



## AGENDA REPORT

**Meeting Date:** May 20, 2008

**Item Number:** D-3

**To:** Honorable Mayor & City Council

**From:** Jonathan Lait, AICP, City Planner  
George Chavez, City Building Official  
Azita Motamen, AIA, Plan Review Architect  
Donna Jerex, Senior Planner

**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
ADOPTING A GREEN BUILDING ORDINANCE AND  
AMENDING TITLE 10 OF THE BEVERLY HILLS MUNICIPAL  
CODE.

**Attachments:**

1. Proposed Ordinance
2. Planning Commission Resolution No. 1514
3. Proposed City of Beverly Hills Green Building/Sustainability Checklist
4. Planning Commission Report dated May 8, 2008

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### **RECOMMENDATION**

Staff recommends that the City Council introduce and conduct a first reading of a proposed ordinance amending the City's Zoning Code (Title 10) to establish a Green Building Program and new building standards for certain commercial, mixed-use and multi-family housing projects. Staff further recommends adoption, by resolution, of a green building checklist and thresholds for application of the new green building standards.

### **INTRODUCTION**

Attached for the City Council's consideration is a proposed Ordinance amending the Zoning Code to establish a Green Building Program for the City of Beverly Hills. This program, which was discussed by the Planning Commission on April 24, 2008 and May 8, 2008, is modeled after the US Green Building Council's Leadership in Energy and Environmental Design (LEED) program. The Beverly Hills Green Building Program has

been adapted from the LEED model to be consistent with local policy objectives and program goals and does not require costly LEED certification.

The proposed Green Building Program is a mandatory, performance-based, point-scaled program to achieve the following environmental sustainability goals articulated by the City Council last year:

- Encourage water, energy and resource conservation
- Reduce waste generated by construction projects
- Increase energy efficiency in buildings
- Promote health of residents, workers, and visitors
- Reduce greenhouse gas generated by building use
- Reduce the City of Beverly Hill's carbon footprint

The proposed point system was developed through a cooperative effort by the City's Building/Safety and Planning Divisions and Public Works Departments and is based on the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) system. Projects subject to the program would be evaluated and certified for compliance by the City's Building and Safety Division.

## **BACKGROUND**

The program began as a result of direction from the Council to bring forward a green building ordinance that would apply to all commercial, mixed-use and multi-family development. The Green Building Program has been before the City Council, Planning and Public Works Commissions as study session discussions.

### ***Planning and Public Works Commissions: 2007***

This item was separately reviewed by the Planning and Public Works Commissions on May 10, 2007. That presentation included a discussion of both the purpose and scope of the ordinance and a basic outline of the Green Building Program.

Presenters at the Planning Commission study session included representatives from the City's Building and Safety Division as well as the City of Santa Monica's Environmental Programs Division. Green building programs were discussed with special application to the City of Beverly Hills.

### ***City Council: 2007***

The City Council discussed the green building program concept on August 7, 2007. At that meeting, the Council provided direction to bring an ordinance forward that requires green building standards for all commercial, mixed-use, and multi-family projects. Moreover, the Council directed that a points-based system be used that reflected the nationally accepted LEED standards but that did not require LEED certification. Instead the City would review projects and self-certify based on a Checklist outlining the rating system (Attachment 3). There was an expressed desire to develop a program that could become a standard for other communities. Additionally, at a follow up session on March

2008, the Council requested that the program for the City of Beverly Hills include a requirement for photovoltaic systems.

### ***Planning Commission: 2008***

In April and May of 2008, the Planning Commission discussed three additional issues:

- Program applicability (Program not applicable to applications submitted earlier than 60 days after the effective date of the ordinance)
- Appropriate Green Building Standards and Ratings (the Checklist includes thresholds for project square footage, photovoltaic requirements and a Title 24 +15% requirement)
- Changes to the Checklist and incorporation of other Energy and Water Efficiency Systems including energy star appliances and gray water systems

These issues are more fully described in the attached May 8, 2008 Planning Commission Staff Report (Attachment 4). At that meeting, the Commission voted 4-0 to recommend City Council adoption of the ordinance as attached hereto. It should be noted that the attached ordinance has been revised by the City Attorney's Office to incorporate comments made by the Commission at the May 8, 2008 meeting as well as to address formatting and readability issues.

### **DISCUSSION**

"Green" construction is the practice of designing, constructing, operating, maintaining, and even removing buildings in ways that conserve natural resources and reduce impacts on air quality and climate change. Green construction practices are implemented through the use of building standards, which are often referred to as "*green building standards*" that encourage energy use and conservation, and indirectly reduce air pollution and improve air quality.

#### ***Green Building Programs Reviewed***

A number of existing green building programs at the State and local level were reviewed in the process of developing the City's green building program. All programs surveyed were for commercial, mixed-use, and multi-family development and almost all of the programs were mandatory.

#### ***Regulatory Approaches Reviewed***

There is more than one approach available for measuring green building design. Three approaches (LEED, Build it Green, and Energy Star) were reviewed in developing the proposed green building program. Although all three address green building standards, each one does this in a slightly different way. Each of these is discussed below.

##### ***1. LEED Rating System (Leadership in Energy and Environmental Design)***

The U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) system is recognized nation-wide and is the leading green building rating system. LEED is the industry standard for commercial, mixed-use and multi-family construction and promotes energy, water and materials conservation; environmentally preferred products and practices; improvements in human health,

comfort and productivity; and reductions in facility operation costs and environmental impacts.

In order to achieve a specific rating level, a project needs to incorporate a specific number of items from the checklist. Developers are allowed to choose options that will work best for the project provided that the necessary number of points is attained. The checklist is based on tiered levels of compliance - Platinum (highest), Gold, Silver, and Certified. Building designers have the option of progressively choosing items from different categories to obtain the points to meet necessary levels.

To assist the development community in meeting the requirements of LEED, the U.S. Green Building Council provides training in LEED and there are numerous LEED accredited professionals in the greater Los Angeles area.

The disadvantages of LEED are its costs to have a building be LEED certified and the certification process significantly trails behind the City's own inspection process causing delays in the issuance of a certificate of occupancy. The advantages of LEED are that the building would be certified and comply with the nation's green building program.

## **2. *Build It Green***

Build It Green is a non-profit membership organization based in California that promotes healthy, energy- and resource-efficient building practices. The Build It Green program is prescriptive-based, and uses a point rating system similar to the LEED rating system, but the evaluation criteria is less technical. The Build It Green point rating system however, addresses the construction and renovation of single-family and multi-family homes, but not commercial development. Build It Green provides a certification process and project certification is required by independent Built-it-Green raters similar to the LEED system.

The costs associated with this program are more reasonable and certification tracks better with the City's inspection process. However, its limited applicability at this time to single family developments is not readily transferable to more complex commercial and mixed-use developments; projects the City Council is seeking to address with a green building program.

## **3. *Energy Star***

The Federal Environmental Protection Agency (EPA) administers the Energy Star program. The Energy Star Program is applicable to both commercial and residential construction. Using the Energy Star approach, an optimal energy use target is identified and the building is designed to meet or exceed that target. "Designed to Earn the Energy Star" is a certification process administered by the EPA. Buildings eligible for "Designed to Earn the Energy Star" use less energy than conventional buildings.

Costs associated with this program are reasonable and the inspection process is straightforward. However, the Energy Star approach only focuses on energy

conservation and does not have the benefit of providing a broader spectrum of green building practices; an important direction-setting goal established by the City Council.

**City of Beverly Hills Proposed Green Building Program**

An alternative to the three programs studied is to establish the City's own green building a program that allows the City to self-certify projects. Staff's proposed Green Building Program is consistent with Council direction in that it is a point system based on LEED standards, but certified by the City. The point system models the LEED tiered levels of compliance - Platinum (highest), Gold, Silver, and Certified.

There was a desire on behalf of both the Planning Commission and City Council for the program to go beyond LEED's minimum requirements. The proposed program adds two important requirements to the LEED standards:

1. Solar (photovoltaic) panels must be incorporated into all new construction and major renovation projects
2. Title 24 (State Energy Code) must be exceeded by 15%

***How Would the Program Work?***

Administration of the Green Building Program would be performed by trained City staff. Developers would be required to retain the services of a certified green building professional to assure compliance with the program and proper integration of green building standards.

The program would apply to all commercial, mixed-use or multi-family development and renovation projects that qualify based on established thresholds. Participation in the Green Building Program is based on the gross amount of square footage of new construction and does not include any existing portion of a building that is not being remodeled. All new construction would be required to exceed Title 24 requirements by at least 15% and include active solar energy systems (photovoltaics).

The following chart summarizes the proposed requirements:

<b>GREEN BUILDING THRESHOLD REQUIREMENTS</b>				
<b>Building or Addition Size (square feet)</b>	<b>Green Building Standard Required</b>	<b>Comply with Title 24 +15%</b>	<b>Photovoltaic (solar panels)</b>	<b>Points Required</b>
>50,000 sq. ft. only if a General Plan Amendment is required for the project	Gold	Yes	Required	39 - 51
>25,000 sq. ft.	Silver	Yes	Required	33 - 38
	Certified if land is vacant	Yes	Required	26 - 32
10,000 sq. ft. to 24,999 sq. ft.	Certified	Yes	Required	26 - 32
<10,000 sq. ft.	Certification not required	Yes	Required	No points required. (Relies on Title 24 requirements.)

In many ways, the proposed program goes beyond the standards set forth in other communities. In that Beverly Hills Green Building Program has a required checklist that imposes mandatory standards, not optional, as well as requiring additional energy saving techniques that go beyond national standards, attests to this program's progressiveness.

The green building industry continues to evolve with more vendors providing sustainable products, continuously-improving technology, and applying sensible planning principles in designing a building. While earlier projects were supported financially by municipal agencies, non-profits and other organizations, a greater number of private developments are increasingly incorporating green standards due to improved access and availability of materials and reduced costs. Similar to Beverly Hills, other municipalities are beginning to establish certain standards to meet specific goals. As mentioned earlier, many of these programs are not mandatory.

There are several reports and case studies that provide general information regarding the cost of constructing a green building. These studies, however, do not necessarily provide transferable analysis to Beverly Hills as those studies may address different land uses to be designed in the building, the amount of land area available for siting and redevelopment, access or limited access to transportation, or other comparable development standards such as height.

What is available to evaluate are general ranges of increased soft and hard costs associated with green building construction. Industry documents suggest, based on the US Green Building Council's Leadership in Energy and Environmental Design ratings for a Certified, Silver, Gold and Platinum projects cost of construction increases for each level as shown below:

<b>Rating</b>	<b>Approximate Construction Cost Increase*</b>
Certified	3 %
Silver	6 %
Gold	9 %
Platinum	15 %

\*Representation of average soft and hard construction cost for each certification level

The proposed standards were determined based on a considerable amount of published industry work and research associated with achieving a LEED Silver or Certified rating. The recommended building thresholds correspond to generalized information in industry reports and based on how other communities are addressing green building standards. Staff has determined that construction projects can reasonably meet the City's green building objectives without significantly affecting financial return.

**Rating System**

The rating system proposed on the Checklist (Attachment 3) is divided into six categories. A project would receive points based on meeting the requirements of the options provided in each category. There are minimum amount of established points

identified that are required from each category, however, it is anticipated that projects will incorporate criteria from all categories in the checklist.

### **GREEN BUILDING/SUSTAINABILITY CHECKLIST CRITERIA**

• Sustainable Sites
• Water Efficiency
• Energy and Atmosphere
• Materials and Resources
• Indoor Environmental Quality
• Innovation and Design Process

Examples of green design and green building practices included in the list are: locating near public transit, providing bicycle storage and changing stations, using low water landscaping, optimizing energy performance and reusing portions of an existing building and construction materials.

#### ***Project Review Process***

The green building program would be integrated into existing City review and approval processes. Initial contact with the program will occur through informational hand-outs on the website or at the permit counter. Additionally city staff will be available to answer questions over the phone and in person.

#### ***Initial Review/ Permitting / Entitlements***

Staff will provide information on the green building program during preliminary informational visits and at the pre-conceptual plan review stage, which is the initial step in project review. At this time, applicants with qualifying projects will be provided a list of all of the required documentation and materials. The developer will retain the services of a LEED accredited professional who will be responsible for ensuring that all required paperwork is submitted to the City's Building Official and that all green design and technology is constructed to specification. City staff from different departments will be involved in the review process with the Building Division having the lead role. For projects requiring Planning Commission review, staff can report on how each applicant intends to satisfy the requirements of the ordinance.

#### ***Building Final Inspection***

Prior to approval and issuance of a building permit, a project will need to incorporate a certain number of points from the green building standards checklist. What features are incorporated from the list will be determined by the applicant, provided that the required number of points are attained. The applicant is also required to provide third party verification that all standards are constructed to specification.

#### ***Good Faith Effort to Comply***

If for some reason, a project fails to attain the points necessary, a determination will be made by the City as to whether there has been a "good faith effort to comply". In making this determination, the Building official shall consider the cost required for compliance and the availability of materials and supplies. If it is determined that the cost of compliance are disproportionate to the cost of the project or that the green building materials and technologies are no longer available then the City will honor the good faith effort. If the City determines that a good faith effort has not been made then the final

building approval shall be withheld and additional measures may be required in substitution.

