



Introduced and Read March 1, 2011
Second Reading and Adoption April 5, 2011
Posted _____ to _____, 2011

CITY OF MOUNT RAINIER

Ordinance 3-2011 Drafted By: Mayor Malinda Miles

Introduced by: Mayor Miles, and Councilmembers Tarlau, Updike, Knedler,
and Thompson

An Ordinance Establishing Mount Rainier's Green Initiative

Mount Rainier is a small urban municipality located north of the District of Columbia, and is in Prince George's County, Maryland. It has a history of being on the cutting edge of the green movement. In the late 1980s, the City introduced recycling, and currently a vast majority of its home owners recycle. Mount Rainier showed its commitment to the environment by becoming a "Tree City USA," and maintaining that designation for more than 20 years. In the early 1990s Mount Rainier built one of the first energy efficient municipal centers in the County. In the late 90s, the City built the first green and LEED-certified police station in the country.

The Mayor and Council are committed to planning for a green and sustainable Mount Rainier. For the Mayor and Council, sustainability is not just about energy efficiency, green building or land preservation, it is a way of life, and one that is inclusive of all of our residents. By going green and establishing Mount Rainier as a sustainable community, we are paving the way to ensure that our environment stays healthy, that our trees are preserved, that we contribute to saving our water resources and ensure a healthy tomorrow for all our residents. This ordinance is the foundation for guiding the City's current and future green sustainable initiatives, green infrastructure and sustainability efforts.

WHERE AS, the City of Mount Rainier believes that there should be an assessment of its current environmental resources; and

WHERE AS, the City of Mount Rainier's long-range plan is to develop and implement sound policies and procedures for going green, conserving our natural streams, land and other resources, and building and retaining the City's infrastructure through green initiatives that are realistic and cost effective; and

WHERE AS, the City of Mount Rainier envisions a clean and sustainable environment where key natural resources (including native plants, open parks and spaces) are an important part of the City's green initiative, and are protected as part of the City's infrastructure; and

WHERE AS, the City of Mount Rainier seeks to plan and promote transportation projects within and outside of Mount Rainier that meet mobility needs of our residents, but which also avoid the most severe environmental impacts on our environment and our residents; and

WHERE AS, the City of Mount Rainier seeks to work with the public and community leaders to articulate a future vision, and develop specific municipal tools that the community can use to achieve its sustainable green initiative and vision.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Mount Rainer will:

- A. Continue to ask its residents to recycle, but will expand its recycling efforts to include schools, churches, apartments, and commercial businesses that deliver goods and services to our residents.
- B. Promote "green streets" as a strategy for transforming the City's traditional transportation infrastructure into a green infrastructure.
- C. Plant and treat trees as an integral part of our community's infrastructure, and consider trees and/or tree planting in our plans, ordinances and capital improvement projects.
- D. Preserve its open space, and continue to focus on development around concentrated main streets, transportation areas, and mixed-use town centers.
- E. Coordinate events, activities, and distribute information to residents and those seeking to live, build, and/or do business in Mount Rainier relative to Mount Rainier's green initiative goals.

The more informed our citizenry, the better the participation. Residents are critical to the success of the City's green initiative, and must be afforded the information necessary to participate effectively.

Therefore, this information will be posted online in a regularly-updated inventory to promote partnerships and the sharing of ideas related to the greening of Mount Rainier; featured in our newsletter, the

Message; carried on cable and FIOS channels; and distributed at all City sponsored events when feasible.

- F. Encourage alternative forms of transportation that will help to conserve energy and support Mount Rainier's going green initiative, and will encourage residents to walk, use bicycles, and form carpooling groups.
- G. Conduct a planning study that will help to set municipal priorities for investments in sustainable modes of transportation by locating and improving common walking and bike routes as well as placing bike racks around the City's commercial establishments and public buildings in order to facilitate the use of local businesses and recreation facilities.

The Mayor and Council recognize that the majority of bicycling and walking trips are local in nature. The City will focus on these modes of transportation to enhance local mobility on bike and on foot and promote projects that enhance people's ability to choose cycling and walking for trips to the Metro, shopping and schools in our neighborhoods.

- H. Create a more environmentally friendly workplace for its employees as part of its going green project.

This will take planning, funding and time to achieve the maximum results. Therefore Mayor and Council will use a smart approach to accomplish this objective, i.e., as the City revitalizes its buildings, purchases cars and equipment, and makes improvements, it will strive to use materials and services that are in keeping with this ordinance's objectives. For example when budgeting for police cars, the City will strive to purchase and place into use at least one alternative fuel or hybrid vehicle; purchase recycled paper; install energy efficient lighting, etc.

Creating a sustainable office environment will reduce the City's overhead and operating expenses, conserve resources, and increase awareness of the environmental impacts of our day-to-day operations on our environment. The savings will be realized over time.

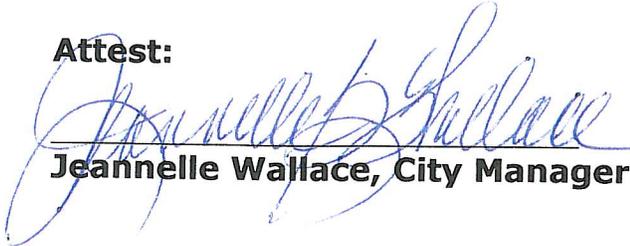
NOW BE IT FURTHER ORDAINED, that the Mayor and Council shall have responsibility for oversight and implementation of this ordinance and will work closely with the Environmental Protection Board to insure adherence to

best practices in this area, and provide assistance to City staff in its implementation.

This ordinance was read and passed by the Mayor and Council on _____, 2011.

BY ORDER: I hereby certify that Ordinance Number _____ is true and correct and duly adopted by the City Council of Mount Rainier, Maryland.

Attest:


Jeannelle Wallace, City Manager


Malinda Miles, Mayor


Jimmy Tarlau, Councilmember


William Updike, Councilmember


Bryan Knedler, Councilmember


Ivy R. Thompson Councilmember

Mount Rainier's Plan for Going Green
(A Work in Progress)
DRAFT

Leadership + Education

Objective: Raise awareness of sustainability efforts and environmental issues within the City and community at large.

- 1) Designate the Environmental Protection Board as the Green Working Committee for the City, and assist the City in becoming a Leadership in Energy and Environmental Design (LEED) recognized City.
- 2) Assess Mount Rainier's estimated baseline carbon footprint. (an appropriate tool to determine Mount Rainier's carbon footprint), set target footprint level.
- 3) Promote sustainability initiative and forthcoming changes, strategies, and objectives within Mount Rainier on a regular basis to raise consciousness and add transparency of the initiative.
- 4) Select a chair and co-chair to serve as sustainability officers for the City.
- 5) Host regular green awareness events in Mount Rainier.
- 6) Prepare an annual report of progress and distribute to Mayor and Council and to residents.
- 7) Work to ensure that all City buildings become LEED-certified building and/or certified as LEED Commercial Interiors.
- 8) Post and maintain Mount Rainier's Green Initiative Commitment Self-Certification Report (this checklist) on our website, and other external and internal media.

Comment [G1]: There are other green rating systems out there. I would try not to specify LEED.

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Comment [G2]: How? How often?

Comment [G3]: Define?

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Comment [J4]: Becoming LEED certified is expensive, you may not want to require certification, but rather LEED standards.

Comment [G5]: Again, LEED not crucial, consider Energy Star, NAHB.

Comment [G6]: Consider Energy Performance Contract
See HUD website:
<http://www.hud.gov/offices/pih/programs/ph/phecc/eperformance.cfm>

Comment [G7]: More suggestions might result from audit process

Energy

Objective: Reduce energy use at facility.

- 1) Conduct an informal internal energy audit of our facilities (assess and implement simple measures to reduce energy consumption).
- 2) Maintain (and adhere to) a written policy that ensures blinds and curtains are closed during peak summer period (white reflects) to reduce A/C load.
- 3) Institute and/or maintain a written maintenance program: Inspect permanent filters every three months and clean permanent filters with mild detergents when necessary (change replaceable filters every three months); check the entire system for coolant and air leaks, clogs, and obstructions of air intake and vents; keep the condenser coils free of dust and lint; keep the evaporator coils free of excessive frost.
- 4) Implement weatherizing policy and measures (i.e. weather stripping, caulking, sealing unused space, not heating/cooling unused space).
- 5) If appropriate, apply window film to reduce solar heat gain.
- 6) Maintain (and adhere to) a written policy to turn off office lights when leaving for more than 15 minutes and post reminders until motion lights are installed.
- 7) Replace incandescent bulbs with compact fluorescent or LED lights. Use halogen lamps only for low wattage task and spot lighting.
- 8) Arrange your workspaces to take advantage of areas with natural sunlight, and design for increased natural lighting when remodeling (workspace within 30' of natural light).

