

**MAYOR'S OFFICE OF ENVIRONMENTAL COORDINATION
NOTICE OF ADOPTION OF
GREEN BUILDING STANDARDS RULES**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Mayor's Office of Environmental Coordination by section 1043 of the New York City Charter, subdivision i of section 224.1 of the New York City Charter, and Executive Order No. 97 of 2006, and after a duly advertised public hearing held on January 2nd, 2007 after first publication in the *City Record* on December 1, 2006, that the Mayor's Office of Environmental Coordination has promulgated the following green building standards rules.

Title 43 of the Rules of the City of New York is amended by adding a new chapter 10 to read as follows:

CHAPTER 10
GREEN BUILDING STANDARDS

§10-01 Definitions. (a) Definitions of the terms "capital project", "city agency", "green building standards", "LEED energy and atmosphere credit 1", "LEED green building rating system", and "not less stringent" set forth in subdivision (a) of section 224.1 of the Charter shall apply to such terms as they appear in this chapter.

(b) As used in this chapter, the following terms shall have the following meanings:

Construction cost. The term "construction cost" means capital dollars allocated to construction as defined in the Certificate to Proceed for Construction or Certificate to Proceed for Design and Construction or with respect to entities that are not City agencies, cost allocated to construction of a project intended to achieve a public purpose of the City as such project is described in supporting documentation submitted to the Office of Management and Budget for the issuance of a Certificate to Proceed for Construction or Certificate to Proceed for Design and Construction.

Estimated project cost. The term “estimated project cost” means all costs of a project that is intended to achieve a public purpose of the City, as such project is described in supporting documentation submitted to the Office of Management and Budget for the issuance of a Certificate to Proceed for Construction or a Certificate to Proceed for Design and Construction, including but not limited to the cost of site acquisition, preparation, design and construction.

Floor area. The term “floor area” means all occupied and unoccupied space including, but not limited to, cellars, basements, interior shafts, penthouses and wall thickness. It shall be measured from the outside surface of exterior walls or from the centerline of walls shared by adjacent buildings.

HVAC comfort controls. The term “HVAC comfort controls” means control systems and components, including, but not limited to, building management systems and related devices such as thermostats, actuators, and sensors used to regulate the equipment that provide, either collectively or individually, the processes of heating, ventilating, or air-conditioning to a building or portion of a building.

Phased project. The term “phased project” means a project of a City agency undertaken in phases for which the Office of Management and Budget issues a separate Certificate to Proceed for Construction or Certificate to Proceed for Design and Construction for each phase.

Plumbing fixture. The term “plumbing fixture” means all toilets, urinals, lavatories, showers, and kitchen sinks that form part of a plumbing system.

Plumbing system. The term “plumbing system” means a domestic plumbing system, including all plumbing fixtures and piping and fittings associated with such fixtures.

Rehabilitation work. The term “rehabilitation work” in relation to major systems means the partial or total reconstruction of the system. Such term shall include all construction work on such systems except minor alterations or ordinary repairs as described in chapter 1 of title 27 of the Administrative Code.

Reporting form. The term “reporting form” means the Local Law 86 reporting database, reporting worksheet and reporting instructions.

Substantial reconstruction. The term “substantial reconstruction” means a capital project in which the scope of work includes rehabilitation work in at least two of the three major systems – electrical, HVAC (heating, ventilating and air conditioning) and plumbing – of a building and reconstruction work affects at least fifty percent (50%) of the entire building’s floor area. For purposes of this definition, only work that does not constitute minor alterations or ordinary repairs as described in chapter 1 of title 27 of the Administrative Code shall be considered in determining the amount of affected floor area.

