

ORDINANCE NO. 380

AN ORDINANCE OF THE TOWNSHIP OF LOWER MAKEFIELD, BUCKS COUNTY, PENNSYLVANIA AMENDING PROVISIONS OF THE LOWER MAKEFIELD TOWNSHIP CODE RELATED TO ENSURING THE INCORPORATION OF SUSTAINABLE AND ENVIRONMENTALLY RESPONSIBLE GREEN BUILDING PRACTICES IN THE CONSTRUCTION, RENOVATION, OPERATIONS AND MAINTENANCE OF CERTAIN TOWNSHIP OWNED PROPERTY

WHEREAS, Section 27 of Article I of the Constitution (“Constitution”) of the Commonwealth of Pennsylvania (“Commonwealth”) provides, in part, that the people “have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment”; and

WHEREAS, on or about March 25, 1998, then-Governor of the Commonwealth, Thomas J. Ridge, citing to Section 27 of Article I of the Constitution, issued Executive Order No. 1998-1 which, in recognition of the importance of implementing environmentally sustainable practices in the Commonwealth, established the Governor’s Green Government Council for the purpose of, among other things, facilitating the incorporation of environmentally sustainable practices into the Commonwealth government planning, operations, policymaking and regulatory functions, with a goal of zero emissions; and

WHEREAS, the Board of Supervisors (“Board”) of the Township of Lower Makefield (“Township”) is empowered by the Pennsylvania Second Class Code, 53 P.S. § 65101, et seq., as amended, to make and enact ordinances, bylaws, rules and regulations that are necessary to provide for, among other things, the proper management, care and control of the Township and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens; and

WHEREAS, the Board finds that the public welfare will be served by ensuring that future development in the Township is consistent with the goal to create a community that is more environmentally responsible, economically viable and promotes the health, welfare and productivity of its residents, while also advancing sound fiscal stewardship of the Township; and

WHEREAS, the Board finds that providing for the safety, health and welfare of residents of the Township through sustainable and environmentally responsible building practices will have a substantial and direct impact on the quality of life in the Township; and

WHEREAS, the Board finds that green building measures applied to the design, construction, renovation, operation and maintenance of buildings in the Township would encourage resource conservation, reduce the waste generated by construction projects, increase energy efficiency and promote the health and productivity of residents, workers, and visitors to the Township in an environmentally responsible manner; and

WHEREAS, the Board is empowered to enact and establish certain ordinances, regulations

and restrictions related to real property owned by the Township; and

WHEREAS, the Board of the Township, after a public hearing and after a careful review of the applicable provisions of the Constitution of the Commonwealth, the laws, regulations and executive orders of the Commonwealth, and the code of ordinances of the Township (“Township Code”) has determined that the health, safety and general welfare of the residents of the Township will be served by amending the provisions of the Township Code to set forth the standards which will be required under contracts with the Township affecting new construction, certain major renovations and operations and maintenance of certain real property owned by the Township, in accordance with the provisions of this Ordinance.

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of the Township of Lower Makefield, that the Township Code of the Township of Lower Makefield be amended to include a new Chapter 88, which shall read as follows:

Section 1. **§ 88-1.** **Title.**

This Chapter shall be known as the “Lower Makefield Township Green Building Code.”

Section 2. **§ 88-2.** **Findings and Purpose.**

A. Findings.

The Board makes the following findings:

1. Green building design, practices and construction referenced herein are intended to encourage resource conservation, to reduce the waste generated by construction projects, to increase energy efficiency, and to promote the health and productivity of residents, workers, and visitors to the Township.

2. Green building design, practices, construction, operations and management conducted by the Township in the Construction of New Township Buildings, Deconstruction of Existing Township Buildings, Major Renovations of Existing Township Buildings and the Operations and Maintenance of both New Township Buildings during and after the completion of Construction and the segment(s) or portion(s) of Existing Township Buildings which undergo Major Renovations can result in significant cost savings to the Township over the lives of such Buildings.