- 9) Use "task" lighting with energy efficient bulbs where extra light is needed, rather than over-lighting an entire area with ambient light.
- 10) Replace standard fluorescent lights with low- or no-mercury fluorescent lights that are higher efficiency.
- 11) Disconnect unused ballasts in de-lamped fixtures and replace burned out lamps to avoid ballast damage.
- 12) Clean lighting fixtures, diffusers and lamps so that they are lighting as effectively as possible (dirt can reduce lighting efficiency by up to 50%).
- 13) Replace magnetic ballasts with electronic ballasts and install T-8 or T-5 lamps.
- 14) Increase natural lighting through installing sidelights or lowering cubicle and non-structural walls that block lighting to interior workstations.
- 15) Set all office equipment to go to standby mode when not in use (e.g. energy saver buttons on copiers). Turn off equipment when not in use for long periods of time (end of workday).
- 16) Establish purchasing program to buy only EPEAT certified computers and LED monitors that consume approximately 1/3 less energy than larger CRT monitors.
- 17) Establish purchasing policy to only purchase Energy Star or energy efficient equipment and appliances.
- 18) Set refrigerator temperature between 38°F and 41°F and freezer between 10°F and 20°F.
- 19) Install "instant-on" hot water in new or renovated structures.

Operations + Procurement

Objective: Engage in purchasing practices that minimize environmental impacts within business and throughout the supply chain.

16) Use local businesses for products and services whenever possible. Use local vendors who also source their products locally. This should apply to any municipal procurement; including office supplies, office equipment and materials, caterers, etc.

15) Choose vendors who can articulate sustainable practices.

18) When possible, arrange to order environmentally friendly items from vendors who make deliveries for several items.

Comment [j8]: Some municipalities go as far as requiring recycled product purchasing thresholds for the local gov t, often also requiring vendors to demonstrate source reduction in the RFP process

Comment [19]: Moved these higher in the list. Engaging those with purchasing authority in the discussion about "where does our equipment, supplies, etc. come from and is it environmentally friendly" is a critical first step. Once you ask the question, people are more likely to think about and search out these products. SMC is working on some procurement resources and the MD legislature has established a MD Green Purchasing Committee to inform and assist state agencies with green purchasing (see attached).

- 1) Buy toilet paper, tissues and paper towels that have 35%-100% post-consumer recycled content.
- 2) Implement a "just-in-time" purchasing policy (inventory reduction purchasing) and a "first-in/first-out" chemical usage policy (using older chemicals first) to use old material first.
- 3) Replace aerosols with non-aerosol alternatives (such as pump sprays for fresheners and cleaners).
- 4) Buy low or no volatile organic compounds (VOC) paints, coatings, adhesives, and sealants for renovation projects.
- 5) When replacing furniture, phase in low-VOC furniture.
- 6) Use green cleaning techniques and products, including low-toxic, biodegradable cleaners, and properly dispose of expired materials.

7) When renovating, use eco-friendly flooring, such as Carpet and Rug Institute (CRI) launched Green Label Plus to identify carpets that are tested by an independent, certified laboratory and meet stringent criteria for low chemical emissions, (e.g., CRI Green Label carpet pads, and Floorscore certified flooring (bamboo, natural linoleum, cork, etc.).

8) Institute a written policy regarding the rental of office equipment where appropriate. Businesses that lease equipment tend to use more durable items, salvage reusable parts, refurbish, recycle, or donate used equipment that can no longer be leased.

9) Purchase copy, computer or fax paper, letterhead, envelopes and business cards with at least 35% post consumer recycled content.

10) Purchase boxes and bags for retail use or shipping made from recycled paper or plastic (or reuse old boxes and bags).

11) Where possible, use non-toxic water-based markers rather than toxic permanent ink markers/pens.

12) For shipping items, use shredded paper or corn starch pellets for packaging needs instead of purchasing styrofoam pellets, bubble wrap or other packaging materials; also reuse, in your own packaging, packaging materials received.

13) When purchasing new printers, buy ones with duplex capability.

14) Maintain (and adhere to) a sustainable purchasing policy (Energy Star equipment and appliances; recycled content, biodegradable paper products; energy efficient, low-mercury lamps; plastic products; food products; building/renovation materials). Consider and favor products that are recyclable at the end of their useful life.

17) When purchasing garbage pails or garbage bags, find ones that use recycled plastic (e.g., high molecular weight – high density polyethylene (HDPE) trash liner bags instead of low density polyethylene (LDPE) or linear low density polyethylene (LLDPE).

19) In order to improve indoor air quality, ban smoking from interior spaces and designate exterior smoking areas at least 25 feet from building entries, outdoor air intakes and operable windows, with cigarette butt disposal units.

20) Serve locally-grown and/or organic food at workplace events when possible.

Deleted: 15) Choose vendors who can articulate sustainable practices.¶
16) Use local businesses for products and services whenever possible.¶

Deleted: 18) When possible, arrange to order environmentally friendly items from vendors who make deliveries for several items.¶

Transportation

Objective: Reduce carbon footprint of employee travel by encouraging alternative commuting and fuel economy.

1) Encourage commuter alternatives by informing employees, customers and others who visit your office about various transportation options (post bicycle route maps, transit schedules, commuter ride sign-ups, etc. in a visible area for employees).

2) Offer secure areas for bicycle storage for both employees and customers.

3) Offer lockers and showers for employees who walk, jog or bicycle to work.

4) Institute flextime and work-at-home days for employees who commute by car when feasible.

5) Provide commuter/shuttle service to and from metro, train, and/or light rail stops.

6) Have written policy to use hybrid cars during business travel when it is necessary to rent a car.

7) Use teleconferencing and webinars to cut down on the amount of business travel.

Consider free or low-priced technology, such as Skype, Google Chat, etc.

8) Carefully plan delivery routes and errands to eliminate unnecessary trips.

Comment [G10]: repeats

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Deleted: locker rentals and showers, if possible.

- 9) Purchase hybrid or other alternative fuel vehicles in City's fleet.
- 10) Support carsharing programs, such as Zipcar, and consider using carshare for part of municipal fleet
- 11) Support additions and improvements to adjacent and nearby bicycle/pedestrian infrastructure, including crosswalks, safe sidewalks and trails
- 12) Consider seeking funding to participate in Capital Bikeshare program

Waste Reduction + Recycling

Objective: Reduce volume of waste generated by business, recycle as much as possible.

- 1) Recycle food and beverage containers (all glass, #1 & #2 plastic and aluminum containers).
- 2) Supply water through a fountain, cooler or tap; eliminate bottled water.
- 3) Eliminate disposables (plastic utensils, coffee stirrers, paper towels) by using permanent ware (mugs, dishes, utensils, towels/rags, coffee filters, etc.).
- 4) Recycle (or reuse) all paper products that recycling vendors will accept.
- 5) Maintain (and adhere to) a written policy of "green printing practices," including duplex printing, draft printing, and utilization of scrap paper.
- 6) If your facility still has an old printer without duplex capability, use only for single page documents and ensure multipage documents are printed on duplex printer.
- 7) Encourage employees to read, highlight and comment on documents electronically whenever possible.
- 8) Keep a stack of previously used paper near printers. Use it for drafts, scratch paper or internal memos or designate a draft tray on printers with multiple trays.
- 9) Recycle Tyvek (brand name for high tech polyethylene) envelopes.
- 10) Write to or call senders requesting removal from mailing list to reduce junk mail.
- 11) Return labels from duplicate mailings and subscriptions requesting all but one be removed.
- 12) Write "refused" on unwanted first class mail and return to sender.
- 13) Purge mailing lists to eliminate duplication.
- 14) Institute a policy that switches to electronic forms, eliminate excess forms and make paper forms more efficient.
- 15) Where possible, reuse envelopes as both send and return envelopes: cover up old addresses and postage, affix new and/or use two way or 'send and return' envelopes.
- 16) Eliminate fax cover sheets by using "sticky" fax directory notes or use software that allows you to send and receive faxes directly from your computer without printing.
- 17) Institute written policy encouraging the use of the size reduction feature in photocopying (e.g. print two pages of book on one page).
- 18) Minimize misprints by posting a diagram showing how to load special paper, such as letterhead.
- 19) Recycle ink and toner cartridges, cell phones and dry cell batteries.
- 20) Make it easy for employees to recycle by placing clearly marked collection bins in convenient locations. Post signs and/or train employees regarding recycling policies and procedures in the office.
- 21) Donate or exchange unwanted but usable items (furniture, supplies, electronics, scrap materials, computer disks, etc.) to schools, churches, hospitals, libraries, non-

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profit organizations, museums, teacher resource organizations, etc.; or enroll in a waste exchange program.

22) If many employees each have their own inkjet printer, consider putting fewer printers on a network, so that employees share, reducing the demand for toner cartridges

Water Management

Objective: Reduce business's aggregate water use and discharge of pollutants into storm water runoff.

- 1) If you need to use water to clean concrete or asphalt surfaces, use "dry sweeping," water efficient "spray brooms," or low flow (<3 gpm – gallons per minute) spray nozzles with automatic shut-off rather than a garden hose.
- 2) Post signs in restrooms and kitchen areas encouraging water conservation. Install low-flow appliances with automatic capabilities.
- 3) Regularly check for and repair all leaks in your facility (toilet leaks can be detected in tank toilets with leak detecting tablets). Train your staff to monitor and respond immediately to leaking equipment.
- 4) Understand your water bill and review it monthly for indications of leaks, spikes or other problems.
- 5) Use pervious materials for paving, repaving and other work on streets, sidewalks, and surface parking lots (low or occasional use).

