similarly  
21 clustered structure may count as one unit, as determined by the City Manager or General  
22 Manager for Utilities or their designee(s).

23 **Sec. 6-10. Coverage.**

1 The Program shall be comprised of the following sub-programs:

2 (a) new residential construction;

3 (b) residential retrofitting/remodeling;

4 (c) new commercial/non- city construction, not including any expansions or remodeling;

5 and

6 (d) City-owned civic or office construction, not including any expansions or remodeling.

7 **Sec. 6-11. Standards.**

8 The Program shall be administered using standards developed by the City of Gainesville  
9 for certification of retrofitting/remodeling of existing residential units and standards developed  
10 by 1) the Florida Green Building Coalition and 2) the U.S. Green Building Council for  
11 certification of all other building certifications. These standards shall apply to each sub-program  
12 as follows:

13 (a) GHDS. For any program participant seeking program certification for new residential  
14 construction the program participant must satisfy all of the requirements associated with  
15 the current Green Home Designation Standard of the FGBC, including but not limited to,  
16 any monetary or certification requirements. For the purpose of this section of the  
17 Program, "current" means at the time a program participant submits a Project Application  
18 Form with the Building Inspection Department. A set of standards developed by the City  
19 of Gainesville will be used for certification of residential retrofitting/remodeling.

20 (b) L.E.E.D. 2.0. For any program participant seeking program certification for new  
21 commercial/non- city construction or new municipal civic or office construction, the  
22 program participant must satisfy all of the requirements associated with the L.E.E.D. 2.0,  
23 including but not limited to any monetary or certification requirements.

1 (c) Review. For the purpose of this section of the Program, a program participant shall  
 2 be bound by the standard designated for a particular sub-program unless the program  
 3 participant both requests to be certified under a more current version of a designated  
 4 standard and the request is approved by the City department responsible for administering  
 5 the particular program.

6 **Sec. 6-12. Incentives.**

7 The Program shall consist of incentives designed to encourage the use of the Program.

8 (a) All sub-programs. For any program participant seeking program certification for new  
 9 residential construction, residential retrofitting/remodeling, new commercial/non-city  
 10 construction, or new city owned civic or office construction, the City's General  
 11 Government shall provide the following incentives:

- 12 1. fast-track permitting for building permits;
- 13 2. reduced permitting fee, which shall equal fifty (50) % of the fee required for a  
 14 non-program participant, subject to availability of funds; if program participant is  
 15 building in a designated Enterprise Zone, then the reduced permitting fee shall be  
 16 fifty (50) % off the usual permitting fee in the Enterprise Zone.
- 17 3. final project designation by the City.

18 (b) Sub-program of retrofitting/remodeling. Any program participant meeting program  
 19 certification criteria for multi-family residential retrofitting/remodeling, shall be eligible  
 20 for the following incentives provided by GRU.

- 21 1. a cash renovation incentive, subject to availability of funds; and



1 2. a solar water heater incentive, subject to availability of funds and meeting  
2 other solar rebate program requirements.

3 (c) Marketing for all sub-programs. For any program participant seeking program  
4 certification for new residential construction, residential retrofitting/remodeling, new  
5 commercial/non-municipal construction, or new city owned civic or office construction  
6 projects, the City's General Government shall provide the following marketing  
7 incentives, including but not limited to:

8 1. the erection of building site signs designating a project under the Program;

9 2. the inclusion of program participants on a City webpage dedicated to the  
10 Program;

11 3. the creation of promotional packages such as a program logo for a program  
12 participant's advertisements or brochures;

13 4. press releases;

14 5. articles in the local news media; and

15 6. information about available financial programs, including but not limited to,  
16 those associated with Fannie Mae/Freddie Mac.

17 (d) Green Building Award. For the purpose of publicly recognizing outstanding  
18 commitment to "green building," the Program shall provide for an award called the  
19 "Green Building Award" to be awarded annually by the City's General Government to  
20 one program participant in each sub-program.

21 **Sec. 6-13. Certification.**  
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1        The Program shall be subject to certification by a qualified third party who has been  
2 trained and certified as a Green Building rater. For the purpose of this section of the Program,  
3 “third party” means any person or entity authorized by the FGBC or the USGBC to verify that a  
4 program participant has satisfied any or all of the requirements associated with the standard  
5 designated for a particular project.

6 **Sec. 6-14. Training.**

7        The Building Inspection Department in conjunction with FGBC shall conduct at least one  
8 training workshop per year for the purpose of educating potential or current program participants  
9 about the Program.

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11 **Sec. 6-15. Program review.**

12        (a) Staff review The Building Inspection Department shall initiate a review of the  
13 Program with the assistance of GRU as necessary to determine the need for changes in  
14 the program to increase its effectiveness.

15        (b) Frequency. The Program shall be subject to review one year after the effective date  
16 of this ordinance and thereafter at a frequency of no more than once per year.

17        (c) Purpose. The purpose of reviewing the Program includes but is not limited to  
18 updating program incentives, recommending program or marketing changes to the City,  
19 reviewing suggestions made by program participants, and annually awarding the Green  
20 Building Award in accordance with section 6-12(d) of the Program.

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22 **Section 2.**     It is the intention of the City Commission that the provisions of Section 1 of this  
23 Ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville,

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1 Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered  
2 in order to accomplish such intentions.

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4 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or  
5 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect  
6 the validity of the remaining portions of this ordinance.

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8 **Section 4.** All ordinances or parts of ordinances in conflict herewith are to the extent of such  
9 conflict hereby repealed.

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11 **Section 5.** This ordinance shall become effective on January 1, 2003.

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13 **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2002.

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17 \_\_\_\_\_  
18 THOMAS D. BUSSING, MAYOR

19 ATTEST:  
20 Approved as to form and legality  
21 \_\_\_\_\_  
22 KURT M. LANNON  
23 CLERK OF THE COMMISSION  
24 \_\_\_\_\_  
MARION J. RADSON, CITY ATTORNEY

25 This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2002.

26 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2002.

