

What You Need to Know About. . .

The City of Boston's New Green Building Requirements

In January 2007 the Boston Zoning Commission adopted a new Article 37 of the City's zoning code, making changes to the Boston Redevelopment Authority's ("BRA's") large project review process to require that such projects incorporate a minimum number of sustainable design features or "Green Building" elements.

What Is a Green Building?

Mayor Thomas M. Menino's Green Building Task Force explained in its November 2004 report that "Green building is a broad concept that encompasses ways of designing, constructing, and maintaining buildings to decrease energy and water usage and costs, improve the efficiency and longevity of building systems, and decrease the burdens that buildings impose on the environment and public health." Green buildings are sometimes called "high performance" buildings because they are more efficient in their use of energy, water, materials and other resources. Building "green" is part of a broader approach often called "sustainable development" that seeks to use resources wisely and minimize adverse health and environmental impacts.

What Projects Are Covered by the New Green Building Requirements?

All projects subject to large project review under Article 80B (50,000 square feet or more) must comply with the new zoning requirements if they had not entered the review process as of December 21, 2006 (the date of the first public notice on the zoning change). Projects are exempt if an application for approval of a development impact project plan or planned development area development plan was filed as of December 21, 2006 (as long as that application is ultimately approved by the BRA). All Project Notification Forms ("PNFs") filed from now on must address the new requirements.

How "Green" Does the Project Have to Be?

The new requirements are designed to be flexible and there is no "one size fits all" requirement for "greening" projects under Article 37. Proposed projects can select from a menu of options for reducing energy use, reducing water use and incorporating recycled materials. Applicants will need to demonstrate that they qualify for the required number of green building "points"; for example, for new construction developers will need 26 points out of nearly 70 available options. Most of the available points are those defined by the U.S. Green Building Council's ("USGBC's") Leadership in Energy and Environmental Design (or LEED) green building rating system, along with up to four points available as Boston Green Building Credits (more on those below).

Does My Project Need To Be LEED Certified?

No. The USGBC has a program under which developers can register their proposed projects and ultimately receive "certification" that the project meets a certain level on one of several LEED green building rating systems (for example, "certified" is the most basic level, "silver" requires more points and "platinum" is the highest level). Some developers find the LEED certification process beneficial and useful. However, the City of Boston wanted to maintain control over review, so *developers do not need to have projects certified under LEED*. Instead, projects need to be "LEED certifiable" meaning that they qualify for at least 26 points under the LEED building rating system and Boston zoning code. When filing a Project Notification Form, applicants will be required to specify whether or not they plan to register with USGBC and seek LEED certification.

Do I Need the Services of a LEED Accredited Professional?

The answer in most cases is “yes”. Under the new rules, the PNF must list the members of the development team including a LEED accredited professional. The BRA can, however, recognize “other professionals” who would be permitted to provide the necessary supporting documentation under Article 37.

What Are Boston Green Building Credits?

In addition to the “points” that can be obtained under various LEED building rating systems, the City of Boston has developed four additional points, termed Boston Green Building Credits, that can help a project obtain the 26 points needed under Article 37. To be eligible for any of these points, the applicant must submit a plan to the BRA addressing issues such as diesel emissions from construction vehicles and integrated pest management. If this prerequisite is met, the four potential points or credits are:

- A Modern Grid Credit for projects that include an on-site combined power and heat generation system that provides for 10% or more of building energy use (limited to locations where the City determines that distribution load constraints exist and congestion relief is useful)
- A Historic Preservation Credit for projects involving certain historic structures
- A Groundwater Recharge Credit for projects that provide specified levels of groundwater recharge, both inside and outside of Groundwater Conservation Overlay Districts
- A Modern Mobility Credit for projects that make specific commitments to encourage the use of cleaner modes of transportation, choosing from a menu of specified transportation demand management options

What Do I Need to Decide About Green Building Issues Before Filing a PNF?

Project developers should plan for compliance with the green building requirements as early as possible in the pre-development process. Under the new requirements, PNFs must include a completed LEED checklist indicating how many points the project is planning to achieve and how each of those points will be achieved. Plans to make use of the Boston Green Building Credits must be addressed in the PNF as well.

What Further Analysis Will Be Required in Project Impact Reports?

BRA scoping determinations will require a Green Building analysis as part of the environmental protection component of Project Impact Reports. The analysis will need to demonstrate how many points the proposed project would qualify for under the most appropriate LEED building rating system.

Who Decides If My Project Complies with the Green Building requirements?

The BRA will address compliance with Article 37 green building requirements when it issues a Certification of Compliance as part of its overall large project review under Article 80 (Section 80B-6). The BRA will be advised by a Boston Interagency Green Building Committee created by Article 37, which includes representatives of the Boston Environment Department, Mayor’s Office and other City agencies.

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This summary has been prepared by BlueWave Strategies LLC, a team of dedicated environmental professionals who believe that responsible environmental stewardship is a sound strategy for cost-effectively responding to an increasingly complex regulatory environment. BlueWave’s professionals help our real estate clients cost-effectively “green” their development plans and buildings and can prepare sustainability analyses required under Article 80 and the Massachusetts Environmental Policy Act. For clients who want certification of their green buildings, BlueWave’s LEED Accredited Professionals can navigate projects through the LEED process. For more information, contact Josh Allison, LEED-AP, at jallison@bluewavestrategies.com or 617-266-0505 ext. 201.