Comment [j11]: There are also recapture opportunities like rain gardens, or cisterns that could then be used for landscaping and other non potable purposes

Other Community Activities

Objective: Encourage community to grow community/victory gardens as part of the City's overall sustainability efforts.

- 1) Encourage mulching of leaves and other yard waste by collecting such materials and creating a mulching site within the City
- 2) Make mulch available for residents to use in gardening and other beautification efforts
- 3) Designate areas for community gardens, and encourage residents to have small gardens in their yards.
- 4) Establish a Community Garden Committee to provide oversight and maintenance of the community garden.
- 5) Ensure that a portion of the garden will be for children to learn how things grow, and how everything we do affects our earth.
- 6) Set up composting areas within the community gardens, with instructions for composting

Local Government Laws for Green Building in Maryland

This portion of the web site is a compilation of local government mandates and voluntary incentives for Green building within the state of Maryland.

Three Schemes Of Government Regulation

Governments across the country are enacting Green building laws that seek to articulate environmental solutions and energy policy, including laws that respond to the overwhelming public sentiment that government has not done enough to protect the planet. This new body of law follows three distinct regulatory schemes. The first regulatory scheme is for a government to require that its government-owned buildings be constructed to an articulated Green building standard. A second, and widely admired, regulatory scheme is when a government offers voluntary incentives to private developers, whether as tax breaks, direct grants or loans, or advantages in processing approvals for Green buildings. And third, a modest but now growing number of local governments are mandating by law that all new construction or major renovations, which exceed a certain square footage, whether public or private, must be constructed to a Green building standard.

This compilation responds to and addresses the second two of those regulatory schemes for the identified local jurisdictions within Maryland (and not for the federal or state governments) impacting privately owned non-residential building.

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By Way Of Background

This information is dated August 5, 2009 and all information is believed accurate as of that date. However, be aware that this is an emergent and fast evolving field. Of the more than 165 local governments in Maryland less than a dozen have enacted green building laws.

Also note, all references in this county by county compilation to LEED® are to the U.S. Green Building Council's Leadership In Energy and Environmental Design, not-for-profit Green building certification program.

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Anne Arundel County

Anne Arundel County does not have a mandatory green building law. And the County does not offer any local government incentives for green building.

However, within the County, the City of Annapolis does have a mandatory green building law enacted March 10, 2008, and phased in and effective for applicable buildings July 1, 2009. That law found in the Code of the City of Annapolis, Chapter 17.14, is applicable to all building permit applications for new construction of or major modifications (i.e., and increase of greater than 50% of the gross floor area) to commercial or mixed use buildings of greater than 7,500 square feet of gross floor area; and all applications related to a 5 lot or more subdivision or single family homes in excess of 3,250 square feet. That private building must achieve “a certified level rating in the appropriate LEED rating system, as certified by the ..” U.S. Green Building Council or “as verified by the Director” of the Department of neighborhood and Environmental Programs or utilizing “energy and design standards that the Director identifies as equivalent ..”

The City requires compliance, including presentation of a LEED scorecard, at the time of application for site design review and as a condition of any building permit issued, and “shall not issue a final certificate of use and occupancy for any construction .. unless it finds that the building has achieved the applicable standard.”

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Baltimore City

Baltimore City has a mandatory green building law. The City does not, however, offer local government incentives for green building.

Baltimore City Building Code, Chapter 37 establishes the City’s green building program throughout the building, fire and related codes. All newly constructed, extensively modified non-residential, and specific multi-family residential buildings that have or will have at least 10,000 square feet of gross floor area, “for which a building permit application is filed on or after July 1, 2009 must achieve a silver-level rating in the appropriate LEED rating system, as certified by the Green Building Council”. Extensively modified is a structural modification that alters more than 50% of the building’s gross floor area. Multi-family residential covered buildings contain 5 or more dwelling units and are taller than 3 stories; or are mixed use buildings that contain a residential component and are taller than 3 stories. Significantly, the City is yet to promulgate the regulations required by City Council Bill 07-0602, however, the Housing Department staff is at this time, in anticipation of the regulations, requiring a project be “LEED certifiable” and not LEED certified.

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Baltimore County

Baltimore County does not have a mandatory green building law. The County does offer local government incentives for green building.

Baltimore County Code, section 11-2-203.1, authorizes an incentive of a tax credit against county real property taxes assessed on a commercial green building in the U.S. Green Building

Council's LEED-NC (New Construction) rating system, as follows, LEED Certified Silver 50%, LEED Certified Gold 60%, and LEED Certified Platinum 80%. And the duration of the credit is 5 years. For LEED-EB (Existing Buildings), Baltimore County provides a lesser tax credit as a percentage of the county property tax assessed on the building as follows: LEED Certified Silver 10%, LEED Certified Gold 25%, and LEED Certified Platinum 50%. The duration of the credit is 5 years. For LEED-CS (Core & Shell), Baltimore County provides a reduced tax credit as a percentage of the total county property tax assessed on the building as follows: LEED Certified Silver 40%, LEED Certified Gold 50%, and LEED Certified Platinum 70%, for 5 years.

In addition to this tax credit, County Code section 32-4-204, exempts from the County's architectural design review, commercial building, if it is part of a development plan located within the Towson Commercial Revitalization District and achieves at least a LEED Certified Silver rating. This is perceived to be a significant benefit within this geographically modest area where all development approvals are hard fought.

While beyond the scope of this writing, County Code section 11-2-203.2, provides that a homeowner may receive a property tax credit against County real property taxes assessed on a house that is certified in the LEED for Homes Rating System. The amount of the tax credit is a percentage of the total County property tax assessed on the high performance home as follows: LEED Certified Silver 40%, LEED Certified Gold 60%, and LEED Certified Platinum 100%. The duration of the tax credit is 3 years.

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Carroll County

Carroll County does not have a mandatory green building law. The County offers local government incentives for green building.

Effective May 5, 2009, Carroll County may grant a credit against the county real property tax imposed on nonresidential property on which a person installs environmentally friendly or "green" technologies. Section 209 of the Code of Public Local Laws as amended by Ordinance 09-03 further defines sustainable building as "building or construction which integrates building materials and methods that promote environmental quality, economic vitality, and social benefit through design, construction and operation of the building environment; merging sound environmentally responsible practices into one discipline that considers the environmental, economic and social effects of a building or project as a whole; encompassing efficient management of energy and protection of health and indoor environmental quality, reinforcement of natural systems, and the integration of design methods."

The real property tax credit is for "a property that is principally used for business, commercial or industrial purposes." A tax credit may only be granted for improvements made to real property "where the improvements meet the minimum LEED Rating of Silver or the minimum Green Globes Rating of two Green Globes or a County recognized or adopted equivalent standard .." A 25% tax credit is available for LEED Silver or equivalent; a 50% tax credit is available for

http://usgbcmd.org/?page_id=15#

LEED Gold or equivalent; and a 75% tax credit is available for LEED Platinum or equivalent, for a period of 5 years.

Carroll County also permits the installation of small wind turbines to generate energy. The amendment to the zoning regulations, section 223 of the Code, makes wind energy systems with a generating capacity of not more than 50 kilowatts, an accessory use in all zones and permits no more than two "small wind energy systems" each consisting of a single tower not to exceed 150 feet in height. The 2009 enactment contains a minimum of restrictions, including simply that a tower be "set back a distance equal to its total height plus an additional 20 feet" from property lines and overhead utilities.

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Frederick County

Frederick County does not have a mandatory green building law nor does the County offer any local government incentives for green building.

That said, effective May 8, 2009, Frederick County provides that a solar collection system, not to exceed in size the greater of $\frac{1}{2}$ of the footprint of the principal structure or 600 feet, is allowed as an accessory use in all zoning districts, by adding section 1-19-8.205.5 to the Frederick County Code. A limited wind energy system, having a rated nameplate capacity of 50 kW or less and being a total height of 150 feet or less, is also permitted as an accessory use in all zones, by adding section 1-19-8.205.6 to the Code.

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Harford County

Harford County does not have a mandatory green building law. The County does offer a local government incentive for green building.

Specifically, as authorized in Harford County Code section 123-44, the County offers a real property tax credit for qualifying energy conservation devices on residential or nonresidential buildings or other structures that use solar or geothermal devices for heating, cooling, or generating electricity for on-site consumption. The credit amount is equal to one year of total real property taxes or \$2,500, whichever is less, so this is a very modest incentive for commercial buildings.

Of note, Harford County, did by Bill No. 09-19, effective June 17, 2009 add certain definitions to the zoning regulations section 267-4, such that Small Wind Energy Systems are a permitted accessory use in all zoning districts, subject only to modest conditions (i.e., the most burdensome of which may be that a tower for a wind turbine must be set back a distance to the tower height plus 40 feet).

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Howard County

Howard County has a mandatory green building law and offers local government incentives for green building.