§10-02 Selected green building rating system. Pursuant to paragraph (11) of subdivision (a) of section 224.1 of the Charter, the “selected green building rating system” is New Construction version 2.2, Existing Buildings version 2.0, or Commercial Interiors version 2.0 of the Leadership in Energy and Environmental Design (LEED) building rating system published by the United States Green Building Council, whichever

is most appropriate for the project under United States Green Building Council guidelines. Except as otherwise provided in subdivision (a) of section 10-05 of this chapter for calculation of required reductions in energy cost, the selected green building rating system shall apply to capital projects subject to subdivision (b) of section 224.1 of the Charter unless an alternative, not less stringent, green building standard has been specifically approved by the Director of the Office of Environmental Coordination as set forth in such subdivision.

§10-03 Applicability. (a) Except as otherwise provided in subdivision (b) of this section, capital projects within spaces classified in the occupancy groups listed in paragraph (1) of this subdivision having one or more of the six characteristics listed in paragraph (2) of this subdivision, are subject to this chapter and the green building requirements of section 224.1 of the Charter, summarized in section 10-04 of this chapter.

(1) Occupancy Groups.

B-1 Storage (moderate hazard) F-3 Assembly (museums, etc.)

B-2 Storage (low hazard) F-4 Assembly (restaurants, etc.)

C Mercantile G Education

E Business H-1 Institutional (restrained)

F-1a Assembly (theaters, etc.) H-2 Institutional (incapacitated)

F-1b Assembly (churches, concert halls, etc.)

(2) Project Characteristics.

(i) Capital projects for or in new buildings and additions to existing buildings, including fit-outs of condominium units and leased space. A capital project for or in a new building or an addition to an existing building is covered by subdivision b of section 224.1 of the Charter if the construction cost of the capital project is two million dollars or more. With respect to projects involving the fit-out of condominium units and leased space, only space and components under the exclusive control of the tenant or unit owner are subject to the design and construction requirements of such subdivision. With respect to phased projects of City agencies, each phase shall be covered only if the estimated construction cost of such phase is two million dollars or more.

(ii) Capital projects in existing buildings subject to substantial reconstruction, including fit-outs of condominium units and leased space. A capital project in a building in which 50% of the entire building's floor area is subject to reconstruction work is covered by subdivision b of section 224.1 of the Charter if the construction cost of the capital project is two million dollars or more and the scope of work of the project includes rehabilitation work in at least two of the three major systems – electrical, HVAC (heating, ventilating and air conditioning) and plumbing – of the building. With respect to the fit-out of condominium units and leased space, only space and components under the exclusive control of the tenant or unit owner are subject to the design and construction requirements of such subdivision. With respect to phased projects of City agencies, each phase shall be covered only if the estimated construction cost of such phase is two million dollars or more.

(iii) Installation or replacement of plumbing systems that includes the installation or replacement of plumbing fixtures. A capital project that includes the

installation or replacement of a plumbing system is covered by subdivision d of section 224.1 of the Charter if it includes the installation or replacement of plumbing fixtures and the estimated construction cost of the installation or replacement of the plumbing system is \$500,000 dollars or more.

(iv) Installation or replacement of boilers. A capital project that is not subject to subdivision b of section 224.1 of the Charter involving the installation or replacement of boilers at an estimated construction cost of two million dollars or more is covered by subdivision c (1) of section 224.1 of the Charter.

(v) Installation or replacement of lighting systems. A capital project that is not subject to subdivision b of section 224.1 of the Charter and that includes the installation or replacement of lighting systems at an estimated construction cost of one million dollars or more is covered by subdivision c (1) of section 224.1 of the Charter.

(vi) Installation or replacement of HVAC comfort controls. A capital project that is not subject to subdivision b or paragraph (1) of subdivision c of section 224.1 of the Charter and that includes the installation or replacement of HVAC comfort controls at an estimated construction cost for such installation or replacement of two million dollars or more is covered by paragraph (2) of subdivision c of section 224.1 of the Charter.

(b) Entities that are not City agencies. (1) Notwithstanding subdivision (a) of this section, a capital project of an entity that is not a City agency is not subject to the requirements of section 224.1 of the Charter and this chapter unless:

(i) 50% or more of the estimated project cost is paid out of the City treasury; or

(ii) the project receives ten million dollars or more of the estimated project cost from the City treasury.