### **Adoption of Green Building Program**

The recommended standards and green building checklist shall be adopted by Resolution. This will allow the City to regularly update these standards as it becomes evident that building a green building at reduced building thresholds and at higher ratings becomes attainable. Moreover, staff will continue to evaluate the effectiveness of the ordinance and projects built under these standards. In doing so, it is anticipated that staff will be able to report annually to the Planning Commission its findings and the appropriateness of modifying the standards. This will ensure that Beverly Hills Green Building Program continues to evolve and reflect current and anticipated industry standards and City goals. The proposed ordinance also includes the Planning Commission in a reviewing authority to evaluate and direct future changes to the Green Building standards.

At the May 8, 2008 meeting the Commission also recommended the following program changes which have been incorporated into the proposed Ordinance:

- Projects greater than 50,000 square feet in size which also require a General Plan Amendment should achieve a Gold level standard. The reasoning is that if the General Plan Amendment reasonably benefits the applicant, it is appropriate to extend this benefit to the community in the form of higher performing green building construction in the form of a Gold rated building. The City Council would have the authority to waive this requirement based on certain standards.
- City projects shall be subject to the same Green Building Standards set forth by Resolution to set an example that the City is realizing its own Green Building goals. The City Council would retain the option to exempt these requirements in cases where the public benefit would not be better served by implementing the standards.

Based on the foregoing, staff recommends that the proposed standards be adopted with Planning Commission's recommended changes to building thresholds and ratings. Staff recommends that the standards be reviewed on an ongoing basis with the Planning Commission's guidance, and be re-evaluated as appropriate.

### **ORDINANCE APPLICABILITY DATE**

To provide sufficient advance notice to project applicants, the Community Development Department intends to provide signage and informational handouts at the public counter advising the public of the proposed program in early June, 2008. The program requirements would apply to multi-family residential, commercial, or mixed use buildings for which either a development application has been deemed complete by the Planning and Community Development Department or a building permit has been issued as of the program start date. Once the Ordinance becomes effective, the requirements would not become mandatory until an additional 60 days have passed. It is anticipated that this timing would be as follows:

First Reading	May 20, 2008
Second Reading	June 3, 2008
Ordinance Effective Date	July 4, 2008
Program Start Date	September 3, 2008

**PUBLIC NOTICE AND COMMENTS**

Notice of a public hearing on this matter was published in the Beverly Hills Courier on Friday May 9, 2008. As of the date this report was written, no public comments had been received pursuant to the notice.

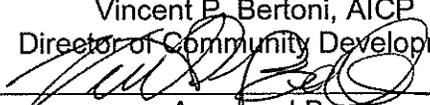
**ENVIRONMENTAL REVIEW**

The Project has been environmentally reviewed pursuant to the California Environmental Quality Act ("CEQA"), (Public Resource Sections 21000, et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines ("Guidelines"). It has been determined that this project is not subject to CEQA pursuant to Section 15061(b)(3) of the Guidelines because CEQA only applies to projects which have the potential for causing a significant effect on the environment. This ordinance would establish requirements intended to reduce energy consumption and construction waste along with other measures, and therefore, it would not pose a significant effect on the environment. Additionally, two categorical exemptions would apply to a project of this nature. Section 15307 categorically exempts actions taken by local ordinances that assure maintenance, restoration or enhancement of a natural resource. Section 15308 categorically exempts actions taken by local ordinance that assures maintenance, restoration, enhancement, or protection of the environment.

**FISCAL IMPACT**

No fiscal impact is expected, as program cost will be offset by increased project valuations associated with imposed by Green Building elements.

Vincent P. Bertoni, AICP  
Director of Community Development

  
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Approved By

Attachment No. 1  
Proposed Draft Ordinance

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
ADOPTING A GREEN BUILDING ORDINANCE AND  
AMENDING TITLE 10 OF THE BEVERLY HILLS  
MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

**Section 1.** A new Article 46 entitled “Green Building Standards” is hereby added to  
Chapter 3 (“Zoning”) of Title 10 (“Planning and Zoning”) to read as follows:

“Article 46. Green Building Standards

**10-3-4600: Purpose.**

The purpose of this Article is to enhance public health and welfare and assure that further multi-family residential, commercial and mixed-use development is consistent with the City’s desire to create a more sustainable community by incorporating green building measures into the design, construction and maintenance of buildings. The green building provisions referenced in this Article are designed to achieve the following goals:

- A. Encourage resource conservation.
- B. Reduce waste generated by construction projects.
- C. Increase energy efficiency in buildings.
- D. Provide durable buildings that are efficient and economical to own and operate.
- E. Enhance the health, welfare and productivity of residents, workers, and visitors to the City.

**10-3-4601. Definitions.**

For the purposes of this Article, certain words and terms are defined as follows:

“Applicant” means any individual, firm, limited liability company, association, partnership, corporation, or any other entity that applies to the City for the applicable permits to undertake any construction or Renovation project within the City.

“Commissioning Authority” means the party retained by an Applicant pursuant to Section 10-3-4607.

“Covered Project” means the construction of, or addition to, any multi-family residential, commercial, or mixed-use building, or the Renovation of any existing multi-family residential, commercial, or mixed use building if the cost of the Renovation exceeds fifty percent (50%) of the replacement cost of the building, as determined pursuant to Section 10-3-4100.

“Green Building Compliance Official” means the Director of Planning and Community Development or his or her designee.

“Green Building Project Checklist” means the rating system established as provided in Section 10-3-4604.

“Non-Covered Project” means any project that is exempt from the provisions of this Article as set forth in Section 10-3-4603.

“Pre-Permitting Documentation” means documentation submitted as required by Section 10-3-4605.

“Renovation” means any change or modification to an existing building or structure.

**10-3-4602: General Provisions-Applicability.**

A. Neither this Article, nor any of its related green building resolutions, shall affect in any manner the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirements of this Code, all of which shall be operative and remain in full force and effect without limitation.

B. When the provisions of this Article conflict with state law, state law shall govern.

C. The provisions of this Article shall be applicable to City projects unless the City Council determines that application of these provisions to any particular project is not in the best interest of the public or City.

**10-3-4603: Non-Covered Projects.**

The following projects shall be exempt from the provisions of this Article:

A. The voluntary repair or renovation of any structure for the sole purpose of performing seismic upgrades.

B. Any project that solely includes plumbing, electrical or mechanical work.

C. Installation of a roof covering on any existing building.

D. The repair of a building, if the building official determines that the repair is necessary for safety reasons and the repair does not enlarge the building.

**10-3-4604: Standards for Compliance.**

A. All Covered Projects shall demonstrate compliance with the rating system and minimum point requirements established by separate resolution of the City Council, as amended from time to time. This shall be known as the Beverly Hills Green Building/Sustainability Checklist or the Green Building Project Checklist.

B. Applicants are encouraged to register Covered Projects with the U.S. Green Building Counsel. LEED™ certification through the U.S. Green Building Council is not required by this Article.

C. Applicants for Non-Covered Projects are encouraged to use their best effort to incorporate as many green building measures as feasible from the Beverly Hills Green Building Project Checklist.

**10-3-4605: Submission of Pre-Permitting Documentation.**

A. Pre-Permitting Documentation. Concurrent with the application for a planning approval or building permit approval for any Covered Project, the Applicant shall submit documentation indicating the measures used to achieve compliance with the Green Building Project Checklist. This Pre-Permitting Documentation shall include:

1. The applicable Green Building Project Checklist; and
2. The applicable green building worksheet with an analysis of each credit claimed; and
3. Any other documentation that may be necessary to show compliance with this Article or as requested by the Green Building Compliance Official.

B. Meeting. After submission of the documentation required by this section, but prior to the issuance of a building permit, the Green Building Compliance Official may arrange a meeting with the Applicant to discuss the proposed measures, as needed.

**10-3-4606: Review of the Pre-Permitting Documentation.**

A. Approval of Documentation. The Green Building Compliance Official shall approve the Pre-Permitting Documentation if the Official determines that the project will conform to the applicable rating set forth in the Green Building Project Checklist.

B. Non-approval or Incomplete Documentation. If the Green Building Compliance Official determines that the Pre-Permitting Documentation fails to demonstrate that the Covered Project will meet the required rating or the documentation is incomplete, Official shall:

1. Return the Pre-Permitting Documentation to the Applicant marked “denied” including a statement of reasons for the denial; or

2. Return the Pre-Permitting Documentation to the Applicant marked “incomplete” with an indication of additional information or project modifications that may be required to complete the Pre-Permitting Documentation.

Neither a building permit, nor a grading permit, shall be issued until the Pre-Permitting Documentation has been approved.

C. Re-Submission. If the Pre-Permitting Documentation is returned to the Applicant, the Applicant may re-submit the Pre-Permitting Documentation with such modifications or additional information as may be required.

**10-3-4607: Compliance.**

A. LEED Certified Professional. The Applicant shall retain a LEED certified professional to assist with the submission of Pre-Permitting Documentation and the monitoring and verifying of compliance with the Green Building Project Checklist and other approved Pre-Permitting Documentation required by Section 10-3-4605. The LEED certified professional shall submit evidence of compliance with the approved documentation to the Green Building Compliance Official during design and construction as required by the Green Building Compliance Official.

B. Verification. The City shall verify that the green building measures and provisions indicated in the Pre-Permitting Documentation are being implemented through inspections of the project during construction and through review of appropriate documents such as purchase receipts or photographic documentation provided by the Applicant and acceptable to the Green Building Compliance Official. If, as a result of any inspection, the Green Building Compliance Official determines that the Covered Project does not comply with the Pre-Permitting Documentation, a stop-work order may be issued. At the discretion of the Green Building Compliance Official such a stop-work order may apply to the portion of the project impacted by noncompliance or to the entire project. The stop-work order shall remain in effect until the Green Building Compliance Official determines that the project will be brought into compliance with this Article.

C. Substitution of Credits. During construction of the project, the Green Building Compliance Official may approve the substitution of approved credits with other credits in the Green Building Project Checklist. Substitution shall occur only at the request of the Applicant and after submittal of revised Pre-Permitting Documentation satisfactory to the Green Building Compliance Official.

D. Commissioning Authority. The Applicant shall retain a third party agent commonly known as a “Commissioning Authority” to ensure that the systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the approved Pre-Permitting Documentation for a Covered Project. Pursuant to Section 10-3-4614, the Green Building Compliance Official may adopt qualifications for the Commissioning Authority as part of the rules and regulations for implementation of this Article.

**10-3-4608: Final Determination of Compliance.**

A. Prior to any final building permit approval and/or issuance of a final certificate of occupancy, the Green Building Compliance Official shall review the documentation submitted by the Applicant, and determine whether the Applicant has complied with the requirements of this Article. If the Green Building Compliance Official determines the Applicant has met the requirements of this Article, the Green Building Compliance Official shall so certify. No building permit shall be finalized, nor shall a permanent certificate of occupancy be issued, for a Covered Project until the Green Building Compliance Official has issued a certification of compliance with this Article.

B. As required by the regulations adopted by the Green Building Compliance Official pursuant to Section 10-3-4614, the Commissioning Authority shall submit a report of building operation in accordance with the approved Pre-Permitting Documentation to the Green Building Compliance Official for verification of compliance with this Article and to ensure that the building systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the approved Pre-Permitting Documentation for the Covered Project.

C. If the Green Building Compliance Official determines that the Covered Project has not met the requirements of this Article, the Green Building Compliance Official may withhold issuance of final building permit approval or a certificate of occupancy or may make one of the following determinations:

1. Good Faith Effort to Comply. Upon request by an Applicant, the Green Building Compliance Official may determine that the Applicant has made a good faith effort to comply with this Article and authorize issuance of final building permit approval or a permanent certificate of occupancy. The Green Building Compliance Official may determine that the Applicant has made a good faith effort to comply with this Article if:

a. The cost of good faith compliance with this Article exceeds twenty-five percent (25%) of the total construction cost; or

b. The green building materials and technologies on the Green Building Project Checklist are no longer available or not yet commercially available. In making this determination, the Green Building Compliance Official shall consider the availability of markets for materials to be recycled, the availability of green building materials and technologies, and the documented efforts of the Applicant to comply with this Article.

The determination of good faith compliance with any one aspect of the Green Building Projects Checklist shall not relieve the Applicant of the obligation to fully comply with all other aspects of the Checklist.

2. Noncompliance. Although the Applicant has not met the requirements of this Article, the Applicant will undertake additional green building measures as described below to mitigate the Applicant's failure to comply with this Article. Once the Applicant has undertaken such additional measures, the Green Building Compliance Official may certify that the Covered Project has met the requirements of this Article.

a. Mitigation. If the Green Building Compliance Official determines that the Applicant has not complied with this Article pursuant to this subsection C.2, the Green Building Compliance Official may require further green building measures to be employed in the operation and maintenance of the Covered Project to mitigate the Applicant's failure to comply fully with this Article. Such further measures may include, but are not limited to, landscaping the Covered Project to decrease water and energy consumption, use of energy efficient fixtures, including the use of energy efficient light bulbs, and education of the building occupants and owners regarding on-going energy and resource saving techniques.

D. LEED Certification: For Covered Projects that have voluntarily registered with the U.S. Green Building Council with the intent to certify the building at the "Certified" level or above, the Green Building Compliance Official may reduce the scope of the City's compliance review. Depending on the timing of certification, the verification of compliance with this Article required may be reduced or eliminated. However, in no event shall a final certificate of occupancy be issued until after the U.S. Green Building Council issues its formal ruling that each attempted credit is either anticipated or achieved or verification of compliance with this Article has been provided to the Green Building Compliance Official.