Howard County mandates, through section 3.1000 et seq, of the Howard County Code that most “New Construction” (which definition includes the renovation of an existing building that changes the gross floor area) that have 50,000 square feet or more of gross floor area, must “achieve a certification from the Green Building Council of certified – level rating or higher in one of the following LEED rating systems: New Construction version 2.2; or Core and Shell version 2.0” .. or comply with standards determined equivalent by the Director of the Department Inspections, Licenses and Permits. The Code creates a process, commencing with a site development plan application that must contain documentation that the LEED project has been registered with the U.S. Green Building Council. A waiver and fee in lieu process was enacted, but never implemented by the required County Council resolution? The County is soon to introduce ‘housekeeping’ legislation that will clean up the enactment, including by way of example that LEED v 3 has replaced the mandated v 2.2.

As an incentive to encourage green buildings that exceed Howard County minimum LEED certification requirements, the County also offers real property tax credits for green buildings. County Code section 20.130 provides: Any new construction (using LEED-NC v 2.2 or LEED-CS v 2) can receive a 5-year real property property tax credit. There is a 25% tax credit for LEED Silver, 50% for LEED Gold, and 75% for LEED Platinum.

Any existing building (using LEED-EB v 2) can receive a 3-year property tax credit. There is a 10% tax credit for LEED Silver, 25% for LEED Gold, and 50% for LEED Platinum. A building can receive the 3-year tax credit after the completion of the 5-year credit, if the building is re-commissioned and receives a LEED-EB certification.

Howard County also offers a 3-year property tax credit for an energy conservation device (not limited to a solar or geothermal device) that receives a LEED credit and is used in a LEED certified structure, if that structure is not eligible to receive County’s green building property tax credits. This County tax credit ranges from 14% (for LEED certified) to 20% for LEED Platinum) of the eligible cost, based on the LEED certification of the building. Section 20.119 of the County Code details the terms of this credit.

Howard County also has an incentive that advantages “Green Neighborhoods” by amending section 16.1102 of the County Code and the related County Adequate Public Facilities regulations to allow modifications to the General Plan projections for housing allocations. The law allows shifting up to 100 housing allocations per year from the Rural West to a new category of “green neighborhood” housing allocations, utilizing criteria that are a variation of the LEED Neighborhood Design rating system. While the ‘neighborhood’ may have non-residential components, it is unlikely this incentive is material in this compilation.

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Montgomery County

Montgomery County has mandatory green building laws and the County offers incentives for green building.

Any “covered building must achieve a certified level in the appropriate LEED rating system” as required by Montgomery County Code section 8-49. A covered building means a newly constructed building or extensively modified (non-residential) building or multi-family residential or mixed use building that is taller than 4 stories that has or will have at least 10,000 square feet. Extensively modified refers to any structural modification which alters more than 50% of the gross floor area. The law includes additions that would increase building’s land coverage by at least 100% and gross floor area by at least 10,000 square feet. Proof of compliance is required with a building permit application and a final use and occupancy certificate will not be issued until LEED certification.

Montgomery County offers a real property tax credit in varying amount (10-75%) and term (3-5 years) based on the type project and the rating it achieves as described in County Code section 52-18Q. For a covered building, already required by County law to meet the LEED certified standard, the amount of the credit is: 25% of the property tax owed on the building for 5 years, if the building achieves a gold rating for LEED-NC or LEED-CS; and, 75% of the property tax if that building achieves a platinum rating; or 10% of the property tax owed on the building for 3 years, if the existing building achieves a gold rating for LEED-EB; and, 50% of the property tax if that existing building achieves a platinum rating.

For other buildings (not covered by the mandatory LEED standard), the amount of the credit is: 25% of the property tax owed on the building for 5 years, if the building achieves a silver rating for LEED-NC or LEED-CS; 50% of the property tax if that building achieves a gold rating; and, 75% of the property tax if that building achieves a platinum rating; or for existing buildings, 10% of the property tax owed on the building for 3 years, if the existing building achieves a silver rating for LEED-EB; 25% of the property tax owed on the building for 3 years, if the existing building achieves a gold rating; and, 50% of the property tax if that existing building achieves platinum.

Montgomery County also offers an incentive that is a rebate on the purchase of clean energy from approved suppliers. The Clean Energy Rewards program, as authorized by County Code section 18A-11, is available to businesses that can receive a credit of 0.5 cents per kWh (\$0.005/kWh) of clean energy used for purchases of up to 400,000 kWh per year for non-residential customers (an admittedly modest dollar total amount). In order to be eligible for a reward, participants must make a minimum clean energy purchase commitment of at least 50% of their annual electricity use. The incentives are distributed by suppliers and will appear as a credit on consumer’s monthly bills. The County’s Department of Environmental Protection administers the program.

The City of Gaithersburg, within Montgomery County, as of October 6, 2008, added section 3110 entitled “Green Building requirements” to the adopted International Building Code (2003), affecting commercial, high rise residential and multi-family building of more than 4 stories. Commercial and high rise residential structures between 10,000 and 99,999 square feet must be LEED certified. Buildings 100,000 square feet or larger must be LEED silver certified. Multi-family building of 4 stories or less must comply with the City’s 2007 residential green building requirements.

The City of Rockville, within Montgomery County, is currently revising Chapter 5 of the City Code, “Buildings and Building Regulations” including to add several “green” provisions, such as increased energy and water efficiency requirements, as well as adding a completely new article, Article XIV, titled “Green Building Regulations.” A public hearing for this ordinance was held on July 13, 2009 with a possible vote after September 14, 2009.

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Prince George’s County

Prince George’s County does not have a mandatory green building law and the County does not offer any local government incentives for green building.

There are proposals that Prince George’s County offer incentives in the future. In the 2009 Maryland General Assembly session, the legislature enacted SB 403/ HB 959, which are enabling legislation authorizing Prince George’s County to grant, by law, a property tax credit for real or personal property owned or leased by a certified green business. A green business is defined as a business that is certified by Prince George’s County and primarily (1) distributes, manufactures, markets, or sells green products; (2) provides services relating to green products; or (3) provides research and development relating to green products. Green products are products that are energy or water efficient, use healthy, nontoxic materials, are made from recycled or renewable resources, or make current products more energy efficient. The county may establish eligibility and certification criteria; the amount and duration of the credit; regulations and procedures for the application, certification, and uniform processing of requests for the tax credit; and any other provision necessary. While the bill took effect on June 1, 2009, it requires that the county council and county executive must jointly appoint an advisory board to provide advice regarding the implementation of the property tax credit (prior to enacting the County legislation necessary to implement) No such advisory board has yet been appointed.

Also with respect to the future, on a broader note, in 2007, by Executive Order 22-2007, Prince George’s County established a ‘Goes Green Steering Committee’ whose work to date has been to make recommendations to green County owned buildings. That Committee did establish a certain goal for privately owned buildings, however, no action has been taken on that goal. The goal is: “Goal 3. Establish incentives for existing and newly privately-owned commercial buildings and developments to achieve LEED Silver Certification and/or an equivalent utilizing Green Building principals.” Again, no substantive action has been taken to advance that goal.

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http://usgbcmd.org/?page_id=15#

Related Considerations

As a related issue, there are, of course, federal and state government incentives (although most are admittedly modest) for building green. Some of those incentives are pegged to changes in local government building and energy codes. There are also utility company sponsored incentives, including within Maryland. And all of this is evolving along parallel paths at such a fast pace it is all but impossible to monitor it all.

If you are aware of local government enactments that should be part of this compilation, please email USGBC Maryland Chapter, vice chair Stuart Kaplow at skaplow@stuartkaplow.com

Green Building in the 2010 Maryland General Assembly Session

*By: Stuart D. Kaplow, Esquire
May 1, 2010*

At midnight on April 12, 2010, the Maryland General Assembly ended its 427th session with 810 bills having been approved of the 2,700 bills introduced. Only a very modest number of those bills advance green building or sustainable development.

Despite only nascent interest by state elected leaders in 2010 in embracing any green building issues, savvy businesses will find opportunities to lead and profit in matters of energy savings, improved indoor air quality, water efficiency and stewardship of resources, including opportunities advantaged by the new laws that were enacted.

This compilation is a bill by bill review of green building legislation passed by the state legislature in 2010. The determination of what is a green building bill is, admittedly, subjective and for the purposes of this exercise a wide net was cast. This compilation was prepared for the USGBC MD by Stuart Kaplow and the description of each bill and the views expressed are those of the author and not necessarily the USGBC MD.

Under the Maryland Constitution, the Governor has the option of signing, vetoing, or letting legislation become law without his signature. Governor Martin O'Malley signed three bills into law at the first bill signing on March 25 and on April 13, the Governor held the traditional sine die bill signing, which resulted in an additional 170 enacted bills. Two additional bill signings are scheduled after this article is published on May 4 and May 20.

State Green Building and Purchasing

The Maryland High Performance Building Act of 2008 requires that most new or renovated State buildings and new school buildings meet or exceed either the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) standard for a Silver rating or a comparable rating according to a nationally recognized, accepted, and appropriate standard approved by the Department of Budget and Management and the Department of General Services. As of 2010, only the LEED green building standard is recognized under the Act. Senate Bill 234/House Bill 1044 (both passed) require that community college capital projects that receive State funds comply with the State's High Performance Building Act (i.e., achieve at least a LEED Silver certification). The bills allow community colleges to apply for and receive a waiver from this requirement under the Act's existing procedures. The requirement applies prospectively to community college capital projects that have not initiated a request for proposals for the selection of an architectural and engineering consultant on or before July 1, 2011.