(2) Entities that are not City agencies and that receive capital dollars from the City treasury shall be on notice that a project, as such project is described in supporting documentation submitted to the Office of Management and Budget for the issuance of a Certificate to Proceed for Construction or Certificate to Proceed for Design and Construction, shall be subject to all applicable provisions of Local Law 86 of 2005 at any time that the City capital contribution to such project equals or exceeds one of the amounts set forth in paragraph 1 of this subdivision. All City funding agreements shall contain notice of this requirement.

(3) When determining whether the City contribution is 50% or more or \$10 million or more of the estimated project cost, the cost of the entire project, as described in supporting documentation submitted to the Office of Management and Budget for the issuance of a Certificate to Proceed for Construction or Certificate to Proceed for Design and Construction, including land or other property acquisition and subsequent construction or rehabilitation costs, shall be considered.

(4) Entities that are not City agencies shall act in good faith in describing capital projects in supporting documentation submitted to the Office of Management and Budget for the issuance of a Certificate to Proceed for Construction or Certificate to Proceed for Design and Construction, and shall not seek to do so in a manner so as to circumvent the requirements of section 224.1 of the Charter and this chapter.

(c) Stand-alone parking garages. Notwithstanding any inconsistent provision of this chapter, stand-alone parking garages are not covered by section 224.1 of the Charter and this chapter.

§10-04 Table summaries of green building standards. The following tables summarize the requirements of section 224.1 of the Charter as they apply to the capital projects described in section 10-03 of this chapter:

(a) Requirements for capital projects for or in new buildings, additions to existing buildings and capital projects in existing buildings subject to substantial reconstruction:

Table A

<u>Estimated Construction Cost</u>	<u>Occupancy Group</u>	<u>Green Building Standard Required</u>	<u>Additional Energy Cost Reduction Required (See §10-05(a) for method of calculation)</u>
<u>\$2M and lower than \$12M</u>	<u>B-1 Storage (moderate hazard)</u> <u>B-2 Storage (low hazard)</u> <u>C Mercantile</u> <u>E Business</u> <u>F-1a Assembly (theaters, etc.)</u> <u>F-1b Assembly (churches, concert halls, etc.)</u> <u>F-3 Assembly (museums, etc.)</u> <u>F-4 Assembly (restaurants, etc.)</u> <u>H-1 Institutional</u>	<u>LEED Silver or higher</u>	<u>N/A</u>

<u>Estimated Construction Cost</u>	<u>Occupancy Group</u>	<u>Green Building Standard Required</u>	<u>Additional Energy Cost Reduction Required (See §10-05(a) for method of calculation)</u>
	(restrained)		
	G Education H-2 Institutional (incapacitated)	LEED-certified or higher	N/A
<u>\$12M or more</u>	G Education	LEED-certified or higher	<u>Minimum 20% reduction in energy costs. Additional 5% or 10% (whichever is achievable) reduction required if payback within 7 years.</u>
<u>Greater than \$12M and lower than \$30M</u>	B-1 Storage (moderate hazard) B-2 Storage (low hazard) C Mercantile E Business F-1a Assembly (theaters, etc.) F-1b Assembly (churches, concert halls, etc.) F-3 Assembly (museums, etc.) F-4 Assembly (restaurants, etc.) H-1 Institutional (restrained)	LEED Silver or higher	<u>Minimum 20% reduction in energy costs. Additional 5% reduction required if payback within 7 years.</u>
	H-2 Institutional (incapacitated)	LEED-certified or higher	<u>Minimum 20% reduction in energy costs. Additional 5% reduction required if payback within 7 years.</u>