3. In recent years, green building design, practices, construction, operational and maintenance techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects.

4. Nationally, the United States Green Building Council, developer of the Leadership in Energy and Environmental Design Green Building Rating System (“LEED® Rating System”), has become a leader in promoting and developing green building practices.

5. The LEED® Rating System has been used to design buildings in the Commonwealth of Pennsylvania.

6. To demonstrate the Township's commitment to Sustainable Development, the Township shall comply with the standards established by the LEED® Rating System, as set forth herein, for the Construction of all New Township Buildings, Deconstruction of Existing Township Buildings, Major Renovations of Existing Township Buildings and the Operations and Maintenance of both New Township Buildings during and after the completion of Construction and the segment(s) or portion(s) of Existing Township Buildings which undergo Major Renovations.

7. The Township finds that to attain the environmental and financial benefits of green building practices, it is necessary and appropriate to require all Construction of New Township Buildings, Deconstruction of Existing Township Buildings, Major Renovations to Existing Township Buildings and the Operations and Maintenance of both New Township Buildings during and after the completion of Construction and the segment(s) or portion(s) of Existing Township Buildings which undergo Major Renovations to incorporate the standards established by the LEED® Rating System.

8. As a real property owner in the Township, the Township desires to restrict future construction, renovation, operations and maintenance of certain Township-owned real property to such techniques and methods as will advance the Township's Sustainable Construction and Sustainable Development goals.

B. Purpose.

The purpose of this Chapter is to establish goals, programs and procedures that will make the Township a more sustainable community by developing and advancing green buildings practices within the community. Specifically, the Program established hereunder: aims to set forth new environmental building and operational goals for Construction of New Township Buildings, Deconstruction of Existing Township Buildings, Major Renovations of Existing Township Buildings and Operations and Maintenance of both New Township Buildings during and after the completion of Construction and the segment(s) or portion(s) of Existing Township Buildings which undergo Major Renovations; promotes economic and environmental health and welfare within the Township through the design, construction, renovation, operation, maintenance and deconstruction of Buildings, Structures and Facilities owned by the Township; provides leadership to both the private and public sectors in the arena of green building practices, including resource efficiency, water conservation, rainwater capture, energy usage and generation, recycling and landscaping design.

Section 3. **§ 88-3.** **Definitions.**

BOARD – The Township of Lower Makefield Board of Supervisors.

BUILDING – A Structure or Facility used or intended to be used for supporting or sheltering any

occupancy of people, animals or property.

CERTIFICATION – The final designation awarded to a completed Project which is eligible to be included in the Program and which satisfies all applicable requirements of the Program.

CONSTRUCTION – The process associated with the design, development, construction and erection of any Building.

CONTRACT – A contract for Construction of a New Township Building or Major Renovation of an Existing Township Building between the Township and a Contractor.

CONTRACTOR - A person who enters into a Contract with the Township.

CURRENT STANDARD – The LEED® standard in place at the time a Project, eligible to be included in the Program, is formally authorized by the Board.

DECONSTRUCTION – The process associated with the demolition, destruction or razing of an Existing Township Building.

EXISTING TOWNSHIP BUILDING – A Building owned by the Township for which Construction is completed prior to or following enactment of the Ordinance.

FACILITY – All or a portion of buildings, structures, site improvements, elements and pedestrian or vehicular routes located on sites where the buildings or structures are located.

GREEN ADVANTAGE® CERTIFIED CONTRACTOR – A contractor who has received and currently holds a Green Advantage® environmental certification for building-related practitioners, which certification demonstrates knowledge of current green building principles, materials, and techniques.

GREEN BUILDING – The resulting outcome of a design, construction or repair which focuses on increasing the efficiency of the use of resources, such as energy, water, and construction materials, while reducing building impacts on human health and the environment during the building's lifecycle, through better siting, design, construction, operation, maintenance, and removal.