Senate Bill 693/House Bill 1164 (both passed) promote the use of environmentally preferable purchasing throughout State government through a variety of study and reporting requirements and the establishment of the Maryland Green Purchasing Committee. The committee must provide information and assistance regarding environmentally preferable purchasing to State agencies by, among other things, developing and implementing a strategy that may include

statewide policies, guidelines, programs, and regulations, and developing a “best practices” manual. The bill also requires DGS to study and report on the use of compost as a fertilizer on State property and establishes a goal for DGS to compost all landscape waste on State property that it operates. The percentage of paper purchased by DGS that must be recycled increases from 40% to 90%.

Permitting Green

The National Standard Plumbing Code (NSPC) defines greywater as water that has been used for washing dishes, laundering clothes, or bathing. Under that definition, essentially any water, including storm water, other than toilet wastes, draining from a building is greywater and suitable for reuse as nonpotable water. Reusing greywater serves several purposes: it reduces the amount of freshwater needed to supply a building, it reduces the amount of wastewater entering sewer or septic systems, and it provides an alternative for stormwater management. NSPC specifies how systems must be designed, installed, and maintained to prevent contamination of the potable water supply. **House Bill 224** (Ch. 137) specifies that a county may not adopt or enforce a provision of a local plumbing code that prohibits a greywater recycling system. The bill defines “greywater” as storm water, used untreated water generated by washing machines, showers, and bathtubs. The bill specifies that greywater does not include water from toilets, kitchen sinks, or dishwashers.

Senate Bill 224 (passed) prohibits any contract, deed, covenant, lease, or other similar residential governing document from banning the installation or use of clotheslines on the property of a homeowner or tenant. The bill applies to any single-family residential dwelling or townhome, including condominiums, homeowners associations, and housing cooperatives. The bill’s provisions do not apply, however, to a property with more than four dwelling units or to a restriction concerning the installation or use of clotheslines on specified historic properties. The bill, however, permits reasonable restrictions relating to aesthetic considerations and the placement of clotheslines for safety purposes in the event of emergencies.

Incentives for Greening

Established in 1996, the Heritage Structure Rehabilitation Tax Credit provides, subject to certain limitations, a credit for a portion of the qualified expenditures for rehabilitating a certified historic structure. In 2004, the General Assembly substantially altered the tax credit, including converting the commercial credit part of the program from a traditional tax credit program to a tax credit program that is subject to an annual budgetary appropriation with an aggregate limit. Under current law, the credit is scheduled to expire as of July 1, 2010. **House Bill 475** (passed) is an Administration bill that reestablishes the Heritage Structure Rehabilitation Tax Credit Program as the Sustainable Communities Tax Credit Program, extends the program’s termination date through fiscal 2014, and alters eligibility requirements for the program. Among the complex array of incentive based activity, a commercial building owner may claim a tax credit in an amount equal to 25% of the qualified rehabilitation expenditures if the rehabilitation is a certified historic structure and meets or exceeds a Gold rating under the appropriate current LEED standard (versus that tax credit is limited to 10% if the rehabilitation is not so LEED Gold certified).

House Bill 464 (passed) extends the termination date of the clean energy incentive tax credit to December 31, 2015. The Maryland Energy Administration may issue a total of \$25 million in credits to qualified energy resources, with the amount of an individual credit tied to energy produced or purchased annually by an applicant. The bill also extends to January 1, 2016, the date by which a facility must begin producing qualified energy in order to claim the credit.

House Bill 469 (passed) establishes a tax credit against the motor vehicle titling tax (for the purchase or lease of an on the road vehicle) in an amount equal to 100% of the tax imposed for the purchase of qualified plug-in electric vehicles, not to exceed \$2,000. The credit is limited to 1 vehicle per individual and 10 vehicles per business entity. The credit is available for the purchase of a qualifying vehicle between October 1, 2010, and June 30, 2013.

Senate Bill 602 /House Bill 674 (both passed) authorize a plug-in vehicle affixed with a State permit designating it as such to use high occupancy vehicle (HOV) lanes. A plug-in vehicle is defined in the bills as a motor vehicle that, among the requirements, "is propelled to a significant extent by an electric motor that draws electricity" from a rechargeable battery. A plug-in vehicle that obtains a specified permit may use each HOV lane designated by SHA, regardless of the number of passengers in the vehicle. SHA is authorized to limit the number of permits issued. The bills will remain in effect for three years and, unless extended by future legislation, will terminate at the end of September 2013.

Prince George's County

Solar hot water is one of the most cost-effective ways to incorporate renewable technologies into a building and that a typical residential solar hot water system reduces the need for conventional water heating by about two-thirds. The Task Force on Solar Hot Water Systems, created by **Senate Bill 1067** (passed), will study the development of a business plan to achieve substantial use of solar hot water systems in a way that saves money for Prince George's County residents and businesses and that reduces carbon emissions. The task force will include among its membership one senator and one delegate who each represents the county.

House Bill 576 (passed) establishes an expedited approval process in Prince George's County of applications for development permits for qualifying redevelopment projects, so as to encourage environmentally responsible urban renewal and revitalization. Prince George's County is generally required to approve or disapprove applications for development permits for qualifying redevelopment projects and to provide applicants with written notice of the approval or disapproval within 90 days of receiving the application except under specified circumstances. A qualifying redevelopment project is defined as a development project to rehabilitate dilapidated real property through demolition, reconstruction, or reuse that incorporates specified environmentally responsible design elements.

Frederick County

Numerous "pay-as-you-throw" programs have been implemented nationwide, with the intent of increasing recycling in affected communities. **House Bill 678** (passed) authorizes Frederick

County to establish a pay-as-you-throw pilot program. Under the program, a solid waste hauler charges a residential customer a fee for the curbside collection of solid waste based on the volume of waste collected. A municipality may participate in the program only with approval of the governing body of the municipality.

Carroll County

Senate Bill 925/House Bill 1112 (both passed) expand the existing non-residential Carroll County green building tax credit to include all property, including residential property, on which a person installs environmentally friendly or “green” technologies. Environmentally friendly technologies include conserving water, incorporating recycled or recyclable materials, and incorporating renewable and energy efficient power generation.

Energy

Maryland’s Renewable Energy Portfolio Standard (RPS) was established in 2004 in order to recognize the economic, environmental, fuel diversity, and security benefits of renewable energy resources; establish a market for electricity from those resources in Maryland; and lower consumers’ cost for electricity generated from renewable sources. RPS is a policy that requires suppliers of electricity to meet a portion of their energy supply needs with eligible forms of renewable energy. An electricity supplier must meet RPS by accumulating “renewable energy credits” (RECs) created from various renewable energy sources classified as Tier 1 and Tier 2 renewable sources. Owners of renewable generating facilities sell RECs associated with their facilities and the payment received for those RECs helps to offset a portion of the installation costs. RECs can be purchased and traded in an open exchange, allowing electricity suppliers to purchase RECs directly from generators or through a third-party reseller. **Senate Bill 277** (passed) increases the percentage requirements of RPS that must be obtained from Tier 1 solar energy sources each year between 2011 and 2016, from the current 2016 mandate of 0.35% to 0.50%.

Net energy metering measures the difference between the electricity that is supplied by an electric company and the electricity that is generated by an eligible customer-generator and fed back to the electric company over the eligible customer-generator’s billing period, and bills the customer only for the difference. **Senate Bill 355/House Bill 801** (both passed) alter the net energy metering program by changing the way an eligible customer-generator may accrue credits from excess generation from a kilowatt-hour (kWh) basis to a dollar basis. The bill repeals the requirement that an accrued generation credit expires at the end of a 12-month period and requires that the value of generation credits be based on the prevailing market price of electricity in the PJM Interconnection energy market. The bill also specifies the conditions under which an electric company must provide payment to an eligible customer-generator for excess generation credits. In adopting implementing regulations, PSC must consider a number of factors, including the technology available at each electric company and the appropriate value of generation credits. The bill also requires PSC to convene a technical working group to address issues relating to the pricing mechanisms.

Senate Bill 529/House Bill 821 (both passed) adds a fuel cell power system to the types of

generation eligible for net metering. A fuel cell is defined as an integrated power plant system containing a stack, tubular array, or other functionally similar configuration used to electrochemically convert fuel to electric energy. This may include an inverter and fuel processing system and other plant equipment to support the plant's operation or its energy conversion, including heat recovery. Although a fuel cell power system does not typically use a renewable energy source, distributed generation such as a fuel cell power system provides a meaningful benefit by alleviating congestion in electric transmission lines and lessening overall demand for electricity during periods of peak demand.