<u>Estimated Construction Cost</u>	<u>Occupancy Group</u>	<u>Green Building Standard Required</u>	<u>Additional Energy Cost Reduction Required (See §10-05(a) for method of calculation)</u>
<u>\$30M or more</u>	<u>B-1 Storage (moderate hazard)</u> <u>B-2 Storage (low hazard)</u> <u>C Mercantile</u> <u>E Business</u> <u>F-1a Assembly (theaters, etc.)</u> <u>F-1b Assembly (churches, concert halls, etc.)</u> <u>F-3 Assembly (museums, etc.)</u> <u>F-4 Assembly (restaurants, etc.)</u> <u>H-1 Institutional (restrained)</u>	<u>LEED Silver or higher</u>	<u>Minimum 25% reduction in energy costs. Additional 5% reduction required if payback within 7 years.</u>
	<u>H-2 Institutional (incapacitated)</u>	<u>LEED-certified or higher</u>	<u>Minimum 25% reduction in energy costs. Additional 5% reduction required if payback within 7 years.</u>

(b) Requirements for capital projects involving the installation or replacement of boilers, lighting systems and HVAC comfort controls:

Table B

<u>Estimated Construction Cost</u>	<u>Occupancy Group</u>	<u>Energy Cost Reduction Required (See § 10-05 (a) for method of calculation)</u>
<u>Boiler - \$2M or more</u>	<u>B-1 Storage (moderate hazard)</u> <u>B-2 Storage (low hazard)</u> <u>C Mercantile</u> <u>E Business</u> <u>F-1a Assembly (theaters, etc.)</u> <u>F-1b Assembly (churches, concert halls, etc.)</u>	<u>Minimum 10% reduction in energy costs.</u>

<u>Estimated Construction Cost</u>	<u>Occupancy Group</u>	<u>Energy Cost Reduction Required (See § 10-05 (a) for method of calculation)</u>
	<u>F-3 Assembly (museums, etc.)</u> <u>F-4 Assembly (restaurants, etc.)</u> <u>G Education</u> <u>H-1 Institutional (restrained)</u> <u>H-2 Institutional (incapacitated)</u>	
<u>Lighting systems - \$1M or more</u>	<u>B-1 Storage (moderate hazard)</u> <u>B-2 Storage (low hazard)</u> <u>C Mercantile</u> <u>E Business</u> <u>F-1a Assembly (theaters, etc.)</u> <u>F-1b Assembly (churches, concert halls, etc.)</u> <u>F-3 Assembly (museums, etc.)</u> <u>F-4 Assembly (restaurants, etc.)</u> <u>G Education</u> <u>H-1 Institutional (restrained)</u> <u>H-2 Institutional (incapacitated)</u>	<u>Minimum 10% reduction in energy costs.</u>
<u>HVAC comfort controls - \$2M or more</u>	<u>B-1 Storage (moderate hazard)</u> <u>B-2 Storage (low hazard)</u> <u>C Mercantile</u> <u>E Business</u> <u>F-1a Assembly (theaters, etc.)</u> <u>F-1b Assembly (churches, concert halls, etc.)</u> <u>F-3 Assembly (museums, etc.)</u> <u>F-4 Assembly (restaurants, etc.)</u> <u>G Education</u> <u>H-1 Institutional (restrained)</u> <u>H-2 Institutional (incapacitated)</u>	<u>Minimum 5% reduction in energy costs.</u>

Notes to Table B: (i) Capital projects required to comply with subdivision (a) of this section are not required to also comply with the energy cost reduction requirements summarized in this table. (ii) Capital projects for the installation of boilers at an estimated construction cost of two million dollars or more are not required to also comply with the energy cost reduction requirements summarized in this table for the installation of HVAC comfort controls.

(c) Requirements for capital projects involving the installation or replacement of plumbing systems that includes the installation or replacement of plumbing fixtures:

Table C

<u>Estimated Construction Cost for Plumbing Systems</u>	<u>Occupancy Group</u>	<u>Water Use Reduction Required (See §10-05(b) for method of calculation)</u>
<u>\$500,000 or more</u>	<u>B-1 Storage (moderate hazard)</u> <u>B-2 Storage (low hazard)</u> <u>C Mercantile</u> <u>E Business</u> <u>F-1a Assembly (theaters, etc.)</u> <u>F-1b Assembly (churches, concert halls, etc.)</u> <u>F-3 Assembly (museums, etc.)</u> <u>F-4 Assembly (restaurants, etc.)</u> <u>G Education</u> <u>H-1 Institutional (restrained)</u> <u>H-2 Institutional (incapacitated)</u>	<u>Minimum 30% reduction in water use or 20% if the Department of Buildings rejects an application for the use of waterless urinals.</u>

Note to Table C: Capital projects required to comply with the provisions of subdivision (a) or (b) of this section are also subject to any applicable water use reduction requirements, summarized in this table.

