

302.6.2.4 Binding pledge. If this option is elected, a binding pledge shall be submitted to the *code official* in a form approved by the Office of the Attorney General. The binding pledge shall be recorded as a covenant in the land records of the District against legal title to the land in which the *project* is located and shall bind the *owner* and any successors in title to pay any fines levied under Section 302.7.1.

302.7 Enforcement. Where a *project* fails to provide pursuant to Section 302.5 satisfactory verification of the *project's* compliance with the requirements of Sections 302.3.2 through 302.3.43 within the prescribed time frame and any extensions thereof granted by the *code official* pursuant to Section 302.5.2, the *code official* is authorized to draw down on the financial security submitted as cash, irrevocable letter of credit or bond, by submission by the District of the original security documentation, provided that where a binding pledge has been provided, to enforce such pledge agreement pursuant to its terms. The amounts thus drawn down from the financial security shall be deposited in the Green Building Fund set up under the Green Building Act.

302.7.1 Financial security drawdowns. If a *project* fails to provide satisfactory verification of compliance, the drawdowns of the financial security in the form of cash, irrevocable letter of credit, or bond shall be as follows:

1. Failure to provide proof of compliance within 24 calendar months after the *project's* receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*: 100 percent drawdown; or
2. Miss up to three LEED points in the applicable LEED standard: 50 percent drawdown; or
3. Miss more than three LEED points in the applicable LEED standard: 100 percent drawdown.

302.7.2 Binding pledge fines. If a *project* fails to provide satisfactory verification of compliance within 24 calendar months after the *project's* receipt of the first certificate of occupancy for occupiable space in a *story above grade plane* and a binding pledge is used as the form of financial security, one or more fines shall be due and payable per the amounts set out in Section 302.6.1 as may be modified pursuant to Section 302.7.1.

302.8 Release of financial security. If, within 24 calendar months following the issuance of the first certificate of occupancy for occupiable space in a *story above grade plane*, the *project* fulfills the requirements of Section 302.5, the financial security shall be released by the District of Columbia and, as applicable, returned.

302.9 Remediation. If within 24 months after receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*, or within the extension periods granted to the project per Section 302.5.2, the project does not meet the requirements of Section 302.5, the project *owner* shall, at its own cost, design and renovate the *existing building* to meet or exceed the current edition of the LEED standard for Existing Buildings: Building Operations and Maintenance at the Certified Level. The *project owner* shall submit sufficient data to

the *code official* to verify compliance with this section. The *project owner* shall provide to the *code official* certification, by the *owner's registered design professional* or an *approved agency or an approved source* that the *project* complies with this section.

302.10 Additional fine. If within 48 calendar months after receipt of the first certificate of occupancy for occupiable space in a *story above grade plane*, a *project* subject to Section 302.34 fails to provide satisfactory verification in accordance with the provisions of Section 302.5 or Section 302.9, the *project owner* shall pay a monthly fine of \$0.02 per square foot of *gross floor area* of the *project* to the District of Columbia. The fine shall be a civil penalty, due and payable annually. The fine shall be in addition to any fines issued under Section 302.7 and shall not be subject to the \$3,000,000 limit under Section 302.6.1.

302.11 Appeals. Determinations made by the *code official* under Sections 302.2 through 302.10 may be appealed pursuant to Section 112 of the *Building Code*.

302.12 Exemptions. A request for an exemption from application of the Green Building Act, or the implementing regulations set forth in Section 302, to any *project* may be made to DDOE pursuant to the provisions of 20 DCMR Chapter 35 and D.C. Official Code § 6-1451.10 (2018 Repl.).

