

# **GREEN BUILDINGS IN YOUR COUNTY**

VACo ANNUAL CONFERENCE  
NOVEMBER 10, 2008

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# OVERVIEW

- Policy based reasons for going green
- Legal authority of Virginia counties
- Ways in which Arlington County has responded and some results
- Turn over to experts to talk more about technical aspects of going green and practical applications

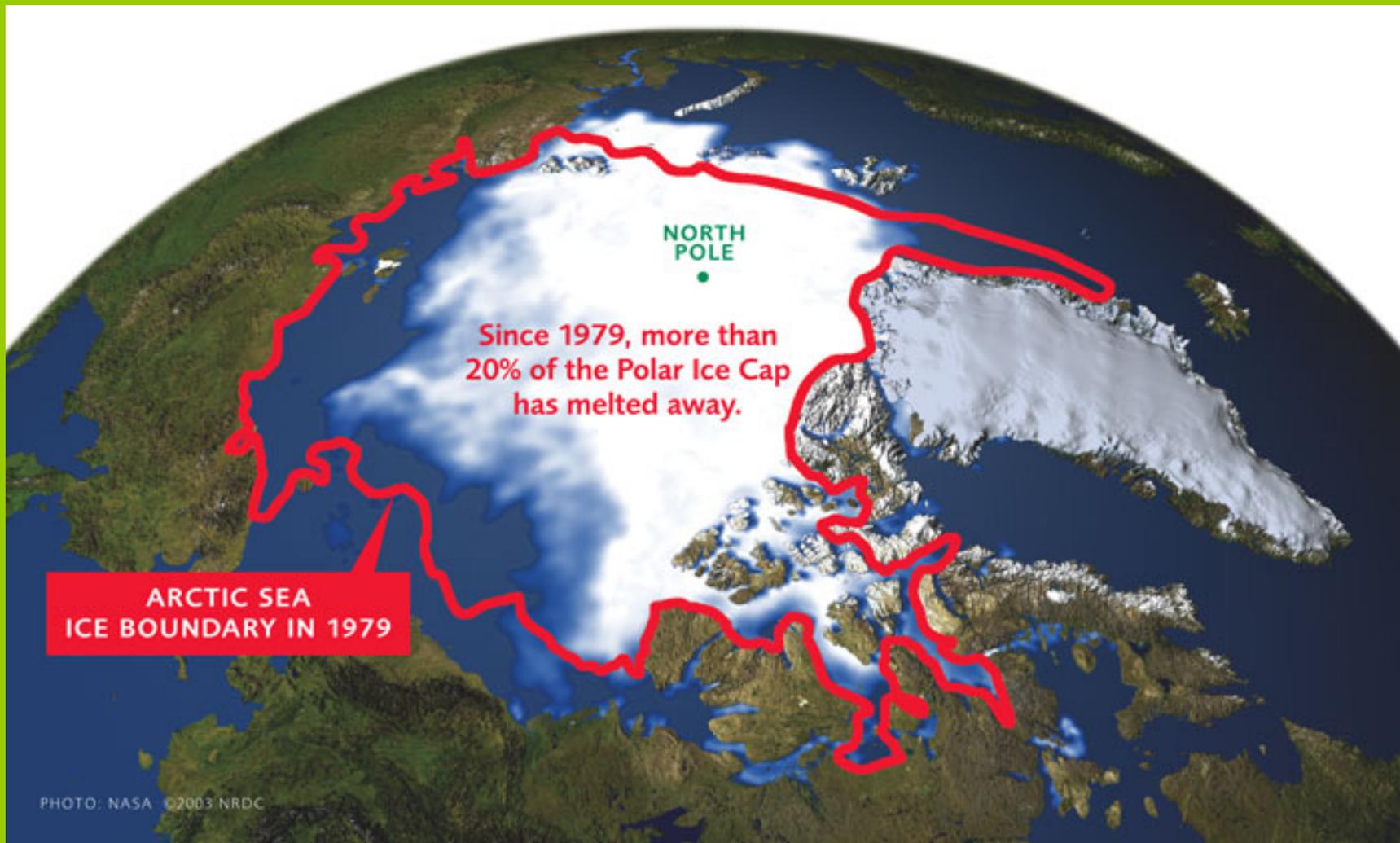
# GLOBAL WARMING

- Fact or Fiction?
- Fad or Warranted Concern?
- Whatever it may be – should counties care?