Senate Bill 538/House Bill 1138 (both passed) authorize PSC to allow the use of a master electric or gas meter for HVAC services without requiring individual metering or submetering in a residential multiple-occupancy building as long as the utility bill for HVAC services is included in the rent for that unit. PSC must be satisfied that the use of a master meter will result in a net savings of energy over the energy savings that would result from individual metering or submetering. Each individually leased or owned occupancy unit must have individual metered service for other energy services and must directly receive the utility bill for those other services. Before authorizing the use of a master meter for HVAC services, PSC may review the proposed allocation of HVAC system expenses among individual units and common areas served by the master meter. An electric company may inspect and test a master meter authorized under the bill. The bills terminate after three years, on June 30, 2013.

State Planning

The Administration introduced **Senate Bill 278/House Bill 474** (both passed) to repeal the Task Force on the Future for Growth and Development in Maryland and establish a Maryland Sustainable Growth Commission. The commission is to provide the State with a broad representation of stakeholders who can continue to promote a smart and sustainable growth agenda and is intended to build on the task force's work by providing a forum to analyze and advise on a myriad of land use planning issues.

House Bill 1155 (passed) alters the process under which Maryland Department of Transportation evaluates and selects capital projects to be included in the construction program. A local government or other government agency that requests a major capital project for inclusion in the CTP is required to submit a document to MDOT discussing the need for the project and how the project addresses the State's transportation goals and supports local government land use plans. MDOT must evaluate requests for major capital projects based on the State's goals and, as appropriate, criteria as determined by the information submitted by the proposing entity and the availability of funding. As part of this evaluation, the Smart Growth Subcabinet is required under the bill to conduct an annual review of transportation goals, benchmarks, and indicators. MDOT and a previously established advisory committee, consisting of various transportation experts, representatives of State and local government, and representatives of environmental, business, and community interests, are required to consider the impact of the State's transportation investment on the environment, environmental justice, communities, and economic development.

House Bill 282 (Ch. 145) requires MDOT to review and update the Statewide 20-year Bicycle Pedestrian Master Plan each year. Additionally, the bill requires MDOT to ensure that there is an

appropriate balance between funding for new highway construction projects and projects that retrofit existing transportation projects with facilities for pedestrians and bicycle riders; and place increased emphasis, in transit-oriented areas within priority funding areas (PFAs), on projects that retrofit existing transportation projects with additional facilities and accessibility for pedestrians and bicycle riders. By directing State spending to PFAs, the State seeks to make the most efficient and effective use of existing infrastructure; preserve existing neighborhoods; and preserve Maryland's fields, farms, and open spaces.

To ensure that the State's investments in transportation retain their value and remain safe, MDOT allocates funds for activities aimed at preserving the existing transportation system before pursuing capacity expansion projects. In addition, PFAs were established by the Smart Growth and Neighborhood Conservation Act of 1997 to focus State spending in order to strengthen the State's efforts to control sprawl, enhance land use, and control pollution. **House Bill 786** (passed) requires the State Highway Administration (SHA) to categorize a sidewalk or bicycle pathway construction project as "system preservation" and give the project funding priority if it is located in a PFA; the adjacent roadway is not being concurrently constructed or reconstructed; and SHA determines a substantial public safety risk or significant impediment to pedestrian access exists. The State is authorized to assume all costs for constructing or reconstructing these sidewalks or bicycle pathways.

Related Environmental Issues

Lead poisoning has various side effects, including learning disabilities and behavioral problems. According to the Centers for Disease Control and Prevention, adverse health effects exist in children with blood Lead levels less than 10 micrograms per deciliter. According to the most recent data available, the number of children with elevated blood lead levels has been decreasing at both the State and national level. According to the Maryland Department of the Environment, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland. **House Bill 1011** (passed) authorizes the juvenile court, after a delinquency petition has been filed but before adjudication, to order the child to undergo blood lead level testing. Before trial, a court exercising criminal jurisdiction in a case involving a child may also order the child to undergo blood lead level testing. The results of the test must be provided to the child, the child's parent or guardian, the child's attorney, and the State's Attorney.

House Bill 168 (passed) adds architectural, engineering, inspecting, and surveying services to the list of services for which indemnity agreements are considered void and unenforceable as a matter of public policy under State law. At common law, a contract can be unenforceable if it has an illegal purpose, is contrary to public policy, or is unconscionable, among other reasons. Current statutory law establishes that construction or property maintenance contracts or agreements that purport to indemnify the promisee against property damage or bodily injury caused by or resulting from the sole negligence of the promisee or indemnitee (or the person's agents or employees) are against public policy and are void and unenforceable. The prohibition also applies to promises, agreements or understandings connected to these contracts or agreements but does not apply to insurance-related and workers' compensation contracts. The bill expands the list of services for which indemnity agreements are considered void and

unenforceable.

Current law provides a “statute of repose” for lawsuits related to errors in a land survey. Under the statute of repose, no cause of action accrues and a person may not seek contribution or indemnity for damages incurred for an error in a survey of land unless an action for damages is brought within 15 years of the survey, or within 3 years after the discovery of the error, whichever occurs first. **Senate Bill 531/House Bill 907** (both passed) reduce this statute of repose from 15 to 10 years after the survey, or within 3 years after the discovery of the error, whichever occurs first.

Strategic Lawsuits Against Public Participation (SLAPP) suit laws protect individuals and groups, from defending costly legal challenges to their lawful exercise of such constitutionally protected rights as free speech, assembly, and the right to petition the government. Covered activities may include writing letters to the editor, circulating petitions, organizing and conducting peaceful protests, reporting unlawful activities, speaking at public meetings, and similar actions. Plaintiffs in these lawsuits, who typically have far greater resources than defendants, may allege a number of legal wrongs. The goal of these lawsuits is often not to win the case, but rather to cause the defendants to devote such significant resources to defending it that they are unable to continue the challenged activities. **Senate Bill 990/House Bill 1250** (both passed) change the statute pertaining to SLAPP suits. The bills expand the definition of a SLAPP suit to include a suit that inhibits the exercise of federal or State constitutional rights of free speech (rather than the current limited application of SLAPP status to suits in which there is an intent to inhibit those rights); and a suit based on communications regarding any issue of public concern (rather than the current limited application to matters within the authority of a government body).

Senate Bill 624 (passed) repeals the general requirement that a bicycle operator use the shoulder if it is safe and paved to a smooth surface. The bill also specifies that, in a place where a person may ride a bicycle on a sidewalk, a person may ride from the curb or edge of the roadway in or through a crosswalk to the opposite curb or edge. The bill alters the definition of “bicycle” by repealing provisions that specify that a bicycle must have a rear drive and a specified wheel configuration and establishes instead that a bicycle is a vehicle that is designed to be operated by human power; has two or three wheels, with one being more than 14 inches in diameter; and has a drive mechanism other than by pedals directly attached to a drive wheel. The definition of “crosswalk” is expanded to mean the connection of lateral lines of a bicycle way where a bicycle way and roadway of any type meet as measured from the curbs or the edges of the roadway.

Senate Bill 51 (passed) requires a driver of a vehicle to safely overtake a bicycle, electric personal assistive mobility device, or a motor scooter at a distance of at least three feet, unless at the time, the bicycle rider fails to ride to the right side of the roadway, comply with a requirement to ride in a bike lane or shoulder, or maintain a steady course. The passing rule under the bill also does not apply if the highway on which the vehicle is being driven is not wide enough to lawfully pass the bicycle, at a distance of at least three feet.

Recycling efforts and demand for metals such as copper and aluminum tend to encourage metal theft. **Senate Bill 99/House Bill 1174** (both passed) modify the definition of junk and scrap

metal to include articles made wholly or substantially of enumerated metals and alloys. For example, the bills define certain used articles, such as catalytic converters, metal bleachers, hard-drawn copper, metal beer kegs, cemetery urns, grave markers, and propane tanks, as junk or scrap metal. Other used materials owned by public utilities are likewise defined as junk or scrap metal by the bills. For each purchase, a junk dealer or scrap metal processor has to keep specified transactional information. In turn, dealers and processors must then report certain information to law enforcement by the end of the business day after each transaction. The recordkeeping and reporting requirements do not apply to an item acquired from a licensed dealer or processor; a unit of government; or a commercial enterprise with a valid business license with which the dealer or processor has entered into a written contract. The bills preempt the right of a county or municipality to regulate the resale of junk or scrap metal; however, local licensing schemes are not preempted.

Bisphenol-A (BPA) is a compound found in many plastics. In January 2010 the U.S. Food and Drug Administration (FDA) released findings stating that the FDA had some concern about the effects of BPA on the brain behavior and prostate gland in fetuses, infants, and young children. **Senate Bill 213/House Bill 33** (Chs. 46 and 47) prohibit a person from manufacturing, distributing, or knowingly selling child care articles that contain BPA on or after January 10, 2012.