**10-3-4609: Hardship or Infeasibility Exemption.**

A. Exemption. If an Applicant for a Covered Project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Article, he or she may apply for an exemption as set forth below. In applying for an exemption, the burden is on the Applicant to show hardship or infeasibility.

B. Application. If an Applicant for a Covered Project believes that such circumstances exist, the Applicant may apply for an exemption at the time that the Applicant submits the Pre-Permitting Documentation required by Section 10-3-4605. The Applicant shall indicate in the Pre-Permitting Documentation the maximum number of credits he or she believes is practical or feasible for the Covered Project and the circumstances that he or she believes make it a hardship or infeasible to comply fully with this Article. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technologies, and compatibility of green building requirements with existing building standards.

C. Meeting with Green Building Compliance Official. The Green Building Compliance Official shall review the information supplied by the Applicant, may require additional information from the Applicant, and may meet with the Applicant to discuss the request for exemption.

D. Granting of Exemption. If the Green Building Compliance Official determines that it is a hardship or infeasible for the Applicant to fully meet the requirements of this Article based on the information provided, the Green Building Compliance Official shall determine the maximum feasible number of credits reasonably achievable for the Covered Project and shall indicate this number on the Pre-Permitting Documentation submitted by the Applicant. The Green Building Compliance Official shall return a copy of the Pre-Permitting Documentation to the Applicant marked "Approved with Exemption" and shall notify the Building Division that

the Pre-Permitting Documentation has been approved. If an exemption is granted, the Applicant shall be required to comply with this Article in all other respects and shall be required to achieve in accordance with this Article, the number of points determined to be achievable by the Green Building Compliance Official.

E. Denial of Exemption. If the Green Building Compliance Official determines that it is not a hardship or infeasible for the Applicant to meet the requirements of this Article, the Official shall notify the Applicant in writing. The Applicant shall resubmit the Pre-Permitting Documentation in full compliance with this Article and if the resubmitted documentation does not comply this Article, the Green Building Compliance Official shall reject the Pre-Permitting Documentation in accordance with Section 10-3-4606.

**10-3-4610: Affordable Housing Exemption.**

The Green Building Compliance Official may waive some or all of the requirements of this Article if an affordable housing project Applicant demonstrates that full compliance with the provisions of this Article would frustrate the ability to provide affordable housing units. Any waiver pursuant to this paragraph shall not be deemed to be a construction incentive for purpose of Section 10-3-1526.6 of this Municipal Code.

**10-3-4611: Appeal.**

Pursuant to the provisions set forth in Title 1 of this Code, any aggrieved Applicant or person may appeal to the City Council the determination of the Green Building Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section 10-3-4609; (ii) compliance with this Article pursuant to Section 10-3-4604; or (iii) the type or scope of mitigation measures required pursuant to Section 10-3-4608 in the event of noncompliance.

**10-3-4612: Review of Beverly Hills Green Building Rating System.**

A. The Planning and Community Development Department and/or the Beverly Hills Planning Commission may review the Green Building Project Checklist from time to time to ensure the requirements are practical, feasible and are updated to be compliant with green building materials and technologies as such become available in the marketplace.

B. Prior to the adoption of any resolution amending the Green Building Project Checklist, the Planning Commission shall review such amendment and provide a recommendation to the City Council, unless the City Council waives this requirement.

**10-3-4613: Recordation of Covenant.**

The property owner shall record and sign a covenant in a form satisfactory to the city attorney that requires the green building systems implemented as set forth in the Green Building Project Checklist to be maintained for the life of the project or any portion thereof. The covenant shall require that the owner include provisions for such maintenance either by the owner or a third party in any lease, agreement, covenants, conditions and restrictions, or similar document. For example, if low-emissions carpet were installed pursuant to the Green Building Project

Checklist, the replacement carpet shall also be of a type that complies with the Green Building Project Checklist.

**10-3-4614: Authority to Adopt Rules and Regulations.**

Consistent with the provisions of this Article, the Green Building Compliance Official shall have authority to adopt rules and regulations to implement this Article.

**10-3-4615: Enforcement.**

In addition to any other remedy available, violation of any provision of this Article due to the Applicant's failure to build or maintain the Covered Project in accordance with the Covered Project plans, including the Pre-Permitting Documentation and the conditions of approval in the applicable permit, may be punishable as provided for in Chapter 3 of Title 1.

B. Where the Applicant has violated any provision of this Article due to the Applicant's failure to build or maintain the Covered Project in accordance with the project's plans, including the Pre-Permitting Documentation and the conditions of approval in the applicable permit, the Green Building Compliance official may require mitigation as set forth in Section 10-3-4608.

C. These remedies are cumulative, and the choice of one by the City shall not preclude pursuing others whether or not listed herein."

**Section 2.** The provisions of this ordinance shall not apply to the construction of, addition to, or renovation of multi-family residential, commercial, or mixed use buildings for which either a development application has been deemed complete by the Planning and Community Development Department or a building permit has been issued before the sixty-first day after the effective date of this ordinance.

**Section 3.** The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

**Section 4.** This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

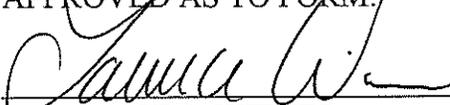
Adopted:

\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of Beverly Hills

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
RODERICK J. WOOD  
City Manager  
  
\_\_\_\_\_  
VINCENT P. BERTONI, AICP  
Director of Community Development

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Attachment No. 2  
Planning Commission Resolution 1514

RESOLUTION NO. 1514

RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF BEVERLY HILLS RECOMMENDING APPROVAL  
OF AN ORDINANCE ESTABLISHING A GREEN BUILDING  
PROGRAM AND AMENDMENT OF TITLE 10 OF THE  
BEVERLY HILLS MUNICIPAL CODE

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The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. The Planning Commission of the City of Beverly Hills supports the creation of a more sustainable community by, among other things, incorporating green building techniques and measures into the design, construction and maintenance of buildings in the City with the goals of encouraging resource conservation, reducing waste generated by construction projects, increasing the energy efficiency of buildings, providing durable buildings that are efficient and economical to own and operate, and promoting the health and productivity of residents, workers, and visitors to the City.

Section 2. The Planning Commission held a study session to consider adoption of a Green Building ordinance on April 24, 2008. Thereafter, the Planning Commission conducted a duly noticed public hearing on May 8, 2008. The primary purpose of that hearing was to discuss the draft Green Building Ordinance, as set forth in Exhibit A attached hereto, and incorporated herein by reference. Evidence, both written and oral, was presented at said hearing.

Section 3. The Green Building Ordinance (the "Project") has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA")), the State CEQA Guidelines

(California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines. The Planning Commission hereby determines that the Project is exempt from CEQA pursuant to Guidelines Section 15307 because the proposed ordinance constitutes a regulatory process and procedure to achieve the goals of encouraging resource conservation, reducing construction-generated waste, increase energy efficiency in buildings, and promote the health and productivity of residents, workers and visitors to the City. Separate and independent, the Project is exempt from CEQA pursuant to Guidelines Section 15308 because the proposed ordinance will help to restore, enhance and protect the environment by requiring increased energy efficiency in buildings and reducing waste generated by construction projects, which among other things will have the effect of encouraging resource conservation and reducing energy demand and impacts associated energy generation and transmission. Further, it can be seen with certainty that the proposed ordinance does not have the potential for causing a significant impact on the environment because it will serve to protect the environment. Thus, the ordinance is not subject to CEQA pursuant to Guidelines Section 15061(b)(3).

Section 4. Based upon the evidence presented, the Planning Commission hereby recommends that the City Council approve the proposed Zoning Text Amendment as set forth in the Draft Ordinance attached hereto as Exhibit "A."

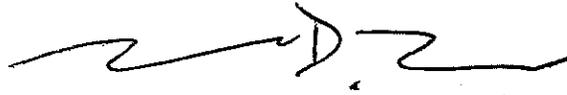
Section 5. The Planning Commission also recommends that the City Council adopt by Resolution the "City of Beverly Hills, Green Building/Sustainability Checklist," attached hereto as Exhibit "B."

Section 6. The Planning Commission also recommends that the City Council adopt a Resolution establishing applicability of the Green Building Ordinance to multi-family residential, commercial, and mixed-use projects according to the following schedule:

Building or Addition Size (square feet)	Green Building Standard Required	Comply with Title 24 +15%	Photovoltaics (solar panels)	Points Required
>50,000 sq. ft. only if a General Plan Amendment is required for the project	Gold	Yes	Required	39 - 51
≥25,000 sq. ft.	Silver	Yes	Required	33 - 38
	Certified if land is vacant	Yes	Required	26 - 32
10,000 sq. ft. to 24,999 sq.ft.	Certified	Yes	Required	26 - 32
<10,000 sq. ft.	Certification not required	Yes	Required	No points required. (Relies on Title 24 requirements.)

Section 7. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: May 8, 2008



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Noah D. Furie  
Chairman of the Planning Commission of the City  
of Beverly Hills, California

Attest:

  
Secretary

Approved as to form:

  
David M. Snow  
Assistant City Attorney

Approved as to content:

  
Jonathan Lait, AICP  
City Planner

STATE OF CALIFORNIA )

COUNTY OF LOS ANGELES ) SS.

CITY OF BEVERLY HILLS )

I, JONATHAN LAIT, Secretary of the Planning Commission and City Planner of the City of Beverly Hills, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 1514 duly passed, approved and adopted by the Planning Commission of said City at a meeting of said Commission on May 8, 2008, and thereafter duly signed by the Secretary of the Planning Commission, as indicated; and that the Planning Commission of the City consists of five (5) members and said Resolution was passed by the following vote of said Commission, to wit:

AYES: Commissioners Bosse, Cole, Yukelson and Chair Furie.

NOES: None.

ABSTAIN: None.

ABSENT: Vice Chair Reims.

  
\_\_\_\_\_  
JONATHAN LAIT, AICP  
Secretary of the Planning Commission/  
City Planner  
City of Beverly Hills, California

**EXHIBIT A**  
**DRAFT ORDINANCE**

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DRAFT ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
~~ADOPTING A GREEN BUILDING ORDINANCE AND~~  
AMENDING TITLE 10 OF THE BEVERLY HILLS  
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

**Section 1.** A new Article 46 entitled "Green Building Standards" is hereby added to  
Chapter 3 ("Zoning") of Title 10 ("Planning and Zoning") to read as follows:

**10-3-4600: Purpose.**

The purpose of this Article is to enhance public health and welfare and assure that further multi-family residential, commercial and mixed-use development is consistent with the City's desire to create a more sustainable community by incorporating green building measures into the design, construction and maintenance of buildings. The green building provisions referenced in this Article are designed to achieve the following goals:

- A. Encourage resource conservation.
- B. Reduce waste generated by construction projects.
- C. Increase energy efficiency in buildings.
- D. Provide durable buildings that are efficient and economical to own and operate.
- E. Enhance the health, welfare and productivity of residents, workers, and visitors to the City.

**10-3-4601. Definitions.**

For the purposes of this Article, certain words and terms are defined as follows:

"Applicant" means any individual, firm, limited liability company, association, partnership, corporation, or any other entity that applies to the City for the applicable permits to undertake any construction or renovation project within the City.

"Building" means any structure used for support or shelter of any use or occupancy, as defined in the City's Building Code.

"Construction" means the building of any building or structure or any portion thereof.

“Covered Project” means the construction of or addition to, multi-family residential, commercial and mixed-use buildings, or renovation of existing, multi-family residential, commercial, and mixed use buildings that costs in excess of fifty percent (50%) of the replacement cost of the building, as set forth in Section 10-3-4100.

“Green Building Compliance Official” means the Director of Planning and Community Development or his or her designee.

“Non-Covered Project” means any project that is exempt from the provisions of this Article as set forth in Section 10-3-4603.

“Renovation” means any change or modification to an existing building or structure.

“Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground, as defined in the City’s Building Code.

**10-3-4602: General Provisions-Applicability.**

- A. Neither this Article, nor any of its related green building resolutions, shall affect in any manner the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirement of this code, all of which shall be operative and remain in full force and effect without limitation.
- B. When the provisions of this Article conflict with state law, state law shall govern.
- C. The provisions of this Article shall be applicable to City projects unless the City Council finds that application of these provisions to any particular project is not in the best interest of the public or City.

**10-3-4603: Non-Covered Projects.**

- A. The construction of, addition to or renovation of multi-family residential, commercial and mixed use buildings for which either a development application has been deemed complete by the Planning and Community Development Department or a building permit has been issued before the sixty-first day after the effective date of the ordinance adopting this Article.
- B. The voluntary repair or renovation of any structure for the express purpose of performing “seismic upgrades.”
- C. Any project where a building permit is issued for the sole purpose of performing plumbing, electrical or mechanical work.
- D. Installation of a roof covering on any existing building.
- E. Repair of any building, which the building official determines are necessary, for safety reasons.

**10-3-4604: Standards for Compliance.**

A. All Covered Projects shall demonstrate compliance with the rating system and minimum point requirements established by separate resolution of the City Council, as amended ~~from time to time. This shall be known as the Beverly Hills Green Building/Sustainability Checklist ("Green Building Project Checklist").~~

B. Applicants are encouraged to register Covered Projects with the U.S. Green Building Counsel. LEED™ certification through the U.S. Green Building Council is not required under this Article.