§10-05 Calculation of required energy cost reduction and potable water use reduction. (a) The required energy cost reduction, summarized in the tables set forth in subdivisions (a) and (b) of section 10-04 of this chapter, shall be calculated in accordance with the methodology prescribed under LEED Energy and Atmosphere Credit 1 of LEED NC v.2.1 or the New York State Energy Conservation Construction Code, whichever is more stringent.

(b) The required potable water use reduction, summarized in the table set forth in subdivision (c) of section 10-04 of this chapter, shall be determined by a methodology not less stringent than that prescribed in the LEED water efficiency credit 3.2 of LEED NC v.2.1 or v.2.2.

§10-06 Procedures. (a) Application for USGBC certification. In accordance with subdivision (k) of section 224.1 of the Charter and this chapter, a City agency must apply to the U.S. Green Building Council for certification of projects accounting for at least 50% of the amount of capital dollars allocated for capital projects of such agency unless the agency is utilizing an approved green building rating system other than the LEED green building rating system. This subdivision does not apply to the projects of entities that are not City agencies.

(b) Reporting requirements. (1) Each agency responsible for the expenditure of City funds on a capital project, whether it is a project of a City agency or a project of an entity that is not a City agency for which City capital funds will be expended, shall complete and submit applicable reporting forms for each capital project subject to section 224.1 of the Charter in accordance with guidelines issued by the Director of the Office of Environmental Coordination.

(2) The Director of the Office of Environmental Coordination will prepare an Annual Report in accordance with section 3 of local law 86 for the year 2005.

(c) Indexation of construction costs to inflation. The construction costs listed in subdivisions (b), (c), (d) and (g) of section 224.1 of the Charter shall be indexed

to inflation. The Director of the Office of Environmental Coordination shall publish such costs at the start of each calendar year, beginning January 1, 2008.

§10-07 Exemptions. (a) The Director of the Office of Environmental Coordination may, on behalf of the Mayor, administer exemptions for capital projects from one or more of the requirements outlined in section 10-04 of this chapter if, in his or her sole discretion, such exemption is necessary in the public interest.

(b) The total value of the exemptions granted pursuant to subdivision (a) of this section may not exceed 20% of the capital dollars in each fiscal year accounting for capital projects subject to each of subdivisions (b), (c) and (d) of section 224.1 of the Charter.

(c) Requests for exemption, including an explanation of the reason for such request and supporting documentation, shall be submitted to the Director of the Office of Environmental Coordination as soon as is practicable after the agency becomes aware of the necessity for such exemption.

* * *

Statement of Basis and Purpose

Local Law No. 86 for the year 2005 amended the New York City Charter by adding a new section 224.1 (green building standards). The local law, which became effective on January 1, 2007, provides that the “mayor shall promulgate rules to carry out the provisions of this section.”

Executive Order No.97 of 2006 authorizes the Director of the Office of Environmental Coordination to exercise the powers and duties granted to the Mayor in connection with the implementation of Local Law 86. Such powers and duties include: (1) promulgating rules pursuant to Charter Chapter 45, known as the City Administrative Procedure Act; (2) administering exemptions from the requirements of the law; (3) working with other City agencies to monitor compliance with the law; (4) publishing findings, where necessary, on whether proposed green buildings standards are not less stringent than the applicable Leadership in Energy and Environmental Design (“LEED”) standard; and (5) taking all other actions necessary to implement and administer the law.