Stormwater Management was one of the major issues of the session. State law requires each county and municipality to adopt ordinances necessary to implement a stormwater management program. In general, land may not be developed without submitting, and getting approval of, a stormwater management plan from a county or municipality. The Stormwater Management Act of 2007 required MDE to adopt regulations and a model ordinance that require environmental site design (ESD). ESD involves small-scale practices, nonstructural techniques. MDE adopted regulations requiring the use of ESD to the maximum extent practicable, to apply to new projects that do not have certain final plans approved by May 4, 2010. After the regulations were adopted, however, numerous concerns regarding the 2009 ESD regulations were raised by local jurisdictions, developers, and others. To address some of these concerns, in March 2010 MDE submitted emergency regulations to the General Assembly's Administrative, Executive, and Legislative Review (AELR) Committee. On the grandfathering issue, the emergency regulations allow local governments to incorporate waiver provisions into their ordinances for projects that have completed part of the development review process but have not received final approval by May 4, 2010. A grandfathered project that receives an administrative waiver may proceed with the development under the stormwater regulations in effect as of May 4, 2009. The emergency regulations also provide local governments with greater flexibility in addressing the new requirements for redevelopment projects by providing for alternative stormwater management measures under specified conditions. In response to the emergency regulations the several bills introduced on this subject each failed.

In 2009, legislation was enacted that requires new or replacement onsite sewage disposal (septic) systems located in the Chesapeake Bay Critical Area to utilize best available technology for nitrogen removal. **House Bill 62** (passed) requires MDE, in for calendar 2010 through 2012, to provide funding for the entire cost difference between a conventional septic system and one utilizing best available technology for nitrogen removal. The bill is consistent with MDE's

current practices.

In 1988, the Maryland Recycling Act required each county to submit a recycling plan. Jurisdictions with more than 150,000 residents were required to reduce their solid waste by 20%, and jurisdictions with less than 150,000 residents were required to reduce their solid waste by 15%. According to MDE, by 2000, every county had met or exceeded their percentage requirements under the Maryland Recycling Act. Further legislation enacted in 2000 established a voluntary statewide diversion goal of 40% by 2005. Counties have flexibility to determine the best way to reach the required recycling rates. **House Bill 982** (passed) requires MDE, in consultation with local governments, waste haulers, material resource facilities, and other affected parties, to conduct a study to evaluate solid waste management processes that reduce the solid waste stream through recycling and source reduction.

House Bill 685 (passed) requires a county's recycling plan to address a strategy for collecting and recycling fluorescent and compact fluorescent lights that contain mercury. A county's recycling plan must be revised to reflect the new requirements by October 1, 2011. A county may utilize recycling, exchange, and take-back programs that have been established by fluorescent and compact fluorescent light manufacturers and vendors in its strategy.

Maryland law recognizes that the purpose of a corporation is to make a profit for its shareholders. **Senate Bill 690/House Bill 1009** (Chs. 97 and 98) authorize a Maryland corporation to elect to be a Benefit Corporation which must have as its purpose the creation of one or more public benefits. Under the Acts, a corporation may elect to be a benefit corporation by amending or including in its charter a statement that the corporation is a benefit corporation. A benefit corporation must have the purpose of creating a general public benefit, defined in the Acts as a "material, positive impact on society and the environment ... through activities that promote a combination of specific public benefits." Specific public benefits are defined to include preserving the environment, improving human health, and promoting the arts, sciences, or advancement of knowledge.

Additions, corrections or suggestions can be forwarded to the Stuart Kaplow can be reached at skaplow@stuartkaplow.com

System	Country+	Organization	Web
ASHRAE 189	US	ASHRAE	www.ashrae.org
BRE Environmental Assessment Method (BREEAM)			www.breeam.org
BREEAM Communities			
Code for Sustainable Homes (CSH)	England		
Earthcraft	US	Greater Atlanta Home Builders Association in partnership with Southface	www.earthcrafthouse.com
Energy Star	US	US EPA/US DOE	www.energystar.gov
Green Communities Criteria	US	Enterprise Green Communities	www.greencommunitiesonline.org/tools/criteria/
GreenBuilding Programme (GBP)	Europe	European Commission, Joint Research Centre	www.eu-greenbuilding.org
GreenGlobes	Canada	BOMA Canada (BOMA BEST - existing buildings)	www.greenglobes.com
GreenGlobes	US	Green Building Initiative (GBI)	www.thegbi.org
GreenStar	Australia	Green Building Council Australia	www.gbca.org.au/green-star/
Home Energy Rating System (HERS)	US	Residential Energy Services Network (RESNET)	http://resnet.us/
ICC-700-2008 National Green Building Standard	US	National Association of Home Builders	www.nahbgreen.org
Leadership in Energy and Environmental Design (LEED)	US	US Green Building Council	www.usgbc.org
Living Building Challenge	US	International Living Building Institute	http://ilbi.org/
Passive House	Germany	Passivhaus Institut	www.passivehouse.com/
Passive House US	US	Passive House Institute US	www.passivehouse.us/passivehouse/PHIUSHome.html
STAR Community Index	US	ICLEI, USGBC, Center for American Progress	www.icleiusa.org/star
Sustainable Sites Initiative (SITES)	US	ASLA, UT Wildflower Center, US Botanic Garden	www.sustainablesites.org

Notes
aligns with LEED-ND
not a rating system...
came out of the Building Research Establishment's Environmental Assessment Method (BREEAM); Jones Lang LaSalle owns other systems (aside from existing buildings) Referenced by Carroll County
ANSI approved
Cascadia Green Building Council
150 pilot projects June 2010-June 2012

Mount Rainier's Plan for Going Green
(A Work in Progress)
DRAFT

Leadership + Education

Objective: Raise awareness of sustainability efforts and environmental issues within the City and community at large.

- 1) Designate the Environmental Protection Board as the Green Working Committee for the City, and assist the City in becoming a Leadership in Energy and Environmental Design (LEED) recognized City
- 2) Assess Mount Rainier's estimated baseline carbon footprint. (an appropriate tool to determine Mount Rainier's carbon footprint), set target footprint level.
- 3) Promote sustainability initiative and forthcoming changes, strategies, and objectives within Mount Rainier on a regular basis to raise consciousness and add transparency of the initiative.
- 4) Select a chair and co-chair to serve as sustainability officers for the City.
- 5) Host regular green awareness events in Mount Rainier.
- 6) Prepare an annual report of progress and distribute to Mayor and Council and to residents.
- 7) Work to ensure that all City buildings become LEED-certified building and/or certified as LEED Commercial Interiors.
- 8) Post and maintain Mount Rainier's Green Initiative Commitment Self-Certification Report (this checklist) on our website, and other external and internal media.

Comment [G1]: There are other green rating systems out there. I would try not to specify LEED.

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Comment [G2]: How? How often?

Comment [G3]: Define?

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Comment [G4]: Becoming LEED certified is expensive, you may not want to require certification, but rather LEED standards.

Comment [G5]: Again, LEED not crucial, consider Energy Star, NAHB.

Comment [G6]: Consider Energy Performance Contract
See HUD website:
<http://www.hud.gov/offices/pih/programs/ph/phecc/eperformance.cfm>

Comment [G7]: More suggestions might result from audit process

Energy

Objective: Reduce energy use at facility.

- 1) Conduct an informal internal energy audit of our facilities (assess and implement simple measures to reduce energy consumption).
- 2) Maintain (and adhere to) a written policy that ensures blinds and curtains are closed during peak summer period (white reflects) to reduce A/C load.
- 3) Institute and/or maintain a written maintenance program: inspect permanent filters every three months and clean permanent filters with mild detergents when necessary (change replaceable filters every three months); check the entire system for coolant and air leaks, clogs, and obstructions of air intake and vents; keep the condenser coils free of dust and lint; keep the evaporator coils free of excessive frost.
- 4) Implement weatherizing policy and measures (i.e. weather stripping, caulking, sealing unused space, not heating/cooling unused space).
- 5) If appropriate, apply window film to reduce solar heat gain.
- 6) Maintain (and adhere to) a written policy to turn off office lights when leaving for more than 15 minutes and post reminders until motion lights are installed.
- 7) Replace incandescent bulbs with compact fluorescent or LED lights. Use halogen lamps only for low wattage task and spot lighting.
- 8) Arrange your workspaces to take advantage of areas with natural sunlight, and design for increased natural lighting when remodeling (workspace within 30' of natural light).

- 9) Use "task" lighting with energy efficient bulbs where extra light is needed, rather than over-lighting an entire area with ambient light.
- 10) Replace standard fluorescent lights with low- or no-mercury fluorescent lights that are higher efficiency.
- 11) Disconnect unused ballasts in de-lamped fixtures and replace burned out lamps to avoid ballast damage.
- 12) Clean lighting fixtures, diffusers and lamps so that they are lighting as effectively as possible (dirt can reduce lighting efficiency by up to 50%).
- 13) Replace magnetic ballasts with electronic ballasts and install T-8 or T-5 lamps.
- 14) Increase natural lighting through installing sidelights or lowering cubicle and non-structural walls that block lighting to interior workstations.
- 15) Set all office equipment to go to standby mode when not in use (e.g. energy saver buttons on copiers). Turn off equipment when not in use for long periods of time (end of workday).
- 16) Establish purchasing program to buy only EPEAT certified computers and LED monitors that consume approximately 1/3 less energy than larger CRT monitors.
- 17) Establish purchasing policy to only purchase Energy Star or energy efficient equipment and appliances.
- 18) Set refrigerator temperature between 38°F and 41°F and freezer between 10°F and 20°F.
- 19) Install "instant-on" hot water in new or renovated structures.