C. Applicants for Non-Covered projects are encouraged to use their best effort to incorporate as many green building measures as feasible from the Beverly Hills Green Building Points System.

**10-3-4605: Submission of Pre-permitting Documentation.**

A. Pre-permitting documentation. Concurrent with the application for a planning approval or building permit approval for any Covered Project, the Applicant shall submit documentation indicating the measures used to achieve compliance with the Green Building Project Checklist. This pre-permitting documentation shall include:

1. Applicable Green Building Project Checklist; and
2. Applicable green building worksheet with an analysis of each credit claimed; and
3. Any other documentation that may be necessary to show compliance with this Article.

B. Meeting. After submission of the documentation required by this section, but prior to the issuance of a building permit, the Green Building Compliance Official shall arrange a meeting with the Applicant to discuss the proposed measures, as needed.

**10-3-4606: Review of the Pre-Permitting Documentation.**

A. Approval of Documentation. The Green Building Compliance Official shall approve the pre-permitting documentation if it is determined that the project will conform to the applicable rating set forth in the Green Building Project Checklist.

B. Non-approval or Incomplete Documentation. If the Green Building Compliance Official determines that the pre-permitting documentation fails to include that the covered project will meet the required rating in the covered project or the documentation is incomplete, the Official shall:

1. Return the pre-permitting documentation to the Applicant marked "denied" including a statement of reasons; or

2. Return the pre-permitting documentation to the Applicant marked "incomplete" with an indication of additional information of project modifications that may be required in approval.

~~A building permit, including a grading permit, shall not be issued until the submittal documentation has been approved.~~

C. Re-Submission. If the pre-permitting documentation is returned to the Applicant, the Applicant may re-submit the pre-permitting documentation with such additional information as may be required.

**10-3-4607: Compliance.**

A. LEED Certified Professional. The Applicant shall retain a LEED certified professional to assist with, submit and verify compliance with the green building project checklist and other approved pre-permitting documentation required by Section 10-3-4605. The LEED certified professional shall submit the evidence of compliance with the approved documentation to the Green Building Official during design and construction.

B. Verification. Building Division staff shall verify that the green building measures and provisions indicated in the pre-permitting documentation are being implemented through inspections during the construction of the project [or through view of purchase receipts or photographic documentation provided by the Applicant that is acceptable to the Green Building Compliance Official]. If, as a result of any inspection, the Green Building Compliance Official or Building Division staff determine that the covered project does not comply with the pre-permitting documentation, a stop-work order may be issued. At the discretion of the Green Building Compliance Official such a stop-work order may apply to the portion of the project impacted by noncompliance or to the entire project. The stop-work order shall remain in effect until the Green Building Compliance Official determines that the project will be brought into compliance.

C. Substitution of Credits. During the verification process for the project, flexibility may be exercised by the Green Building Compliance Official to substitute the approved credits with other credits in the Green Building Project Checklist. Substitution shall occur only at the request of the Applicant by submittal and approval of a revised plan by the Green Building Compliance Official.

D. Commissioning Authority. The Applicant shall retain a third party agent commonly known as a "Commissioning Authority" to ensure that the systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the approved documentation for Covered Project.

**10-3-4608: Final Determination of Compliance.**

A. Prior to any final building approval and/or issuance of a final certificate of occupancy, the Green Building Compliance Official shall review the documentation submitted by the Applicant, and determine whether the Applicant has achieved the required compliance with the required compliance threshold. If the Green Building Compliance Official determines

the Applicant has met the requirements, the Green Building Compliance Official shall make a final determination that the Covered Project is ready, in a final inspection, provided the Covered Project has received approval of all inspections required by the Green Building Compliance Official.

B. The Commissioning Authority shall submit a report of building operation in accordance with the approved documentation to the Green Building Compliance Official for verification of compliance with the compliance threshold and to ensure that the systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the approved documentation for Covered Project.

C. If the Green Building Compliance Official determines that the Covered Project has not achieved the required green building rating as set forth in the Green Building Project Checklist, the Green Building Compliance Official shall find one or more of the following:

1. Good Faith Effort to Comply. A determination on a case-by-case basis whether the Applicant has made a good faith effort to comply with this Article. Granting of a good faith effort to comply for one item does not preclude the need for the Applicant to comply with the other items on the Green Building Project Checklist. When an Applicant submits a request in writing to the Green Building Compliance Official for approval of a good faith effort to comply, the Green Building Compliance Official shall determine that the Applicant has made a good faith effort to comply with this Article when any of the following findings can be made:

a. The cost for providing green building compliance is disproportionate to the overall cost of the project. To rely on this provision, the Applicant shall provide documentation satisfactory to the Green Building Compliance Official demonstrating that the cost of compliance is more than 25 percent of the total construction. Or,

b. The green building materials and technologies on the Green Building Project Checklist are no longer available or not yet commercially available. In making this determination, the Green Building Compliance Official shall consider the availability of markets for materials to be recycled, the availability of green building materials and technologies, and the documented efforts of the Applicant to comply with this Article.

2. Noncompliance. If the Green Building Compliance Official determines that the Applicant has not made a good faith effort to comply with this Article, then the final building approval and/or occupancy permit may be withheld. The Green Building Compliance officer may require additional reasonable green building measures as authorized by this Section to be employed in the operation of the Covered Project to mitigate the Applicant's failure to comply with this Article. Once the Applicant has performed such additional measures, the Green Building Compliance Official shall approve the Covered Project for final building approval and/or issuance of an occupancy permit.

3. Mitigation. If the Green Building Compliance Official determines that the Applicant has not complied with this Article, the Green Building Compliance Official may require further reasonable green building measures to be employed in the operation and maintenance of the covered project to mitigate the Applicant's failure to comply fully with this

Article. Such mitigation measure may include, but are not limited to, landscaping the covered project to decrease water and energy consumption, use of energy efficient fixtures, including the use of energy efficient light bulbs, an education of the building occupants and owners regarding on-going energy and resource saving techniques.

D. **LEED Certification:** For covered projects that have voluntarily registered with the U.S. Green Building Council with the intent to certify the building at the "Certified" level or above, the Green Building Compliance Official may reduce the scope of the City's compliance review. Depending on the timing of certification, the documents required may be reduced or eliminated. In no event shall a final certificate of occupancy be issued until after the U.S. Green Building Council issues its formal ruling that each attempted credit is either anticipated or achieved.

**10-3-4609: Hardship or Infeasibility Exemption.**

A. **Exemption.** If an Applicant for a Covered Project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Article, he or she may apply for an exemption as set forth below. In applying for an exemption, the burden is on the Applicant to show hardship or infeasibility.

B. **Application.** If an Applicant for a Covered Project believes that such circumstances exist, the Applicant may apply for an exemption at the time that the Applicant submits the pre-permitting documentation required under Section 10-3-4605. The Applicant shall indicate in the pre-permitting documentation the maximum number of credits he or she believes is practical or feasible for the covered project and the circumstances that he or she believes make it a hardship or infeasible to comply fully with this Article. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technologies, and compatibility of green building requirements with existing building standards.

C. **Meeting with Green Building Compliance Official.** The Green Building Compliance Official shall review the information supplied by the Applicant, may require additional information from the Applicant and may meet with the Applicant to discuss the request.

D. **Granting of Exemption.** If the Green Building Compliance Official determines that it is a hardship or infeasible for the Applicant to meet fully the requirements of this Article based on the information provided, the Green Building Compliance Official shall determine the maximum feasible number of credits reasonably achievable for the covered project and shall indicate this number on the pre-permitting documentation submitted by the Applicant. The Green Building Compliance Official shall return a copy of the pre-permitting documentation with the Applicant marked "Approved with Exemption" and shall notify the Building Division that the pre-permitting documentation has been approved. If an exemption is granted, the Applicant shall be required to comply with this Article in all other respect and shall be required to achieve in accordance with this Article, the number of points determined to be achievable by the Green Building Compliance Official.

E. Affordable Housing. Affordable housing project applicants may demonstrate that full compliance with the provisions of this Article would frustrate the ability to provide affordable housing units, and if shown, the Green Building Compliance Official may waive some or all of the requirements of this Article. Any waiver pursuant to this paragraph shall not be deemed to be a construction incentive for purpose of Section 10-3-1526.6 of this Municipal Code.

F. Denial of Exemption. If the Green Building Compliance Official determines that it is possible for the Applicant to meet the requirements of this Article, the official shall notify the Applicant in writing. The Applicant shall resubmit the pre-permitting documentation in full compliance with this Article and if the resubmitted documentation does not comply this Article, the Green Building Compliance Official shall deny the pre-permitting documentation in accordance with Section 10-3-4606.

**10-3-4610: Appeal.**

Any aggrieved Applicant or person may appeal the determination of the Green Building Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section 10-3-4609; (ii) compliance with this Article pursuant to Section 10-3-4604; or the type or scope of mitigation measures required for noncompliance pursuant to Section 10-3-4608.

**10-3-4611: Review of Beverly Hills Green Building Rating System.**

A. The Planning and Community Development Department and/or the Beverly Hills Planning Commission may review the Green Building Project Checklist from time to time to ensure the requirements are practical, feasible and are updated to be compliant with green building materials and technologies as such become available in the marketplace.

B. Prior to the adoption of any resolution amending the Green Building Project Checklist, the Planning Commission shall review such amendments and provide a recommendation to the City Council, unless the City Council waives this requirement.

**10-3-4612: Recordation of Covenant.**

The property owner shall record and sign a covenant in a form satisfactory to the city attorney that requires the green building systems implemented as set forth in the Green Building Project Checklist to be maintained for the life of the Building or any portion thereof. The covenant shall require that the owner include provisions for such maintenance either by the owner or third party in any lease, agreement, covenants, conditions and restrictions, or similar document. For example, if low-emissions carpet was installed pursuant to the Green Building Project Checklist, the replacement carpet shall also be of a type that complies with the Green Building Project Checklist.

**10-3-4613: Enforcement.**

A. Violation of any provision of this Article due to the Applicant's failure to build the covered project in accordance with the covered project plans, including the pre-permitting

documentation and the conditions of approval in the applicable permit, shall be punishable as provided for in Chapter 3 of Title 1.

B. Where the Applicant has violated any provision of this Article due to the Applicant's failure to build the covered project in accordance with the project's plans, including the pre-permitting documentation and the conditions of approval in the applicable permit, the Green Building Compliance official may require mitigation as set forth in Section 10-3-4608.

C. Enforcement pursuant to this section shall be undertaken by the City through it Director of Community Development or the City Attorney or City Prosecutor.

D. These remedies are cumulative, and the choice of one by the City shall not preclude pursuing others whether or not listed herein.

Section 2. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 3. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of Beverly Hills

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

\_\_\_\_\_  
RODERICK J. WOOD  
City Manager

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VINCENT P. BERTONI, AICP  
Director of Planning and Community  
Development

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**EXHIBIT B**

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**CITY OF BEVERLY HILLS**

**GREEN BUILDING/SUSTAINABILITY CHECKLIST**

# Attachment 1



## City of Beverly Hills Green Building/Sustainability Checklist New Commercial, Multi-Family, Mixed-Use Development, And Major Renovation

Project Name:   
 Project Address:

Compliance Level	Buildings > 25,000 sq. ft. = Silver (33-38 pts) or Certified (26-32 pts) of Vacant Lot + Photovoltaic
	Buildings > 10,000 to 24,999 sq. ft. = Certified (26-32 pts)+ Photovoltaic
	Buildings < 10,000 sq. ft. = T24 + 15% + Photovoltaic

Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Sustainable Sites</b>	<b>14 Points</b>

<input checked="" type="checkbox"/>				Prereq 1	Construction Activity Pollution Prevention		Required
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Credit 1	Site Selection		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 2	Development Density & Community Connectivity		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 3	Brownfield Redevelopment		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 4.1	Alternative Transportation, Public Transportation Access		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 4.2	Alternative Transportation, Bicycle Storage & Changing Rooms		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 4.3	Alternative Transportation, Low-Emitting & Fuel-Efficient Vehicles		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 4.4	Alternative Transportation, Parking Capacity		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 5.1	Site Development, Protect or Restore Habitat		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 5.2	Site Development, Maximize Open Space		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 6.1	Stormwater Design, Quantity Control		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 6.2	Stormwater Design, Quality Control		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 7.1	Heat Island Effect, Non-Roof		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 7.2	Heat Island Effect, Roof		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 8	Light Pollution Reduction		1

Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Water Efficiency</b>	<b>5 Points</b>

				Credit 1.1	Water Efficient Landscaping, Reduce by 50%		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 1.2	Water Efficient Landscaping, No Potable Use or No Irrigation		1
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Credit 2	Innovative Wastewater Technologies		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 3.1	Water Use Reduction, 20% Reduction		1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 3.2	Water Use Reduction, 30% Reduction		1

Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Energy &amp; Atmosphere</b>	<b>17 Points</b>

<input checked="" type="checkbox"/>				Prereq 1	Fundamental Commissioning of the Building Energy Systems		Required
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 2	Minimum Energy Performance		Required
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 3	Fundamental Refrigerant Management		Required

**\*Note for EAc1:** All LEED for New Construction projects registered after June 26<sup>th</sup>, 2007 are required to achieve at least two (2) points under EAc1.