GREEN BUILDING ADMINISTRATOR – The person who shall be responsible for administration and enforcement of the terms and conditions of this Chapter on any Project.

LEED® – Leadership in Energy and Environmental Design, which is developed by USGBC and is a rating system that measures how well a building or community performs across the following metrics: energy savings, water efficiency, carbon dioxide emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts, its successor rating system or such other governing standard then in effect.

LEED® AP – A LEED® accredited professional who shall advise each Project team in connection with LEED® issues, standards, and practices.

MAJOR RENOVATION – Any renovation, rebuilding, remodeling, repair, renewal or any combination of the foregoing covering a gross floor area equal to or greater than 2,500 sq. ft. of the interior space of an Existing Township Building.

NEW TOWNSHIP BUILDING – Any Building owned by the Township and having a gross area equal to or greater than 2,500 sq. ft. for which Construction is authorized by the Township after the effective date of this Chapter and for which such Construction has not been completed.

OPERATIONS AND MAINTENANCE – Building operations, maintenance, processes, systems upgrades, minor space-use changes, minor facility alterations or additions, or any combination of the foregoing.

ORDINANCE – The “Lower Makefield Township Green Building Ordinance”, dated as of November 4, 2009, as amended from time to time.

PROGRAM – The green building program established by this Chapter.

PROJECT – Any Construction, Deconstruction, Major Renovation or Operations and Maintenance project eligible for the Program.

STRUCTURE – Any man-made object composed of a combination of materials that is built or constructed with a permanent location or attached to something that has a permanent location, on or in land or water, whether or not affixed to land.

SUSTAINABLE CONSTRUCTION – The process of environmentally sensitive, resource efficient site selection, preparation, design, construction, operation and maintenance of Buildings.

SUSTAINABLE DEVELOPMENT – The use of resources that promote environmental responsibility, economic vitality and the health and welfare of the residents of the Township while preserving and enhancing these resources and benefits for future generations.

TOWNSHIP – The Township of Lower Makefield, County of Bucks, Pennsylvania.

USGBC – The United States Green Building Council, or its successor organization or entity.

Section 4. **§ 88-4.** **Adoption of Standards.**

A. A certain document, three (3) copies of which are on file with the Secretary of the Township of Lower Makefield, Bucks County, Pennsylvania, being marked and designated as the “LEED 2009 for New Construction and Major Renovations Rating System” as published by the USGBC, and as such shall be amended, supplemented, modified or updated from time to time, be and is hereby adopted as the “Green Construction and Major Renovations Regulations” of the Township of Lower Makefield, Bucks County, Pennsylvania for the regulation and control of the Construction of New Township Buildings and Major Renovations to Existing Township Buildings, each as herein provided; and each and all of the requirements, provisions, conditions and terms of

said LEED 2009 for New Construction and Major Renovations Rating System are hereby referred to, adopted and made a part hereof as if fully set forth in this Chapter, with the additions, insertions, deletions and changes, if any, as prescribed and set forth in this Chapter.

B. A certain document, three (3) copies of which are on file with the Secretary of the Township of Lower Makefield, Bucks County, Pennsylvania, being marked and designated as the "LEED 2009 for Existing Buildings: Operations & Maintenance Rating System" as published by the USGBC, and as such shall be amended, supplemented, modified or updated from time to time, be and is hereby adopted as the "Green Operations and Maintenance Regulations" of the Township of Lower Makefield, Bucks County, Pennsylvania for the regulation and control of Operations and Maintenance of New Township Buildings during and after the completion of Construction and such segment(s) or portion(s) of Existing Township Buildings which undergo Major Renovations as herein provided; and each and all of the requirements, provisions, conditions and terms of said LEED 2009 for Existing Buildings: Operations & Maintenance Rating System are hereby referred to, adopted and made a part hereof as if fully set forth in this chapter, with the additions, insertions, deletions and changes, if any, as prescribed and set forth in this chapter.