In 1991, United Nations' Intergovernmental Panel on Climate Change (IPCC) concluded that, “emissions resulting from human activities are substantially increasing the atmospheric concentrations of . . . greenhouse gases [which] will enhance the greenhouse effect, resulting on average in an additional warming of the Earth's surface.”





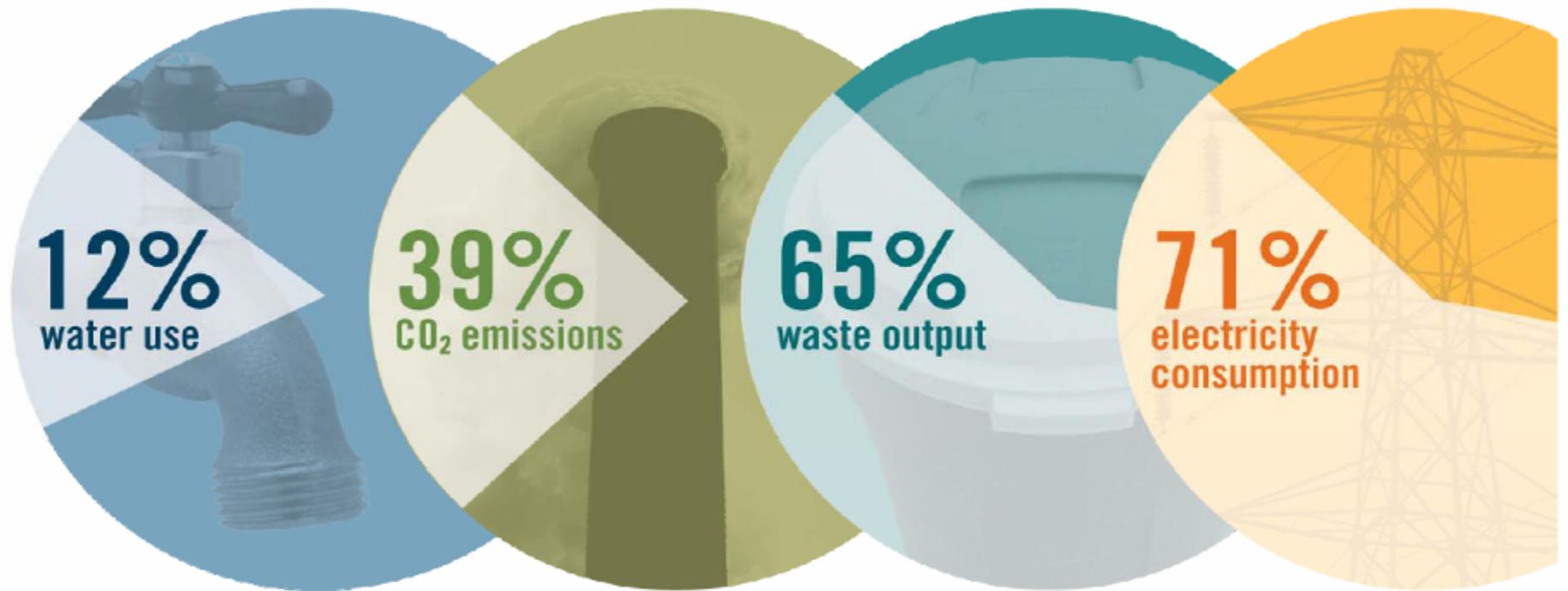








## U.S. Building Impacts:





Regardless of how you come out on global warming debate, there is no question that localities, businesses, and the country as a whole face serious issues as a consequence of excessive fossil fuel consumption, dependence on foreign oil, escalating energy costs, and the like.