				Credit 1	Optimize Energy Performance		1 to 10
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	M***	10.5% New Buildings or 3.5% Existing Building Renovations		1
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	M***	14% New Buildings or 7% Existing Building Renovations		2
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		17.5% New Buildings or 10.5% Existing Building Renovations		3
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		21% New Buildings or 14% Existing Building Renovations		4
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		24.5% New Buildings or 17.5% Existing Building Renovations		5
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		28% New Buildings or 21% Existing Building Renovations		6
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		31.5% New Buildings or 24.5% Existing Building Renovations		7
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		35% New Buildings or 28% Existing Building Renovations		8
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		38.5% New Buildings or 31.5% Existing Building Renovations		9
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		42% New Buildings or 35% Existing Building Renovations		10

# Attachment 1

			Credit 2	<b>On-Site Renewable Energy</b>	1 to 3
				<b>M***</b> 2.5% Renewable Energy	1
				7.5% Renewable Energy	2
				12.5% Renewable Energy	3
			Credit 3	<b>Enhanced Commissioning</b>	1
			Credit 4	<b>Enhanced Refrigerant Management</b>	1
			Credit 5	<b>Measurement &amp; Verification</b>	1
			Credit 6	<b>Green Power</b>	1

Yes No

<b>Y</b>		<b>N</b>	<b>Materials &amp; Resources</b>	<b>13 Points</b>
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<b>Y</b>			Prereq 1	Storage & Collection of Recyclables	Required
			Credit 1.1	Building Reuse, Maintain 75% of Existing Walls, Floors & Roof	1
			Credit 1.2	Building Reuse, Maintain 95% of Existing Walls, Floors & Roof	1
			Credit 1.3	Building Reuse, Maintain 50% of Interior Non-Structural Elements	1
			Credit 2.1	Construction Waste Management, Divert 50% from Disposal	1
			Credit 2.2	Construction Waste Management, Divert 75% from Disposal	1
			Credit 3.1	Materials Reuse, 5%	1
			Credit 3.2	Materials Reuse, 10%	1
			Credit 4.1	Recycled Content, 10% (post-consumer + ½ pre-consumer)	1
			Credit 4.2	Recycled Content, 20% (post-consumer + ½ pre-consumer)	1
			Credit 5.1	Regional Materials, 10% Extracted, Processed & Manufactured Regionally	1
			Credit 5.2	Regional Materials, 20% Extracted, Processed & Manufactured Regionally	1
			Credit 6	Rapidly Renewable Materials	1
			Credit 7	Certified Wood	1

Yes No

<b>Y</b>		<b>N</b>	<b>Indoor Environmental Quality</b>	<b>15 Points</b>
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<b>Y</b>			Prereq 1	Minimum IAQ Performance	Required
<b>Y</b>			Prereq 2	Environmental Tobacco Smoke (ETS) Control	Required
			Credit 1	Outdoor Air Delivery Monitoring	1
			Credit 2	Increased Ventilation	1
			Credit 3.1	Construction IAQ Management Plan, During Construction	1
			Credit 3.2	Construction IAQ Management Plan, Before Occupancy	1
			Credit 4.1	Low-Emitting Materials, Adhesives & Sealants	1
			Credit 4.2	Low-Emitting Materials, Paints & Coatings	1
			Credit 4.3	Low-Emitting Materials, Carpet Systems	1
			Credit 4.4	Low-Emitting Materials, Composite Wood & Agrifiber Products	1
			Credit 5	Indoor Chemical & Pollutant Source Control	1
			Credit 6.1	Controllability of Systems, Lighting	1
			Credit 6.2	Controllability of Systems, Thermal Comfort	1
			Credit 7.1	Thermal Comfort, Design	1
			Credit 7.2	Thermal Comfort, Verification	1
			Credit 8.1	Daylight & Views, Daylight 75% of Spaces	1
			Credit 8.2	Daylight & Views, Views for 90% of Spaces	1

Yes No

<b>Y</b>		<b>N</b>	<b>Innovation &amp; Design Process</b>	<b>5 Points</b>
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			Credit 1.1	Innovation in Design: Provide Specific Title	1
			Credit 1.2	Innovation in Design: Provide Specific Title	1
			Credit 1.3	Innovation in Design: Provide Specific Title	1
			Credit 1.4	Innovation in Design: Provide Specific Title	1
			Credit 2	LEED® Accredited Professional	1

Yes No

<b>Y</b>		<b>N</b>	<b>Project Totals (pre-certification estimates)</b>	<b>69 Points</b>
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\* Certified: 26-32 points, Silver: 33-38 points, Gold: 39-51 points, Platinum: 52-69 points

\*\* Refers to LEED Source Book for New Construction for Intent and Requirement of each category

\*\*\* Mandatory measure by the City of Beverly Hills Green Building Standards

Energy Star Appliances

Optional

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**Attachment No. 3**  
**Proposed City of Beverly Hills Green  
Building/Sustainability Checklist**



## Attachment 3

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 2	On-Site Renewable Energy	1 to 3
				M*** 2.5% Renewable Energy	1
				7.5% Renewable Energy	2
				12.5% Renewable Energy	3
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 3	Enhanced Commissioning	1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 4	Enhanced Refrigerant Management	1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 5	Measurement & Verification	1
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 6	Green Power	1

<b>Y</b>	<input type="checkbox"/>	<b>N</b>	<b>Materials &amp; Resources</b>	<b>13 Points</b>
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<b>Y</b>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 1	Storage & Collection of Recyclables	Required
			Credit 1.1	Building Reuse, Maintain 75% of Existing Walls, Floors & Roof	1
			Credit 1.2	Building Reuse, Maintain 95% of Existing Walls, Floors & Roof	1
			Credit 1.3	Building Reuse, Maintain 50% of Interior Non-Structural Elements	1
			Credit 2.1	Construction Waste Management, Divert 50% from Disposal	1
			Credit 2.2	Construction Waste Management, Divert 75% from Disposal	1
			M*** Credit 3.1	Materials Reuse, 5%	1
			Credit 3.2	Materials Reuse, 10%	1
			M*** Credit 4.1	Recycled Content, 10% (post-consumer + 1/2 pre-consumer)	1
			Credit 4.2	Recycled Content, 20% (post-consumer + 1/2 pre-consumer)	1
			M*** Credit 5.1	Regional Materials, 10% Extracted, Processed & Manufactured Regionally	1
			Credit 5.2	Regional Materials, 20% Extracted, Processed & Manufactured Regionally	1
			M*** Credit 6	Rapidly Renewable Materials	1
			Credit 7	Certified Wood	1

<b>Y</b>	<input type="checkbox"/>	<b>N</b>	<b>Indoor Environmental Quality</b>	<b>15 Points</b>
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<b>Y</b>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 1	Minimum IAQ Performance	Required
<b>Y</b>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 2	Environmental Tobacco Smoke (ETS) Control	Required
			Credit 1	Outdoor Air Delivery Monitoring	1
			Credit 2	Increased Ventilation	1
			Credit 3.1	Construction IAQ Management Plan, During Construction	1
			Credit 3.2	Construction IAQ Management Plan, Before Occupancy	1
			M*** Credit 4.1	Low-Emitting Materials, Adhesives & Sealants	1
			M*** Credit 4.2	Low-Emitting Materials, Paints & Coatings	1
			M*** Credit 4.3	Low-Emitting Materials, Carpet Systems	1
			M*** Credit 4.4	Low-Emitting Materials, Composite Wood & Agrifiber Products	1
			Credit 5	Indoor Chemical & Pollutant Source Control	1
			Credit 6.1	Controllability of Systems, Lighting	1
			Credit 6.2	Controllability of Systems, Thermal Comfort	1
			Credit 7.1	Thermal Comfort, Design	1
			Credit 7.2	Thermal Comfort, Verification	1
			Credit 8.1	Daylight & Views, Daylight 75% of Spaces	1
			Credit 8.2	Daylight & Views, Views for 90% of Spaces	1

<b>Y</b>	<input type="checkbox"/>	<b>N</b>	<b>Innovation &amp; Design Process</b>	<b>5 Points</b>
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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Credit 1.1	Innovation in Design: Provide Specific Title	1
			Credit 1.2	Innovation in Design: Provide Specific Title	1
			Credit 1.3	Innovation in Design: Provide Specific Title	1
			Credit 1.4	Innovation in Design: Provide Specific Title	1
			Credit 2	LEED® Accredited Professional	1

<b>Y</b>	<input type="checkbox"/>	<b>N</b>	<b>Project Totals (pre-certification estimates)</b>	<b>69 Points</b>
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\* Certified: 26-32 points, Silver: 33-38 points, Gold: 39-51 points, Platinum: 52-69 points  
 \*\* Refers to LEED Source Book for New Construction for Intent and Requirement of each category  
 \*\*\* Mandatory measure by the City of Beverly Hills Green Building Standards  
 Energy Star Appliances Optional

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Attachment No. 4  
Planning Commission Staff Report  
May 8, 2008



**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

For the Planning Commission  
Meeting of May 8, 2008

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**TO:** Planning Commission

**FROM:** Azita Motamen, AIA, Plan Review Architect

**THROUGH:** Jonathan Lait, AICP, City Planner 

**SUBJECT:** Resolution Recommending that the City Council Adopt an Ordinance Adding Article 46 to Title 10 of the Municipal Code (Zoning Code) to Establish a Green Building Program and Standards for Commercial, Mixed-use and Multi-family Developments.

**RECOMMENDATION**

Adopt the attached Resolution.

**EXECUTIVE SUMMARY**

Attached is a Resolution recommending the City Council adopt an ordinance amending the Zoning Code to establish a Beverly Hills Green Building Program. This program, which was discussed by the Planning Commission on April 24, 2008, is modeled after the US Green Building Council's Leadership in Energy and Environmental Design (LEED) program. While modeled after this program, the Beverly Hills Green Building Program has been adapted to be consistent with local policy objectives and program goals; it also does not require costly LEED certification.

This report addresses comments raised by the Planning Commission on April 24<sup>th</sup>, including recommendations on the following:

- Ordinance Effective Date
- Appropriate Green Building Standards and Ratings
- Changes to the Checklist and Incorporation other Energy and Water Efficiency Systems

Additionally, this report summarizes the proposed ordinance, which can also be found in the Resolution (Attachment A).

**Discussion**

Attached to this report is the April 24<sup>th</sup> staff report, which provides an overview of the program goals; regulatory options considered; evaluation of alternative programs; and,

information on green building implementation strategies used in other communities. This information is contained in Attachment B.

#### Ordinance Effective Date

The Planning Commission requested clarification regarding when the proposed ordinance would become effective and how many pending projects would be affected by the new Green Building standards.

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Ordinances become effective 30 days after the City Council's second reading. It is anticipated that the second reading for the subject ordinance would occur in June and become effective in or around July 2008.

Staff recommends that the subject ordinance be applicable to all qualifying projects that have not been determined complete for filing of a discretionary application 30 days after the ordinance's effective date. This approach will provide an opportunity for all pending projects to advance through the entitlement process without having to make potentially costly redesigns. This approach also respects the fact that integrating green building components begins at concept review; many of the pending projects are beyond concept review and were not necessarily designed in consideration of green building standards.

For projects that do not require discretionary approval, the filing of a building permit application will be used to determine applicability.

Based on this recommendation, it is anticipated that most of the pending discretionary applications would not be subject to the ordinance. Many of these projects have already been determined complete; others will likely be complete before the effective date of the ordinance.

#### Appropriate Green Building Standards

The Planning Commission directed staff to examine whether there was an opportunity to adjust the project size threshold and associated rating level to ensure that the Beverly Hills Green Program was a progressive, leading model. The previously recommended standards are provided on the following page:

### Green Building Program

Building Size (Square Feet)	Green Building Standard Required	Comply with Title 24 + 15%	Photovoltaics (solar panels)	Points Required
≥ 25,000 sq ft	Silver	Yes	Required (7.5% Energy Savings)	33 – 38
10,000 to 24,999 sq ft	Certified	Yes	Required (7.5% Energy Savings)	26 – 32
< 10,000 sq ft	Certification Not Required	Yes	Required (7.5% Energy Savings)	No points required. Uses Title 24 requirements.

In many ways, the proposed program goes beyond the standards set forth in other communities. That Beverly Hills is making these standards mandatory, not optional, as well as requiring additional energy saving techniques that go beyond leading national standards, attests to this program's progressiveness.

The green building industry continues to evolve with more vendors providing sustainable products, improving technology, and applying sensible planning principles in designing a building. While earlier projects were supported financially by municipal agencies, non-profits and other organizations, a greater number of private developments are increasingly incorporating green standards due to improved access and availability of materials and reduced costs. Similar to Beverly Hills, other municipalities are beginning to establish certain standards to meet specific goals. As mentioned earlier, many of these programs are not mandatory.

There are several reports and case studies that provide general information regarding the cost of constructing a green building. These studies, however, do not necessarily provide transferable analysis to Beverly Hills as those studies may address different land uses to be housed in the building, the amount of land area available for siting and redevelopment, access or limited access to transportation, or other comparable development standards such as height.