Section 5. **§ 88-5.** **Certification.**

A. The Township may, but shall not be required to, apply for and obtain official Certification under the then-Current Standard.

B. In the event that the Township determines it is not necessary, appropriate or prudent to apply for Certification, the Township, by and through its Green Building Administrator, shall verify that the documentation required to achieve, at a minimum, the LEED[®] Silver Rating, has been properly completed and processed.

Section 6. **§ 88-6.** **Applicability.**

A. The requirements set forth by this Chapter shall apply to the following:

1. Any Construction of a New Township Building; and
2. Any Deconstruction of an Existing Township Building; and
3. Any Major Renovation of an Existing Township Building; and
4. Any Operations and Maintenance of:

(i) any New Township Building during and after the completion of Construction; or

(ii) the segment(s) or portion(s) of an Existing Township Building which has/have undergone a Major Renovation.

B. To the extent that is reasonable and practicable, the practices and procedures set forth in the Green Construction and Major Renovations Regulations and the Green Operations and

Maintenance Regulations, each as described in § 88-4 of this Chapter, will apply to the following, as applicable and appropriate:

1. Any Building owned by the Township and newly constructed after the effective date of the Ordinance which has a gross area of less than 2,500 sq. ft.; and

2. Any renovation, rebuilding, reconstruction, repair, renewal or combination of the foregoing of any Building owned by the Township in which such renovation, rebuilding, reconstruction, repair, renewal or combination of the foregoing shall cover a gross floor area of less than 2,500 sq. ft.; and

3. The Operations and Maintenance of any other Building owned by the Township which is neither:

(i) a New Township Building; nor

(ii) the segment(s) or portion(s) of an Existing Township Building which has/have undergone Major Renovations.

Section 7. § 88-7. Projects; Methods of Administration and Enforcement; Green Building Administrator.

A. Projects

1. All Projects subject to § 88-6.A. of this Chapter shall be undertaken and conducted in such manner as to satisfy all requirements then sufficient under the then-Current Standards for the Project to achieve, attain and maintain, at a minimum, a “LEED[®] Silver Rating.”

2. The Township shall ensure that each Project team that designs, develops, implements, constructs, deconstructs, manages or otherwise participates in a Project shall include, among others, a LEED[®] AP. The Township may, but is not required to, ensure that each Project team includes, among others, a Green Advantage[®] Certified Contractor.

B. Administration and enforcement of this Chapter shall be undertaken in any of the following ways, as determined by the Board from time to time.

1. By designation of an employee of the Township, prior to commencement of any Project, to serve as the Green Building Administrator and to act on behalf of the Township with such responsibilities and powers as are provided by this Chapter and granted by the Township; provided that, at the discretion of the Township, such designated employee may be a then-current employee of the Township or a new employee of the Township hired for the purpose of acting as the Green Building Administrator; or

2. By designation or retention of one or more LEED[®] APs by the Township, prior to commencement of any Project, to serve as the Green Building Administrator to act on behalf of the Township with such responsibilities and powers as are provided by this Chapter and granted by the

Township for a particular Project; provided that no LEED AP[®] is required to be an employee of the Township; or

3. In the event that the Township fails to designate an employee or LEED[®] AP as the Green Building Administrator, the Township shall serve as the Green Building Administrator and shall directly administer and enforce this Chapter through its Board of Supervisors.

C. In connection with any Project, any person who shall serve as the Green Building Administrator shall be responsible for the following:

1. That all requests for bids, requests for proposals and Contracts for Construction of a New Township Building, Deconstruction, or Major Renovations shall require all contractors, subcontractors and suppliers to adhere to the terms and conditions of this Chapter.

2. Ensuring that the then-Current Standards to achieve a minimum LEED[®] Silver Rating will be properly followed and documented.

3. If Certification is pursued, to ensure the timely collection, preparation and submission of all documentation necessary and prudent in order to receive, at a minimum, the LEED[®] Silver Rating Certification.

