

Local Jurisdictional Trends, Policies and Incentives

Trends

- Two Basic Regional Approaches to Green Building Implementation:
 - Incentive-Based Implementation
 - Mix of Mandatory Requirements and Incentives

Virginia

- Incentive-Based Implementation
 - Reason – Dillon’s Rule:
 - Localities possess only those powers legislatively granted to it and those powers fairly implied or indispensable to such express grants of power.
 - Rule of strict construction which invalidates local ordinances that exceed the reasonable scope granted through enabling legislation.
 - Result:
 - Localities cannot mandate green building implementation until the General Assembly legislatively enables such mandates.
 - Until then, localities must encourage implementation through policies and the various special exception processes
- On March 4, 2008 Governor Kaine signed BH 239 amending and reenacting Section 58.1-3221.2 of the Code of Virginia declaring energy efficient buildings to be a separate class of taxation from other real property. This allows localities to levy equal or lesser taxes on energy efficient buildings, as defined in the code as meeting the performance standards of LEED, Energy Star, Green Globes or Earth Craft.

Snapshot of Localities Currently

Arlington County Incentive-Based Implementation

LEED Rating Achieved	Office Bonus Density	Residential Bonus Density
Certified	.05 FAR	.10 FAR
Silver	.15 FAR	.20 FAR
Gold	.35 FAR	.40 FAR
Platinum	.45 FAR	.50 FAR
Non-Certified Building Option	\$0.045/SF of GFA to Green Building Fund	\$0.045/SF of GFA to Green Building Fund

City of Alexandria

Incentive-Based Implementation

- As of April 18, 2009, new policy for all DSP or DSUP Projects:
 - All Non-Residential: Expectation to Achieve LEED Silver Rating
 - All Residential: Expectation to Achieve LEED Certified Rating, LEED for Homes, or other equivalent
- Incentive policy for achievements beyond these levels is still being developed

Fairfax County

Incentive-Based Implementation

- Fairfax amended its Comprehensive Plan to provide “encouragement” for applications in certain sectors:
 - Ensures as a minimum LEED Certification for multifamily or nonresidential of more than 4 stories within the Tysons Corner Urban Center, Suburban Centers, Community Business Centers and Transit Station Areas as identified on the Concept Map for Future Development where zoning proposals seek at least one of the following:
 - Development in accordance with Comprehensive Plan Options;
 - Development involving a change in use from what would be allowed as a permitted use under existing zoning;
 - Development at the Overlay Level; or
 - Development at the high end of planned density/intensity ranges. For nonresidential development, consider the upper 40% of the range between by-right development potential and the maximum Plan intensity to constitute the high end of the range.
- Ensure that zoning proposals for residential development will qualify for the ENERGY STAR Qualified Homes designation, where such zoning proposals seek development at the high end of the Plan density range and where broader commitments to green building practices are not being applied.
- Promote implementation of green building practices by encouraging commitments to monetary contributions in support of the county’s environmental initiatives, with such contributions to be refunded upon demonstration of attainment of certification under the applicable LEED rating system or equivalent rating system.
- Still a site by site negotiation process, no incentives provided except helps with project approval
- Green Building Escrow penalty for 5% of building value if fail to achieve rating

Loudoun County

- Board of Supervisors of Loudoun County passed a Resolution to Join and Support the Metropolitan Council of Governments (COG) Intergovernmental Green Building Group with the intention to:
 - Establish LEED as the preferred green building rating system
 - Establish COG Regional LEED Certified standard for private commercial and high-rise residential development, which is LEED Certified plus at least 4 additional COG preferred credits
 - Amounts to a “Promote” and “Support” resolution
- Energy Task Force Action Item #4: Proposes a fast track review for administrative processes and a fee waiver for the legislative process
- No formal policy really articulated. Ad hoc negotiations on a site by site basis.