What is available to evaluate are general ranges of increased soft and hard costs associated with green building construction. Industry documents suggest, based on the US Green Building Council's Leadership in Energy and Environmental Design ratings for a Certified, Silver, Gold and Platinum projects, that the cost of construction increases up to five percent for each additional level as shown below:

<b>LEED Rating</b>	<b>Approximate Construction Cost Increase</b>
Certified	1 – 5%
Silver	5 – 10%
Gold	10 – 15%
Platinum	15 – 20%

What staff has not been able to identify is whether these increased costs reduce the profit margin in development to a point where it becomes infeasible to build. In order to provide this analysis and make a recommendation to the Planning Commission regarding changes to project size thresholds and associated rating levels, it will be necessary to consult with experts and develop prototypical analysis that reflects the conditions in Beverly Hills that affect the hard and soft costs of construction.

The proposed standards were determined based on a considerable amount of published industry work and research associated with achieving a LEED Silver or Certified rating. The recommended building thresholds correspond to generalized information in industry reports and based on how other communities are addressing green building standards. Staff has determined that construction projects can reasonably meet the City's green building objectives without significantly affecting financial return.

However, as proposed, the recommended standards and green building checklist will be adopted by Resolution. This will allow the City to regularly update these standards as it becomes evident that building a green building at reduced building thresholds and at higher ratings becomes attainable. Moreover, staff will continue to evaluate the effectiveness of the ordinance and projects built under these standards. In doing so, it is anticipated that staff will be able to report annually to the Planning Commission its findings and the appropriateness of modifying the standards. This will ensure that Beverly Hills Green Building Program continues to evolve and reflect current and anticipated industry standards and City goals. The proposed ordinance also includes the Planning Commission in a reviewing authority to evaluate and direct future changes to the Green Building standards.

Notwithstanding the above for typical development activity, staff does recommend that a higher threshold be required of projects when seeking reasonably significant modifications to the City's Zoning Code and/or General Plan. The City Council would have the authority to waive this requirement based on certain standards. However, if the zone change or General Plan amendment, such as additional height or density, reasonable benefits the applicant, it is appropriate to extend this benefit to the community in the form of higher performing green building construction.

Based on the foregoing, staff recommends that the proposed standards be adopted without changes to building thresholds and ratings at this time. And, that on an ongoing

basis with the Planning Commission guidance, that these standards be re-evaluated, as appropriate.

### Changes to the Checklist and Incorporation other Energy and Water Efficiency Systems

Minor changes were made to the Beverly Hills Green Building Checklist, which now identifies mandatory credits applied toward achieving Certified or Silver ratings. Points are allocated for mandatory components, but not 'required' components as shown on the Checklist.

#### *Energy Star Appliances*

The Planning Commission also discussed whether it would be appropriate to include points for the use of Energy Star appliances. This approach would enhance energy efficiency and address important green building conservations goals. However, while there are many Energy Star compliant appliances, this list is not exhaustive and does not include some desirable options, such as certain washers and dryers and sub-zero refrigerators. Additionally, those that are available are typically designed and used in residential buildings. As such, there is no commercial equivalent and/or readily available equipment for use at this time. Because this standard would not be applicable to both commercial and residential projects; the limited available of these systems in commercial construction; and, an interest in creating a point-based system that is consistent with the LEED program, staff has not included the Energy Star appliances as a mandatory or even available option to receive credits. However, to enhance awareness and provide developers with additional opportunities to further minimize energy consumption, the Checklist has been modified to show that Energy Star could be considered in project design.

#### *Water Efficiency – Gray Water*

Water efficiency is one of the six categories used in the Green Building program. Credit Number 2.0 in the Checklist identifies Innovative Waste-water Technologies as an optional strategy to earn one point. The Commission had discussed whether it appropriate to make this a mandatory credit, or at least require gray water recycling.

Staff recommends that this remain an optional component. The main reason for this conclusion is that a gray water system is not necessarily an applicable requirement for both residential and commercial development. Additionally, a gray water system requires a fair amount land or building area to accommodate the system and, most importantly, the gray water system needs to be used in some capacity, such as irrigation. One reasonable use of such a system would be on the larger estate properties where there is or can be substantial landscaping. However, these properties are exempt from the proposed ordinance. There is some applicability in larger multi-family developments, but little anticipated use in commercial development. Given the variability of the system to different types of construction and land uses, staff recommends this remain an optional component.

### *Water Efficiency – Time of Sale, Fixture Replacement*

The Planning Commission indicated its support for a requirement that will replace less water efficient plumbing fixtures with water efficient fixtures when there is a change in land ownership and changes in tenancy. Staff discussed this matter with representatives from the Public Works Department.

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Given the amount of time that will be required to coordinate, research, and develop a program to address this issue, as well as to provide the public with proper notice and an opportunity to provide input, staff recommends this matter be kept separate from the Green Building ordinance. However, staff will indicate its intent to pursue this recommendation when the Green Building Ordinance is presented to the City Council in May. While the anticipated amendment would not occur to the Zoning Code, and therefore, not be subject to the Planning Commission's review, staff would like to return to the Planning Commission for a study session to receive input on this important policy matter.

### **PUBLIC NOTICE AND COMMENTS**

Notice of a public hearing on this matter was published in the Beverly Hills Courier on April 24, 2008. As of the date of this report, no public comments, other than those communicated to the Planning Commission at the April 24 Study Session, have been received.

### **ENVIRONMENTAL REVIEW**

The Project has been environmentally reviewed pursuant to the California Environmental Quality Act ("CEQA"), (Public Resource Sections 21000, et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines ("Guidelines"). It has been determined that this project is not subject to CEQA pursuant to Section 15061(b)(3) of the Guidelines because CEQA only applies to projects which have the potential for causing a significant effect on the environment. This ordinance would establish requirements intended to reduce energy consumption and construction waste along with other measures, and therefore, it would not pose a significant effect on the environment. Additionally, two categorical exempts would apply to a project of this nature. Section 15307 categorically exempts actions taken by local ordinances that assure maintenance, restoration or enhancement of a natural resource. Section 15308 categorically exempts actions taken by local ordinance that assures maintenance, restoration, enhancement, or protection of the environment

  
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Azita Motamen, AIA,  
Plan Review Architect

### **Attachments:**

1. Resolution Recommending City Council Adoption of Green Building Program, with Attachments
2. Staff Report to Planning Commission, dated April 28, 2008, with attachments

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF BEVERLY HILLS RECOMMENDING APPROVAL  
OF AN ORDINANCE ESTABLISHING A GREEN BUILDING  
PROGRAM AND AMENDMENT OF TITLE 10 OF THE  
BEVERLY HILLS MUNICIPAL CODE

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The Planning Commission of the City of Beverly Hills hereby finds, resolves and determines as follows:

Section 1. The Planning Commission of the City of Beverly Hills supports the creation of a more sustainable community by, among other things, incorporating green building techniques and measures into the design, construction and maintenance of buildings in the City with the goals of encouraging resource conservation, reducing waste generated by construction projects, increasing the energy efficiency of buildings, providing durable buildings that are efficient and economical to own and operate, and promoting the health and productivity of residents, workers, and visitors to the City.

Section 2. The Planning Commission held a study session to consider adoption of a Green Building ordinance on April 24, 2008. Thereafter, the Planning Commission conducted a duly noticed public hearing on May 8, 2008. The primary purpose of that hearing was to discuss the draft Green Building Ordinance, as set forth in Exhibit A attached hereto, and incorporated herein by reference. Evidence, both written and oral, was presented at said hearing.

Section 3. The Green Building Ordinance (the "Project") has been environmentally reviewed pursuant to the provisions of the California Environmental Quality Act (Public Resources Code Sections 21000, et seq. ("CEQA")), the State CEQA Guidelines

(California Code of Regulations, Title 14, Sections 15000, et seq.), and the City's Local CEQA Guidelines. The Planning Commission hereby determines that the Project is exempt from CEQA pursuant to Guidelines Section 15307 because the proposed ordinance constitutes a regulatory process and procedure to achieve the goals of encouraging resource conservation, reducing construction-generated waste, increase energy efficiency in buildings, and promote the health and productivity of residents, workers and visitors to the City. Separate and independent, the Project is exempt from CEQA pursuant to Guidelines Section 15308 because the proposed ordinance will help to restore, enhance and protect the environment by requiring increased energy efficiency in buildings and reducing waste generated by construction projects, which among other things will have the effect of encouraging resource conservation and reducing energy demand and impacts associated energy generation and transmission. Further, it can be seen with certainty that the proposed ordinance does not have the potential for causing a significant impact on the environment because it will serve to protect the environment. Thus, the ordinance is not subject to CEQA pursuant to Guidelines Section 15061(b)(3).

Section 4. Based upon the evidence presented, the Planning Commission hereby recommends that the City Council approve the proposed Zoning Text Amendment as set forth in the Draft Ordinance attached hereto as Exhibit "A."

Section 5. The Planning Commission also recommends that the City Council adopt by Resolution the "City of Beverly Hills, Green Building/Sustainability Checklist," attached hereto as Exhibit "B."

Section 6. The Planning Commission also recommends that the City Council adopt a Resolution establishing applicability of the Green Building Ordinance to multi-family residential, commercial, and mixed-use projects according to the following schedule:

<b>Building Size (square feet)</b>	<b>Green Building Standard Required</b>	<b>Comply with Title 24 +15%</b>	<b>Photovoltaics (solar panels)</b>	<b>Points Required</b>
	Silver	Yes	Required	33 - 38
>25,000 sq. ft.				
	Certified if land is vacant	Yes	Required	26 - 32
10,000 sq. ft. to 24,999 sq.ft.	Certified	Yes	Required	26 - 32
<10,000 sq. ft.	Certification not required	Yes	Required	No points required. (Relies on Title 24 requirements.)

Section 7. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

**EXHIBIT A**  
**DRAFT ORDINANCE**

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**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
ADOPTING A GREEN BUILDING ORDINANCE AND  
AMENDING TITLE 10 OF THE BEVERLY HILLS  
MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY  
ORDAINS AS FOLLOWS:

**Section 1.** A new Article 46 entitled “Green Building Standards” is hereby added to Chapter 3 (“Zoning”) of Title 10 (“Planning and Zoning”) to read as follows:

**10-3-4600: Purpose.**

The purpose of this Article is to enhance public health and welfare and assure that further multi-family residential, commercial and mixed-use development is consistent with the City’s desire to create a more sustainable community by incorporating green building measures into the design, construction and maintenance of buildings. The green building provisions referenced in this Article are designed to achieve the following goals:

- A. Encourage resource conservation.
- B. Reduce waste generated by construction projects.

- C. Increase energy efficiency in buildings.
  - D. Provide durable buildings that are efficient and economical to own and operate.
- 
- E. Promote the health and productivity of residents, workers, and visitors to the City.

**10-3-4601. Definitions.**

For the purposes of this Article, certain words and terms are defined as follows:

“Applicant” means any individual, firm, limited liability company, association, partnership, public or private corporation, or any other entity that applies to the City for the applicable permits to undertake any construction or renovation project within the City.

“Building” means any structure used for support or shelter of any use or occupancy, as defined in the City’s Building Code.

“Construction” means the building of any building or structure or any portion thereof.

“Covered Project” means the construction or renovation of privately owned, multi-family residential, commercial and mixed-use buildings.

“Green Building Compliance Official” means the Director of Planning and Community Development or his or her designee.

“Non-Covered Project” means any project that is exempt from the provisions of this Article as set forth in Section 10-3-4603.

“Renovation” means any change, addition or modification to an existing building or structure.

“Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner and permanently attached to the ground, as defined in the City’s Building Code.

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**10-3-4602: General Provisions-Applicability.**

A. Neither this Article, nor any of its related green building resolutions, shall affect in any manner the permissible use of property, density/intensity of development, design and improvement standards, or other applicable standards or requirement of this code, all of which shall be operative and remain in full force and effect without limitation.

B. When the provisions of this Article conflict with state law, state law shall govern.

**10-3-4603: Non-Covered Projects.**

A. The construction or renovation of multi-family residential, commercial and mixed use buildings for which a development application has been deemed complete by the Planning and Community Development Department within thirty days after the effective date of the ordinance adopting this Article.

B. The voluntary repair or renovation of any structure for the express purpose of performing “seismic upgrades.”

C. Any project where a building permit is issued for the sole purpose of performing plumbing, electrical or mechanical work.

D. Installation of a roof covering on any existing building.

E. Repair of any building, which the building official determines are necessary, for safety reasons.

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**10-3-4604: Standards for Compliance.**

A. All Covered Projects shall demonstrate compliance with the rating system and minimum point requirements established by separate resolution of the City Council, as amended from time to time. This shall be known as the Beverly Hills Green Building/Sustainability Checklist ("Green Building Project Checklist"). If an applicant for a Covered Project requests a zone change, zone text amendment or a general plan amendment, then the Covered Project shall demonstrate compliance with the next highest standard of the Green Building Project Checklist. For example, if the Covered Project is subject to comply at a certified standard, the Covered project shall comply with the silver standard.

B. If a Covered Project is a renovation to a building that exceeds fifty percent (50%) of the replacement cost of the building, as set forth in Section 103-4100, then the entire square footage of the building shall conform to the requirements of this Article.

C. Applicants are encouraged to register Covered Projects with the U.S. Green Building Council. LEED™ certification through the U.S. Green Building Council is not required under this Article.

D. Applicants for Non-Covered projects are encouraged to use their best effort to incorporate as many green building measures as feasible from the Beverly Hills Green Building Points System.