# WHAT'S A COUNTY TO DO?

- Despite the compelling evidence in support of action, there has been a failure at the federal and state level to provide comprehensive, coordinated strategy for addressing greenhouse gas emissions and related environmental concerns



EVERY TIME THE WORLD  
CALLS FOR ACTION ON  
CLIMATE CHANGE, THE  
UNITED STATES EMITS  
MORE WHITE HOUSE GASES

# **VERY REAL ENVIRONMENTAL AND ECONOMIC REASONS EXIST FOR LOCAL ACTION**

- Not just a luxury of a built out locality
- Poses important policy decision for governing body
- Need to distinguish public buildings and private development
- Latter presents significant question of what counties can do

# DILLON RULE

- "It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation, not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of the power is resolved by the courts against the corporation, and the power is denied."

# UNIFORM STATEWIDE BUILDING CODE

- Such building code shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies.
- USBC's express preemption of local building codes places definite limitation of local authority to require green buildings.



## LACK OF EXPRESS AUTHORITY CAUSES SEARCH FOR LEGAL BASIS

- Land use authority provides fertile source
- Has strong protection of public interest component and isn't that what the environmental considerations are about?
- Significantly, land use allows local government to affect development, *i.e.*, buildings, as it happens
- Also get a pass on the USBC's preemption



# Primary land use tools are comprehensive plan and zoning ordinance

- Comprehensive Plan is for "the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants."
- Zoning ordinances are for the general purpose of promoting the health, safety or general welfare of the public and to accomplish such objectives as improving the public health, safety, convenience and welfare of the citizens.

- Of the authorized zoning tools, conditional zoning and special exceptions or special uses provide the greatest flexibility for locality
- They enable locality to tailor conditions for the specific project rather than adopting regulations that apply uniformly throughout a zoning district



- Conditional zoning may permit proffers that offset the impacts of development and are beneficial to the public such as dedication and construction of roads, donation of land for schools, parks, and other public facilities, affordable housing, and green buildings and other environmentally oriented benefits.
- Much like the proffers associated with conditional zoning, special uses and special exceptions may be used to impose or obtain commitments to conditions that benefit the public by mitigating the impacts of a use, *e.g.*, transportation and transit improvements, reduced parking and enhanced transit use by occupants, energy efficient buildings, and the like.



# Incentive Zoning

- Defined as the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

# ARLINGTON COUNTY'S GREEN BUILDING PROGRAM





# LEED Scorecard for All Site Plan Projects

- LEED accredited professional
- LEED Scorecard listing specific “green” components of the project, with explanation of each credit



# LEED Scorecard for Site Plan Projects



- Specify number of LEED credits in site plan condition
- LEED reports due at specific permit applications
- If LEED requirements not met, County withholds permits

# Green Building Fund

- If developer does not apply for LEED certification from USGBC, the project contributes to Arlington's Green Building Fund
- Contribution calculated at \$0.03 per square foot
- Fund to be used for green building education and outreach



# Green Building Incentive Program

- Any site plan project may apply for bonus density
- Includes density awards for all levels of LEED (certified, silver, gold and platinum)
- FAR bonus ranges from .15 for Certified to .35 for Gold/Platinum



# Green Building Incentive Program

## Enforcement

- Developer posts a bond that is released when the USGBC issues certification
- If the project does not meet the certification, bond is forfeited



# EXAMPLES

# Density Incentive Program

## The Navy League Building

- 37 LEED credits
- Requested .25 FAR  
(~5% or 10,000 sq ft additional space)



# Density Incentive Program

1200 N. Irving Street



155 units with retail

7,754 sq ft bonus for LEED certification

# EPA Offices – Potomac Yard



# First LEED Platinum in Virginia

- 1812 North Moore
- 580,759 SF
- 35 floors



# Arlington, Virginia public LEED projects





# CONCLUSION\QUESTIONS