Prince William County

- No formal policy adopted yet
- Having a policy was a 2009 objective

Montgomery County, Maryland

- County Code §8-49 provides that all newly constructed or extensively modified non-residential or multi-family residential buildings that have at least 10,000 sq. feet of gross floor area must meet LEED certification standards.
- Multifamily buildings under 10,000 SF must meet Energy Star standards (or equivalent) after January 1, 2010
- The county offers a tax credit, applied over 5 or 10 years, for covered buildings that achieve gold or platinum ratings or for any other buildings that achieve silver, gold, or platinum.
 - For a covered building, the amount of credit is 25% for gold, 75% for platinum of property tax (general tax and special service area taxes) over 5 years.
 - For any other building, the credit is 25% for silver, 50% for gold, and 75% for platinum.
 - If the building or covered building is silver LEED-EB, there is a 10% property tax credit for 3 years, 25% for gold, and 50% for platinum.
 - Annual Limits: During any fiscal year the total credits granted to:
 - » All buildings under these rules must not exceed \$5 million.
 - » Buildings that achieve a silver rating or equivalent standard must not exceed \$1.5 million; and
 - » Buildings that achieve a gold rating or equivalent standard must not exceed \$2.5 million.
 - » A complete application that, if granted, would cause any of the limits to be exceeded, must be granted in the next fiscal year or years based on the order in which the Department of Finance received the application.
- Strong “encouragement” to achieve site specific environmental goals through Master and Sector Plans during development process, other County policies such as the Smart Growth Policy, and proposed revisions to the Zoning Ordinance.
- Proposed new CR Zone implements specific bonus density incentives for environmental benefits (which include achieving LEED ratings)

Prince George's County, Maryland

- Executive Order 22-2007 established a “Goes Green” Executive Steering Committee to “establish incentives for existing and new privately-owned commercial buildings and developments to achieve LEED Silver Certification and/or an equivalent utilizing Green Building principles.”
 - The committee notes in their annual report that they continue to work with the development and building community to identify potential incentives to move for consideration including:
 - a real estate tax credit incentive for developers/owners of LEED certified office buildings after or to supplement the existing state of Maryland program;
 - creation of a program for a personal property tax credit or deferral for tenants of LEED certified buildings; and
 - creation of an expedited or priority permitting process for development/construction or tenant permitting in LEED certified buildings.
- As of spring of this year, the Steering Committee was still continuing to work toward developing this policy for private development.

District of Columbia

Mandatory & Incentive-Based

- Green Building Act of 2006:
 - Phased LEED Rating Requirements for Private Projects:
 - Permitting for new construction or “substantial improvement” of a non-residential private project with 50,000 SF of GFA or more shall:
 - On or before January 1, 2009:
 - » Submit green building checklist showing green elements to be pursued
 - » Within 2 years of CO must verify elements achieved
 - Permitting for new construction or “substantial improvement” of land purchased from DC (or instrumentality of DC) shall:
 - After January 1, 2010:
 - » Verify fulfilled requirements for LEED-NC 2.2 or LEED-CS 2.0 at “Certification” level
 - Permitting for new construction or “substantial improvement” shall:
 - After January 1, 2012:
 - » For Nonresidential/Post-Secondary Educational Buildings: Verify fulfilled requirements at LEED-NC 2.2 or LEED-CS at “Certification” level
 - » For other educational facilities: Verification of LEED for Schools Certification rating

District of Columbia

Mandatory & Incentive-Based

- For “Publicly Financed” (meaning 15% or more of total project cost is publicly financed) projects of new construction and substantial improvement which are financed in Fiscal Year 2009 or later:
 - Nonresidential projects of 10,000 SF or more must meet 75 points using the Energy Star Target Finder Tool and benchmarked annually using the Energy Star Portfolio Manager benchmarking tool. (Renovated buildings are exempt from the Target Finder requirement.)
 - Nonresidential projects other than public schools must meet LEED-NC 2.2 or LEED-CS 2.0 standards at the Silver level.
 - Residential projects with 10,000 SF or more must meet Green Communities 2006 standard or a substantially equivalent standard.
 - On or before October 1, 2008, tenants with certificates of occupancy for commercial use that improve District-owned building spaces of at least 30,000 SF must meet LEED-CI 2.0 standard at the certification level.

District of Columbia

Mandatory & Incentive-Based

- Incentives Under the Act:
 - Expedited review process, so that documents that comply with the code requirements shall be approved within 30 days of submission.
 - May provide grants to help defray costs. The grants would be available from the Green Building Fund (to the extent funded from new Green Building Fees and Performance Bonds):
 - From October 1, 2009 until December 31, 2011, for commercial private buildings that meet or exceed the LEED-NC 2.2, LEED-CI 2.0, or LEED-CS 2.0 standard at the certification level.
 - From January 1, 2012 until December 31, 2015, for commercial private buildings that meet or exceed the LEED-NC 2.2, LEED-CI 2.0, or LEED-CS 2.0 standard at the silver level.
 - From October 1, 2009 until December 31, 2015, for residential private buildings that meet or exceed the LEED-NC 2.2, LEED-CS 2.0, or Green Communities 2006 standard.