The green building standards rules define the selected green building rating system, add clarifying definitions, outline the occupancy groups, project types, and City and City-funded capital projects to which green buildings requirements apply, summarize the required green building standards, set targets for energy cost savings and water use reduction, provide the method for calculating energy cost savings, list thresholds for City agencies to apply for USGBC certification, establish reporting procedures, and set forth the process for applying for a mayoral exemption.

The rules define the terms construction costs, estimated project costs, floor area, HVAC comfort controls, phased project, plumbing fixture, plumbing system, rehabilitation work, reporting form and substantial reconstruction.

The selected green building rating system is defined as New Construction version 2.2, Existing Buildings version 2.0, or Commercial Interiors version 2.0 of the Leadership in Energy and Environmental Design (LEED) building rating system published by the United States Green Building Council, whichever is most appropriate for the project under United States Green Building Council guidelines. The LEED green building rating system shall apply to capital projects subject to subdivision b of section 224.1 of the Charter unless an alternative, not less stringent, green building standard has been specifically approved by the Director of the Office of Environmental Coordination as set forth in such section.

Projects in occupancy groups B-1, B-2, C, E, F-1a, F-1b, F-3, F-4, G, H-1, and H-2 having one or more of the following characteristics are subject to green building requirements under section 224.1 of the Charter: (i) capital projects for or in new buildings, additions to buildings and the substantial reconstruction of existing buildings, including fit-outs of condominium units or leased space, at an estimated construction cost of two million dollars or more; (ii) installation or replacement of plumbing systems that include the replacement of plumbing fixtures at an estimated construction cost for such plumbing system of \$500,000 or more; (iii) installation or replacement of boilers at an estimated construction cost of two million dollars or more; (iv) installation or replacement of lighting systems at an estimated construction cost of one million dollars or more; and (v) installation or replacement of HVAC comfort controls at an estimated construction cost of two million dollars or more.

Capital projects of entities that are not City agencies are not subject to the requirements of section 224.1 of the Charter and the rules unless at any time: (1) 50% or more of the estimated project costs are paid out of the City treasury; or (2) the project receives ten million dollars or more of the estimated project cost from the City treasury. When determining whether the City contribution exceeds one of these thresholds, the cost of the entire project, as described in relevant documentation submitted to the Office of Management and Budget, including acquisition and subsequent construction or rehabilitation costs, shall be considered. Entities shall act in good faith in describing their capital projects to the Office of Management and Budget.

The rules clarify that stand-alone parking garages are not covered by the law, as there is no LEED certification that would apply to them at the present time.

For the purposes of determining the required energy cost reduction of capital projects subject to paragraph (2) of subdivision b and subdivision c of section 224.1 of the Charter, the methodology prescribed under LEED atmosphere and energy credit 1 of LEED NC v.2.1 or the New York State Energy Conservation Code, whichever is more stringent, shall be utilized.

The requirement for application for USGBC certification pursuant to subdivision k of section 224.1 of the Charter does not apply where the agency is utilizing an approved green building rating system other than the LEED green building rating system, nor does it apply to the projects of entities that are not City agencies. City and non-City agencies responsible for a capital project subject to section 224.1 of the Charter must complete the applicable reporting forms for each capital project. The Director of the Office of Environmental Coordination will prepare an Annual Report in accordance with section 3 of Local Law 86 for the year 2005.

Pursuant to subdivision f of section 224.1 of the Charter, the Mayor may exempt capital projects from one or more of the green building requirements if, in his or her sole discretion, such exemption is necessary in the public interest. Executive Order No. 97 of 2006 delegated this power to administer exemptions to the Director of the Office of Environmental Coordination, which is reflected in the rules. The total value of the exemptions granted may not exceed 20% of the capital dollars in each fiscal year accounting for capital projects subject to each of subdivisions b, c and d of section 224.1 of the Charter. Request for exemption, including an explanation of the reason for such request and supporting documentation, shall be submitted to the Director of the Office of Environmental Coordination as soon as is practicable after the City agency becomes aware of the necessity for such exemption.