**10-3-4605: Submission of Pre-permitting Documentation.**

A. Pre-permitting documentation. Prior to the application for a building permit, the applicant shall submit documentation indicating the measures used to achieve compliance with the Green Building Project Checklist. This pre-permitting documentation shall include:

- a. Applicable Green Building Project Checklist; and
- b. Applicable green building worksheet with an analysis of each credit claimed; and
- c. Any other documentation that may be necessary to show compliance with this Article.

B. Meeting. After submission of the documentation required by this section, but prior to the issuance of a building permit, the Green Building Compliance Official shall arrange a meeting with the applicant to discuss the proposed measures, as needed.

**10-3-4606: Review of the Pre-Permitting Documentation.**

A. Approval of Documentation. The Green Building Compliance Official shall approve the pre-permitting documentation if it is determined that the project will conform to the applicable rating set forth in the Green Building Project Checklist.

B. Non-approval or Incomplete Documentation. If the Green Building Compliance Official determines that the pre-permitting documentation fails to include that the covered project will meet the required rating in the covered project or the documentation is incomplete, the Official shall:

1. Return the pre-permitting documentation to the applicant marked "denied" including a statement of reasons; or

2. Return the pre-permitting documentation to the applicant marked “incomplete” with an indication of additional information of project modifications that may be required in approval.

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A building permit, including a grading permit, shall not be issued until the submittal documentation has been approved.

C. Re-Submission. If the pre-permitting documentation is returned to the applicant, the applicant may re-submit the pre-permitting documentation with such additional information as may be required.

**10-3-4607: Compliance.**

A. LEED Certified Professional. The Applicant shall retain a LEED certified professional to assist with, submit and verify compliance with the green building project checklist and other approved pre-permitting documentation required by Section 10-3-4605. The LEED certified professional shall submit the evidence of compliance with the approved documentation to the Green Building Official during design and construction.

B. Verification. Building Division staff shall verify that the green building measures and provisions indicated in the pre-permitting documentation are being implemented through inspections during the construction of the project [or through view of purchase receipts or photographic documentation]. If, as a result of any inspection, the Green Building Compliance Official or Building Division staff determine that the covered project does not comply with the pre-permitting documentation, a stop-work order may be issued. At the discretion of the Green Building Compliance Official such a stop-work order may apply to the portion of the project impacted by noncompliance or to the entire project. The stop-work order shall remain in effect until the Green Building Compliance Official determines that the project will be brought into compliance.

C. Substitution of Credits. During the verification process for the project, flexibility may be exercised by the Green Building Compliance Official to substitute the approved credits with other credits in the Green Building Project Checklist. Substitution shall occur only at the request of the applicant by submittal and approval of a revised plan by the Green Building Compliance Official.

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D. Commissioning Authority. The Applicant shall retain a third party agent commonly known as a "Commissioning Authority" to ensure that the systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the approved documentation for Covered Project.

**10-3-4608: Final Determination of Compliance.**

A. Prior to any final building approval and/or issuance of a final certificate of occupancy, the Green Building Compliance Official shall review the documentation submitted by the applicant, and determine whether the applicant has achieved the required compliance with the required compliance threshold. If the Green Building Compliance Official determines the applicant has met the requirements, the Green Building Compliance Official shall make a final determination that the Covered Project is ready, in a final inspection, provided the Covered Project has received approval of all inspections required by the Green Building Compliance Official.

B. The Commissioning Authority shall submit a report of building operation in accordance with the approved documentation to the Green Building Official for verification of compliance with the compliance threshold and to ensure that the systems are designed, installed, functionally tested, and capable of being operated and maintained to perform in conformity with the approved documentation for Covered Project.

C. If the Green Building Compliance Official determines that the Covered Project has not achieved the required green building rating as set forth in the Green Building Project Checklist, the Green Building Compliance Official shall find one of the following:

1. Good Faith Effort to Comply. A determination on a case-by-case basis whether the applicant has made a good faith effort to comply with this Article. Granting of a good faith effort to comply for one item does not preclude the need for the applicant to comply with the other items on the Green Building Project Checklist. When an applicant submits a request in writing to the Green Building Compliance Official for approval of a good faith effort to comply, the Green Building Compliance Official shall determine that the applicant has made a good faith effort to comply with this Article when any of the following findings can be made:

a. The cost for providing green building compliance is disproportionate to the overall cost of the project. That is, the cost in compliance documentation is more than 25 percent of the total construction; or

b. The green building materials and technologies on the Green Building Project Checklist are no longer available or not yet commercially available. In making this determination, the Green Building Compliance Official shall consider the availability of markets for materials to be recycled, the availability of green building materials and technologies, and the documented efforts of the applicant to comply with this Article.

2. Noncompliance. If the Green Building Compliance Official determines that the applicant has not made a good faith effort to comply with this Article, then the final building approval and/or occupancy permit may be withheld. The Green Building Compliance officer may require additional reasonable green building measures as authorized by this Section to be employed in the operation of the Covered Project to mitigate the applicant's failure to comply with this Article. Once the applicant has performed such additional measures,

the Green Building Compliance Official shall approve the Covered Project for final building approval and/or issuance of an occupancy permit.

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3. Mitigation. If the Green Building Compliance Official determines that the applicant has not complied with this Article, the Green Building Compliance Official may require further reasonable green building measures to be employed in the operation and maintenance of the covered project to mitigate the applicant's failure to comply fully with this Article. Such mitigation measure may include, but are not limited to, landscaping the covered project to decrease water and energy consumption, use of energy efficient fixtures, including the use of energy efficient light bulbs, an education of the building occupants and owners regarding on-going energy and resource saving techniques.

C. LEED Certification: For covered projects that have voluntarily registered with the U.S. Green Building Council with the intent to certify the building at the "Certified" level or above, the Green Building Compliance Official may reduce the scope of the City's compliance review. Depending on the timing of certification, the documents required may be reduced or eliminated.

**10-3-4609: Hardship or Infeasibility Exemption.**

A. Exemption. If an Applicant for a Covered Project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Article, he or she may apply for an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.

B. Application. If an Applicant for a Covered Project believes that such circumstances exist, the applicant may apply for an exemption at the time that the applicant submits the pre-permitting documentation required under Section 10-3-4605. The Applicant shall indicate in the pre-permitting documentation the maximum number of credits he or she believes is practical or feasible for the covered project and the circumstances that he or she believes make it a hardship or infeasible to comply fully with this Article. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technologies, and compatibility of green building requirements with existing building standards.

C. Meeting with Green Building Compliance Official. The Green Building Compliance Official shall review the information supplied by the applicant, may require additional information from the applicant and may meet with the applicant to discuss the request.

D. Granting of Exemption. If the Green Building determines that it is a hardship or infeasible for the applicant to meet fully the requirements of this Article based on the information provided, the Green Building Compliance Official shall determine the maximum feasible number of credits reasonably achievable for the covered project and shall indicate this number on the pre-permitting documentation submitted by the applicant. The Green Building Compliance Official shall return a copy of the pre-permitting documentation with the applicant marked "Approved with Exemption" and shall notify the Building Division that the pre-permitting documentation has been approved. If an exemption is granted, the applicant shall be required to comply with this Article in all other respects and shall be required to achieve in accordance with this Article, the number of points determined to be achievable by the Green Building Compliance Official.

E. Denial of Exemption. If the Green Building Compliance Official determines that it is possible for the applicant to meet the requirements of this Article, the official shall notify the applicant in writing. The Applicant shall resubmit the pre-permitting documentation in full compliance with this Article and if the resubmitted documentation does not comply this Article, the Green Building Compliance Official shall deny the pre-permitting documentation in accordance with Section 10-3-4606.

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**10-3-4610: Appeal**

Any aggrieved Applicant or person may appeal the determination of the Green Building Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section 10-3-4609; (ii) compliance with this Article pursuant to Section 10-3-4604; or the type or scope of mitigation measures required for noncompliance pursuant to Section 10-3-4608.

**10-3-4611: Review of Beverly Hills Green Building Rating System.**

A. The Planning and Community Development Department and/or the Beverly Hills Planning Commission may review the Green Building Project Checklist from time to time to ensure the requirements are practical, feasible and are updated to be compliant with green building materials and technologies as such become available in the marketplace.

B. Prior to the adoption of any resolution amending the Green Building Project Checklist, the Planning Commission shall review such amendments and provide a recommendation to the City Council.

C. Notwithstanding, nothing in this Section prevents the City Council from amending the Green Building Project Checklist without a recommendation from the Planning Commission.

**10-3-4612: Recordation of Covenant.**

The property owner shall record and sign a covenant in a form satisfactory to the city attorney that requires the green building systems implemented as set forth in the Green Building Project Checklist to be maintained for the life of the Building or any portion thereof. The covenant shall require that the owner include provisions for such maintenance either by the owner or third party in any lease, agreement, covenants, conditions and restrictions, or similar document. For example, if low-emissions carpet was installed pursuant to the Green Building Project Checklist, the replacement carpet shall also be of a type that complies with the Green Building Project Checklist.

**10-3-4613: Enforcement**

A. Violation of any provision of this Article due to the applicant's failure to build the covered project in accordance with the covered project plans, including the pre-permitting documentation and the conditions of approval in the applicable permit, shall be punishable as provided for in Chapter 3 of Title 1.

B. Where the Applicant has violated any provision of this Article due to the Applicant's failure to build the covered project in accordance with the project's plans, including the pre-permitting documentation and the conditions of approval in the applicable permit, the Green Building Compliance official may require mitigation as set forth in Section 10-3-4608.

C. Enforcement pursuant to this section shall be undertaken by the City through its Director of Community Development or the City Attorney or City Prosecutor.

D. These remedies are cumulative, and the choice of one by the City shall not preclude pursuing others whether or not listed herein.

**Section 2.** The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days

after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

**Section 3.** This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of Beverly Hills

ATTEST:

\_\_\_\_\_  
(SEAL)

BYRON POPE  
City Clerk

Approved as to form:

Approved as to content:

\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

\_\_\_\_\_  
RODERICK J. WOOD  
City Manager

\_\_\_\_\_  
VICENT BERTONI, AICP  
Director of Planning and Community  
Development

**EXHIBIT B**

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**CITY OF BEVERLY HILLS**

**GREEN BUILDING/SUSTAINABILITY CHECKLIST**

# Attachment 1



## City of Beverly Hills Green Building/Sustainability Checklist New Commercial, Multi-Family, Mixed-Use Development, And Major Renovation

Project Name:   
 Project Address:

Compliance Level

Buildings > 25,000 sq. ft. = Silver (33-38 pts) or Certified (26-32 pts) of Vacant Lot + Photovoltaic
Buildings > 10,000 to 24,999 sq. ft. = Certified (26-32 pts)+ Photovoltaic
Buildings < 10,000 sq. ft. = T24 + 15% + Photovoltaic

Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Sustainable Sites</b>	<b>14 Points</b>

<input checked="" type="checkbox"/>					
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<b>M***</b>	Prereq 1	<b>Construction Activity Pollution Prevention</b>	Required
			Credit 1	<b>Site Selection</b>	1
			Credit 2	<b>Development Density &amp; Community Connectivity</b>	1
			Credit 3	<b>Brownfield Redevelopment</b>	1
			Credit 4.1	<b>Alternative Transportation, Public Transportation Access</b>	1
			Credit 4.2	<b>Alternative Transportation, Bicycle Storage &amp; Changing Rooms</b>	1
			Credit 4.3	<b>Alternative Transportation, Low-Emitting &amp; Fuel-Efficient Vehicles</b>	1
			Credit 4.4	<b>Alternative Transportation, Parking Capacity</b>	1
			Credit 5.1	<b>Site Development, Protect or Restore Habitat</b>	1
			Credit 5.2	<b>Site Development, Maximize Open Space</b>	1
			Credit 6.1	<b>Stormwater Design, Quantity Control</b>	1
			Credit 6.2	<b>Stormwater Design, Quality Control</b>	1
			Credit 7.1	<b>Heat Island Effect, Non-Roof</b>	1
			Credit 7.2	<b>Heat Island Effect, Roof</b>	1
			Credit 8	<b>Light Pollution Reduction</b>	1

Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Water Efficiency</b>	<b>5 Points</b>

			Credit 1.1	<b>Water Efficient Landscaping, Reduce by 50%</b>	1
			Credit 1.2	<b>Water Efficient Landscaping, No Potable Use or No Irrigation</b>	1
		<b>M***</b>	Credit 2	<b>Innovative Wastewater Technologies</b>	1
			Credit 3.1	<b>Water Use Reduction, 20% Reduction</b>	1
			Credit 3.2	<b>Water Use Reduction, 30% Reduction</b>	1

Yes	No		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<b>Energy &amp; Atmosphere</b>	<b>17 Points</b>

<input checked="" type="checkbox"/>					
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 1	<b>Fundamental Commissioning of the Building Energy Systems</b>	Required
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 2	<b>Minimum Energy Performance</b>	Required
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prereq 3	<b>Fundamental Refrigerant Management</b>	Required

\*Note for EAc1: All LEED for New Construction projects registered after June 26<sup>th</sup>, 2007 are required to achieve at least two (2) points under EAc1.