4. Resolving disputes that may arise from implementing the Program.

5. Such other responsibilities, duties and obligations which are granted or assigned to such Green Building Administrator by the Township and are substantially related to the fulfillment of the terms and conditions of this Chapter.

Section 8. **§ 88-8.** **Subject to Other Laws.**

Except as otherwise set forth in this Chapter and as applicable solely to Buildings owned by the Township, this Chapter shall not eliminate, alter, modify, change or affect in any way the obligations of the Township or any Contractor under any laws, regulations, ordinances or other requirements, each as amended, or their respective successors, applicable to construction or buildings within the Township, including, but not limited to, 53 P.S. § 65101. et. seq. (Pennsylvania Second Class Township Code); 62 Pa.C.S. § 3901, et. seq. (Contracts for Public Works); 35 P.S. § 7210.101, et. seq. (Pennsylvania Construction Code Act); 34 Pa. Code Part XIV (Uniform Construction Code); and the Township Code, or their respective successor statutes, regulations or ordinances.

Section 9. **§ 88-9.** **Effect on Township Code.**

All other provisions of the Township Code shall remain unchanged and in full force and effect.

Section 10. **§ 88-10.** **Conflict.**

Whenever the requirements of this Chapter are in conflict with other requirements in the

laws and regulations of the United States, Commonwealth, the County of Bucks or the Township Code, the most restrictive, or those imposing the highest standards, shall govern.

Section 11. **§ 88-11. Severability; Effective Date; Applicability.**

A. The provisions of this Chapter are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Chapter. It is hereby declared to be the intent of the Board that this Chapter would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

B. This Chapter shall become effective five days after enactment of the Ordinance, but the Township shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this Chapter.

C. The requirements of this Chapter shall apply only to Projects undertaken and commenced pursuant to Contracts duly authorized, approved and executed after the effective date of the Ordinance.

Section 12. Ordinance Effect on Township Code and Conflict.

All other provisions of the Township Code, as amended, shall remain in full force and effect. All other Ordinances or provisions of the Township Code inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.

Section 13. Ordinance Severability.

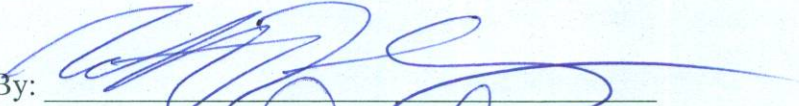
The provisions of this Ordinance are severable. If any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would have been enacted if such illegal, invalid, or unconstitutional section, clause, sentence or part of a provision had not been included herein.

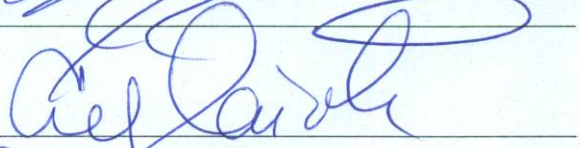
Section 14. Ordinance Effective.

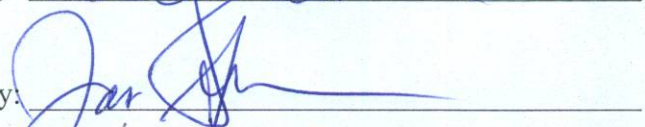
All provisions of this Ordinance shall be in full force and effect five (5) days after the approval and enactment, but the Township shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this Ordinance.

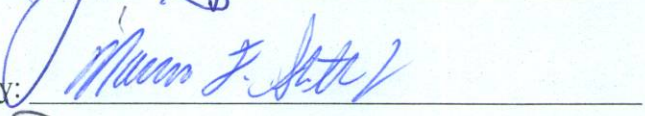
ORDAINED AND ENACTED this 4th day of November, 2009.

LOWER MAKEFIELD TOWNSHIP
BOARD OF SUPERVISORS

By: 

By: 

By: 

By: 

By: 