Operations + Procurement

Objective: Engage in purchasing practices that minimize environmental impacts within business and throughout the supply chain.

- 16) Use local businesses for products and services whenever possible. Use local vendors who also source their products locally. This should apply to any municipal procurement, including office supplies, office equipment and materials, caterers, etc.
- 15) Choose vendors who can articulate sustainable practices.
- 18) When possible, arrange to order environmentally friendly items from vendors who make deliveries for several items.

- 1) Buy toilet paper, tissues and paper towels that have 35%-100% post-consumer recycled content.
- 2) Implement a "just-in-time" purchasing policy (inventory reduction purchasing) and a "first-in/first-out" chemical usage policy (using older chemicals first) to use old material first.
- 3) Replace aerosols with non-aerosol alternatives (such as pump sprays for fresheners and cleaners).
- 4) Buy low or no volatile organic compounds (VOC) paints, coatings, adhesives, and sealants for renovation projects.
- 5) When replacing furniture, phase in low-VOC furniture.
- 6) Use green cleaning techniques and products, including low-toxic, biodegradable cleaners, and properly dispose of expired materials.

Comment [j8]: Some municipalities go as far as requiring recycled product purchasing thresholds for the local gov t, often also requiring vendors to demonstrate source reduction in the RFP process

Comment [i9]: Moved these higher in the list. Engaging those with purchasing authority in the discussion about "where does our equipment, supplies, etc. come from and is it environmentally friendly" is a critical first step. Once you ask the question, people are more likely to think about and search out these products. SMC is working on some procurement resources and the MD legislature has established a MD Green Purchasing Committee to inform and assist state agencies with green purchasing (see attached).

- 7) When renovating, use eco-friendly flooring, such as Carpet and Rug Institute (CRI) launched Green Label Plus to identify carpets that are tested by an independent, certified laboratory and meet stringent criteria for low chemical emissions, (e.g., CRI Green Label carpet pads, and Floorscore certified flooring (bamboo, natural linoleum, cork, etc.).
- 8) Institute a written policy regarding the rental of office equipment where appropriate. Businesses that lease equipment tend to use more durable items, salvage reusable parts, refurbish, recycle, or donate used equipment that can no longer be leased.
- 9) Purchase copy, computer or fax paper, letterhead, envelopes and business cards with at least 35% post consumer recycled content.
- 10) Purchase boxes and bags for retail use or shipping made from recycled paper or plastic (or reuse old boxes and bags).
- 11) Where possible, use non-toxic water-based markers rather than toxic permanent ink markers/pens.
- 12) For shipping items, use shredded paper or corn starch pellets for packaging needs instead of purchasing styrofoam pellets, bubble wrap or other packaging materials; also reuse, in your own packaging, packaging materials received.
- 13) When purchasing new printers, buy ones with duplex capability.
- 14) Maintain (and adhere to) a sustainable purchasing policy (Energy Star equipment and appliances; recycled content, biodegradable paper products; energy efficient, low-mercury lamps; plastic products; food products; building/renovation materials). Consider and favor products that are recyclable at the end of their useful life.
- 17) When purchasing garbage pails or garbage bags, find ones that use recycled plastic (e.g., high molecular weight – high density polyethylene (HDPE) trash liner bags instead of low density polyethylene (LDPE) or linear low density polyethylene (LLDPE).
- 19) In order to improve indoor air quality, ban smoking from interior spaces and designate exterior smoking areas at least 25 feet from building entries, outdoor air intakes and operable windows, with cigarette butt disposal units.
- 20) Serve locally-grown and/or organic food at workplace events when possible.

Deleted: 15) Choose vendors who can articulate sustainable practices.¶
 16) Use local businesses for products and services whenever possible.¶

Deleted: 18) When possible, arrange to order environmentally friendly items from vendors who make deliveries for several items.¶

Transportation

Objective: Reduce carbon footprint of employee travel by encouraging alternative commuting and fuel economy.

- 1) Encourage commuter alternatives by informing employees, customers and others who visit your office about various transportation options (post bicycle route maps, transit schedules, commuter ride sign-ups, etc. in a visible area for employees).
- 2) Offer secure areas for bicycle storage for both employees and customers.
- 3) Offer lockers and showers for employees who walk, jog or bicycle to work. ↓
- 4) Institute flextime and work-at-home days for employees who commute by car when feasible.
- 5) Provide commuter/shuttle service to and from metro, train, and/or light rail stops.
- 6) Have written policy to use hybrid cars during business travel when it is necessary to rent a car.
- 7) Use teleconferencing and webinars to cut down on the amount of business travel. Consider free or low-priced technology, such as Skype, Google Chat, etc.
- 8) Carefully plan delivery routes and errands to eliminate unnecessary trips.

Comment [G10]: repeats

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- 9) Purchase hybrid or other alternative fuel vehicles in City's fleet.
- 10) Support carsharing programs, such as Zipcar, and consider using carshare for part of municipal fleet
- 11) Support additions and improvements to adjacent and nearby bicycle/pedestrian infrastructure, including crosswalks, safe sidewalks and trails
- 12) Consider seeking funding to participate in Capital Bikeshare program

Waste Reduction + Recycling

Objective: Reduce volume of waste generated by business, recycle as much as possible.

- 1) Recycle food and beverage containers (all glass, #1 & #2 plastic and aluminum containers).
- 2) Supply water through a fountain, cooler or tap; eliminate bottled water.
- 3) Eliminate disposables (plastic utensils, coffee stirrers, paper towels) by using permanent ware (mugs, dishes, utensils, towels/rags, coffee filters, etc.).
- 4) Recycle (or reuse) all paper products that recycling vendors will accept.
- 5) Maintain (and adhere to) a written policy of "green printing practices," including duplex printing, draft printing, and utilization of scrap paper.
- 6) If your facility still has an old printer without duplex capability, use only for single page documents and ensure multipage documents are printed on duplex printer.
- 7) Encourage employees to read, highlight and comment on documents electronically whenever possible.
- 8) Keep a stack of previously used paper near printers. Use it for drafts, scratch paper or internal memos or designate a draft tray on printers with multiple trays.
- 9) Recycle Tyvek (brand name for high tech polyethylene) envelopes.
- 10) Write to or call senders requesting removal from mailing list to reduce junk mail.
- 11) Return labels from duplicate mailings and subscriptions requesting all but one be removed.
- 12) Write "refused" on unwanted first class mail and return to sender.
- 13) Purge mailing lists to eliminate duplication.
- 14) Institute a policy that switches to electronic forms, eliminate excess forms and make paper forms more efficient.
- 15) Where possible, reuse envelopes as both send and return envelopes: cover up old addresses and postage, affix new and/or use two way or 'send and return' envelopes.
- 16) Eliminate fax cover sheets by using "sticky" fax directory notes or use software that allows you to send and receive faxes directly from your computer without printing.
- 17) Institute written policy encouraging the use of the size reduction feature in photocopying (e.g. print two pages of book on one page).
- 18) Minimize misprints by posting a diagram showing how to load special paper, such as letterhead.
- 19) Recycle ink and toner cartridges, cell phones and dry cell batteries.
- 20) Make it easy for employees to recycle by placing clearly marked collection bins in convenient locations. Post signs and/or train employees regarding recycling policies and procedures in the office.
- 21) Donate or exchange unwanted but usable items (furniture, supplies, electronics, scrap materials, computer disks, etc.) to schools, churches, hospitals, libraries, non-

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profit organizations, museums, teacher resource organizations, etc.; or enroll in a waste exchange program.

22) If many employees each have their own inkjet printer, consider putting fewer printers on a network, so that employees share, reducing the demand for toner cartridges

Water Management

Objective: Reduce business's aggregate water use and discharge of pollutants into storm water runoff.

- 1) If you need to use water to clean concrete or asphalt surfaces, use "dry sweeping," water efficient "spray brooms," or low flow (<3 gpm – gallons per minute) spray nozzles with automatic shut-off rather than a garden hose.
- 2) Post signs in restrooms and kitchen areas encouraging water conservation. Install low-flow appliances with automatic capabilities.
- 3) Regularly check for and repair all leaks in your facility (toilet leaks can be detected in tank toilets with leak detecting tablets). Train your staff to monitor and respond immediately to leaking equipment.
- 4) Understand your water bill and review it monthly for indications of leaks, spikes or other problems.
- 5) Use pervious materials for paving, repaving and other work on streets, sidewalks, and surface parking lots (low or occasional use).

Comment [j11]: There are also recapture opportunities like rain gardens, or cisterns that could then be used for landscaping and other non potable purposes

Other Community Activities

Objective: Encourage community to grow community/victory gardens as part of the City's overall sustainability efforts.

- 1) Encourage mulching of leaves and other yard waste by collecting such materials and creating a mulching site within the City
- 2) Make mulch available for residents to use in gardening and other beautification efforts
- 3) Designate areas for community gardens, and encourage residents to have small gardens in their yards.
- 4) Establish a Community Garden Committee to provide oversight and maintenance of the community garden.
- 5) Ensure that a portion of the garden will be for children to learn how things grow, and how everything we do affects our earth.
- 6) Set up composting areas within the community gardens, with instructions for composting