			Credit 1	<b>Optimize Energy Performance</b>	1 to 10
		<b>M***</b>		10.5% New Buildings or 3.5% Existing Building Renovations	1
		<b>M***</b>		14% New Buildings or 7% Existing Building Renovations	2
				17.5% New Buildings or 10.5% Existing Building Renovations	3
				21% New Buildings or 14% Existing Building Renovations	4
				24.5% New Buildings or 17.5% Existing Building Renovations	5
				28% New Buildings or 21% Existing Building Renovations	6
				31.5% New Buildings or 24.5% Existing Building Renovations	7
				35% New Buildings or 28% Existing Building Renovations	8
				38.5% New Buildings or 31.5% Existing Building Renovations	9
				42% New Buildings or 35% Existing Building Renovations	10

# Attachment 1

			Credit 2	On-Site Renewable Energy	1 to 3
				M*** 2.5% Renewable Energy	1
				7.5% Renewable Energy	2
				12.5% Renewable Energy	3
			Credit 3	Enhanced Commissioning	1
			Credit 4	Enhanced Refrigerant Management	1
			Credit 5	Measurement & Verification	1
			Credit 6	Green Power	1

Yes	No				
Y	N			<b>Materials &amp; Resources</b>	<b>13 Points</b>

				Prereq 1	Required
				Credit 1.1	1
				Credit 1.2	1
				Credit 1.3	1
				Credit 2.1	1
				Credit 2.2	1
				Credit 3.1	1
				Credit 3.2	1
				Credit 4.1	1
				Credit 4.2	1
				Credit 5.1	1
				Credit 5.2	1
				Credit 6	1
				Credit 7	1

Yes	No				
Y	N			<b>Indoor Environmental Quality</b>	<b>15 Points</b>

				Prereq 1	Required
				Prereq 2	Required
				Credit 1	1
				Credit 2	1
				Credit 3.1	1
				Credit 3.2	1
				Credit 4.1	1
				Credit 4.2	1
				Credit 4.3	1
				Credit 4.4	1
				Credit 5	1
				Credit 6.1	1
				Credit 6.2	1
				Credit 7.1	1
				Credit 7.2	1
				Credit 8.1	1
				Credit 8.2	1

Yes	No				
Y	N			<b>Innovation &amp; Design Process</b>	<b>5 Points</b>

				Credit 1.1	1
				Credit 1.2	1
				Credit 1.3	1
				Credit 1.4	1
				Credit 2	1

Yes	No				
Y	N			<b>Project Totals (pre-certification estimates)</b>	<b>69 Points</b>

\* Certified: 26-32 points, Silver: 33-38 points, Gold: 39-51 points, Platinum: 52-69 points  
 \*\* Refers to LEED Source Book for New Construction for Intent and Requirement of each category  
 \*\*\* Mandatory measure by the City of Beverly Hills Green Building Standards  
 Energy Star Appliances Optional



**ATTACHMENT B**  
**PC STAFF REPORT (APRIL 24)**  
**STAFF REPORT**  
**CITY OF BEVERLY HILLS**

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For the Planning Commission  
Meeting of April 24, 2008

**TO:** Planning Commission

**FROM:** Peter Noonan, AICP, Associate Planner  
Azita Motamen, AIA, Plan Review Architect

**THROUGH:** Jonathan Lait, AICP, City Planner

**SUBJECT:** Proposed Green Building Program for Commercial, Mixed-use and Multi-family Development.

**RECOMMENDATION**

Receive staff presentation on the proposed green building program and provide direction.

**EXECUTIVE SUMMARY**

This is a study session item on the City's upcoming green building program. Staff will return with a resolution and detailed language on the proposed text amendment on May 8, 2008 for the Commission's recommendation to Council.

The green building program proposed for the City of Beverly Hills is a mandatory, performance-based, point-scaled program to ensure compliance with the previously articulated goal of protecting the environment and includes key sustainability goals expressing by the City Council last year.

**City Council Green Building Goals**

- Encourage water, energy and resource conservation
- Reduce waste generated by construction projects
- Increase energy efficiency in buildings
- Promote health of residents, workers, and visitors
- Reduce greenhouse gas generated by building use
- Reduce the City of Beverly Hill's carbon footprint

based on the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) system. Projects subject to this Program would be evaluated and certified for compliance by the Building and Safety Division.

## **BACKGROUND**

The green building program has been before the City Council, Planning and Public Works Commissions as study session discussions. The direction provided from the Council was to bring forward a green building ordinance that would apply to all commercial, mixed-use and multi-family development.

### **Planning Commission**

This item was separately reviewed by the Planning and Public Works Commissions on May 10, 2007. That presentation included a discussion of both the purpose and scope of the ordinance and the basic outline of the resulting green building program.

Presenters at the Planning Commission study session included representatives from the City's Building and Safety Division Santa Monica's Environmental Programs Division. Green building programs were discussed with special application to the City of Beverly Hills.

### **City Council**

The City Council discussed the idea of a green building program on August 7, 2007. At that meeting, the Council provided direction to bring an ordinance forward that requires green building standards for all commercial and multi-family projects. Moreover, the Council directed that a points-based system be used that reflected the nationally accepted LEED standards but that did not require LEED certification. Instead the City would review projects and self-certify. There was an expressed desire to develop a program that could become a standard for other communities. Additionally, at a follow up session on January 2008, the Council had expressed the desire that all projects incorporate photovoltaic systems.

## **DISCUSSION**

"Green" construction is the practice of designing, constructing, operating, maintaining, and removing buildings in ways that conserves natural resources and reduces impacts on air quality and climate change. Green construction practices are implemented through the use of building standards, which are often referred to as "*green building standards*" that encourage energy use and conservation, and indirectly reduce air pollution and improve air quality.

### **Green Building Programs Reviewed**

A number of existing green building programs, at the State and local level were reviewed in the process of developing the City's green building program. These programs have been compared in the chart in attachment 2. All of the programs surveyed were for commercial and multi-family development and almost all of the programs were mandatory.

### Regulatory Approaches Reviewed

There is more than one approach available for measuring green building design. Three approaches were reviewed in developing the proposed green building program. Although all three address green building standards, each one does this in a slightly different way.

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#### ***LEED Rating System (Leadership in Energy and Environmental Design)***

The U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) system is nation-wide and is the leading green building rating system. LEED is the industry standard for commercial, mixed-use and multi-family construction and promotes energy, water and materials conservation; environmentally preferred products and practices; improvements in employee health, comfort and productivity; and reductions in facility operation costs and environmental impacts.

In order to achieve a specific rating level, a project needs to incorporate a specific number of items off a checklist. Developers are allowed to choose options that will work best for the project provided that the necessary number of points is attained. The checklist is based on tiered levels of compliance - Platinum (highest), Gold, Silver, and Certified. Building designers have the option of progressively choosing items from different categories to obtain the points to meet necessary levels.

To assist the development community in meeting the requirements of LEED, the U.S. Green Building Council provides training in LEED and there are numerous LEED accredited professionals in the greater Los Angeles area.

The disadvantages of LEED are its costs, approximately ten to two hundred thousand dollars (depending on the size and type of construction) to have a building be LEED certified, and its certification process significantly trails behind the City's own inspection process causing delays in the issuance of a final occupancy permit. The advantages of LEED are that the building would be certified and comply with the nation's leading green building program.

#### ***Build It Green***

Build It Green is a non-profit membership organization based in California that promotes healthy, energy- and resource-efficient building practices. The Build It Green program is prescriptive-based, and uses a point rating system similar to the LEED rating system, but with less technical criteria. The Build It Green point rating system however, addresses the construction and renovation of single-family and multi-family homes, but not commercial development. Build It Green provides a certification process and project certification is required by independent Built-it-Green raters similar to the LEED system.

The costs associated with this program are more reasonable and certification tracks better with the City's inspection process. However, its limited applicability at this time to single family developments is not readily transferable to more complex commercial and mixed use developments; projects the City Council is seeking to address with a green building program.

## ***Energy Star***

The Federal Environmental Protection Agency (EPA) administers the Energy Star program. The Energy Star Program is applicable to both commercial and residential construction. Using the Energy Star approach, an optimal energy use target is identified and the building is designed to meet or exceed that target. "Designed to Earn the Energy Star" is a certification process administered by the EPA. Buildings eligible for "Designed to Earn the Energy Star" use less energy than conventional buildings.

Costs associated with this program and reasonable and the inspection process is straightforward. However, the Energy Star approach only focuses on energy conservation and does not have the benefit of providing a broader spectrum of green building practices; an important direction-setting goal established by the City Council.

## **PROPOSED GREEN BUILDING PROGRAM**

An alternative to the three programs studied is to establish the City's own green building program; a program that allows the City to self-certify projects.

The proposed green building program is consistent with Council direction in that it is a point system based on LEED standards, but certified by the City. The point system models the LEED tiered levels of compliance - Platinum (highest), Gold, Silver, and Certified.

There was a desire on both the Commission's part and the Council's that the program go beyond the minimal requirements. The proposed program does go beyond LEED with two important requirements:

1. Solar panels on all new construction and major renovations
2. Exceed Title 24 (State Energy Code) by 15%

Administration of the program would be done by trained City staff. Developers would be required to retain the services of a certified green building professional to assure compliance with the program and proper integration of green building standards.

The program would apply to all commercial, mixed-use or multi-family development and renovation projects that qualify based on established thresholds. Participation in the green building program is based on the gross amount of square footage of new construction and does not include any existing portion of a building that is not being remodeled. All new construction would be required to exceed title 24 requirements by at least 15-percent and to include active solar energy systems (photovoltaics).

Below is a summary of the proposed green building program:

### Green Building Program

Building Size (Square Feet)	Green Building Standard Required	Comply with Title 24 + 15%	Photovoltaics (solar panels)	Points Required
≥ 25,000 sq ft	Silver	Yes	Required	33 – 38
	Certified if land is vacant	Yes	Required	26 – 32
10,000 to 24,999 sq ft	Certified	Yes	Required	26 – 32
< 10,000 sq ft	Certification Not Required	Yes	Required	No points required. Uses Title 24 requirements.

#### Rating System

The rating system proposed is divided into six categories (attachment 1). A project receives points based on meeting the requirements of the options provided in each category. There is no minimum amount of points that are required from each category, however, it is anticipated that projects will incorporate criteria from all categories in the checklist.

#### Green Building/ Sustainability Checklist Criteria

- |                                 |
|---------------------------------|
| • Sustainable Sites             |
| • Water Efficiency              |
| • Energy and Atmosphere         |
| • Materials and Resources       |
| • Indoor Environmental Quality  |
| • Innovation and Design Process |

Examples of green design and green building practices included in the list are: locating near public transit, providing bicycle storage and changing stations, using low water landscaping, optimizing energy performance and reusing portions of an existing building and construction materials.

#### Project Review Process

The green building program will be integrated into existing City review and approval processes. Initial contact with the program will occur through informational hand-outs on the website or at the permit counter. Additionally city staff will be available to answer questions over the phone and in person.

#### *Initial Review/ Permitting / Entitlements*

Staff will provide information on the green building program during preliminary informational visits and at the pre-conceptual plan review stage, which is the initial step

in project review. At this time, applicants with qualifying projects will be provided a list of all of the required documentation and materials. The developer will retain the services of a LEED accredited professional who will be responsible for ensuring that all required paperwork is submitted to the City's Building Official and that all green design and technology is constructed to specification. City staff from different departments will be involved in the review process with the Building Division having the lead role. For projects requiring Planning Commission review, staff can report on how each applicant intends to satisfy the requirements of the future ordinance.

### ***Building Final Inspection***

Prior to approval and issuance of a building permit, a project will need to incorporate a certain number of points from the green building standards checklist. What features are incorporated from the list will be determined by the applicant, provided that the required number of points are attained. The applicant is also required to provide third party verification that all standards are constructed to specification.

### ***Good Faith Effort to Comply***

If for some reason, a project fails to attain the points necessary, a determination will be made by the City as to whether there has been a "good faith effort to comply". In making this determination, the Building official shall consider the cost required for compliance and the availability of materials and supplies. If it is determined that the cost of compliance are disproportionate to the cost of the project or that the green building materials and technologies are no longer available then the City will honor the good faith effort. If the City determines that a good faith effort has not been made then the final building approval shall be withheld and additional measures may be required in substitution.

### **PUBLIC NOTICE AND COMMENTS**

Notice of a public hearing on this matter was published in both the Beverly Hills Weekly on April 18, 2008 and in the Beverly Hills Courier on April 21, 2008. As of the date of this staff report, no public comments have been received.

### **ENVIRONMENTAL REVIEW**

The Project has been environmentally reviewed pursuant to the California Environmental Quality Act ("CEQA"), (Public Resource Sections 21000, et seq.), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's Local CEQA guidelines ("Guidelines"). It has been determined that this project is not subject to CEQA pursuant to Section 15061(b)(3) of the Guidelines because CEQA only applies to projects which have the potential for causing a significant effect on the environment. This ordinance would establish requirements intended to reduce energy consumption and construction waste along with other measures, and therefore, it would not pose a significant effect on the environment. Additionally, two categorical exempts would apply to a project of this nature. Section 15307 categorically exempts actions taken by local ordinances that assure maintenance, restoration or enhancement of a natural resource. Section 15308

categorically exempts actions taken by local ordinance that assures maintenance, restoration, enhancement, or protection of the environment

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Peter Noonan, AICP  
Associate Planner

Azita Motamen, AIA,  
Plan Review Architect

**Attachments:**

1. Green Building Program Point-rating System
2. Staff Report to Planning Commission and meeting minutes on May 10, 2007
3. Staff Report to City Council on August 7, 2007