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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 117516

AN ORDINANCE relating to land use and zoning, amending Sections 23.40.060 and 23.41.012 of the Seattle Municipal Code to provide additional design departures under the Demonstration Program for Living Building Design implemented by Section 23.40.060.

WHEREAS, the City of Seattle has been a leader in encouraging sustainable building since it adopted a Sustainable Building Policy in February 2000; the City has implemented other processes, regulations and incentives to encourage the private market to follow the City's lead;

WHEREAS, the *Living Building Challenge*TM establishes goals for building owners, architects, design professionals, engineers and contractors to build in a way that provides for a sustainable future through buildings informed by their ecoregion's characteristics, that generate all of their own energy with renewable resources, that capture and treat all of their water, and operate efficiently with maximum beauty; and

WHEREAS, the *Living Building Challenge*TM is attempting to raise the bar and define the most advanced measure of sustainability in the built environment, using a benchmark of what is currently possible and given the best knowledge available today. Projects that achieve this level of performance can claim to be among the 'greenest' anywhere, and will serve as role models to others that follow; and

WHEREAS, creating very sustainable buildings such as those developed using the *Living Building Challenge*TM requires a fundamentally different approach to building design, construction, and operations that may necessitate changes to current development codes; and

WHEREAS, the City Council adopted Ordinance 123206 in December 2009 to establish the Living Building Pilot Program as part of the Land Use Code, to promote the goals of the *Living Building Challenge*TM and permit the development of up to 12 projects that meet the prerequisites of the *Living Building Challenge*TM or up to three projects that meet the Seattle Deep Green standards; and

WHEREAS, allowing additional development standard flexibility recognizes the significant challenges to meeting such high standards, and has been identified as essential to encouraging more participation in the program, furthering the goals of the *Living Building Challenge*TM;

1 WHEREAS, the City Council appreciates the innovation and leadership efforts of institutions
2 like the Bullitt Foundation to test the boundaries of sustainable buildings, the City
3 Council also wants to encourage developers of general-purpose commercial and
4 residential structures to participate in the Pilot Program in order to model building
5 innovation on a broader scale that could be widely replicated in the future;

6 NOW THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. Section 23.40.060 of the Seattle Municipal Code, which section was adopted
9 by Ordinance 123206, is amended and retitled as follows:

10 **23.40.060 Living Building and Seattle Deep Green Pilot Program**

11 * * *

12 B. Project qualification.

13 1. Eligible projects. Only projects that are eligible for design review under Section
14 23.41.004 and located outside of the shoreline jurisdiction may qualify for the Living Building
15 Pilot Program or the Seattle Deep Green Pilot Program.

16 2. Enrollment period. The enrollment period ~~((is limited to three years from the
17 effective date of this ordinance))~~ for both the Living Building Pilot Program and the Seattle Deep
18 Green Pilot Program expires on the earlier of December 31, 2015 or when a total of twelve
19 projects have ~~((successfully qualified))~~ submitted for a Master Use Permit for the Living
20 Building Pilot Program or a maximum of three projects for the Seattle Deep Green Pilot
21 Program, ~~((whichever comes first)).~~

22 * * *

23 E. Compliance with minimum standards.

1. Minimum Standards for both the Living Building Pilot Program and the Seattle

1 Deep Green Pilot Program. ~~((While the intent of the Living Building Pilot Program is to~~
2 ~~encourage development of buildings that meet or exceed the goals of the Living Building~~
3 ~~Challenge, q))~~ Qualifying projects under both the Living Building Pilot Program and the Seattle
4 Deep Green Pilot Program that are granted departures shall meet one of the following: ~~((either))~~

5 a. Living Building Challenge. The intent of the Living Building Pilot
6 Program is to encourage development of buildings that meet or exceed the goals of the Living
7 Building Challenge. A qualifying project shall meet:
8

9 1) all of the ~~((prerequisites))~~ Imperatives of the Living Building
10 Challenge, version 2.1; or ~~((60 percent of the prerequisites of the Living Building Challenge and~~
11 all other following alternative standards:))
12

13 2) at least three of the seven performance areas, or “petals,” of the
14 Living Building Challenge, version 2.1 (Site, Water, Energy, Health, Materials, Equity, and
15 Beauty), including at least one of the following three petals: Energy, Water, or Materials, and all
16 of the following standards:
17

18 ((a))a) total building energy usage, ~~((subtracting))~~ not
19 including energy generated on site, is 25 percent or less of the average energy usage for a
20 comparable building not in the Living Building Pilot Program, based on the Seattle Energy Code
21 in effect at time of building permit application ~~((Energy Information Administration's 2003~~
22 Commercial Buildings Energy Use Survey, Energy Information Administration's 2005
23 Residential Energy Consumption Survey, or other baseline approved by the Director that would
24 provide a comparable estimate));
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1 owner may submit a supplemental report demonstrating that it has made alterations or
2 improvements such that the project now meets the standards in subsection 23.40.060.E.1.a or
3 E.1.b.

4 5. If the owner fails to submit a supplemental report within the time allowed
5 pursuant to Section 23.40.060.E.4, the Director shall determine that the project has failed to
6 demonstrate full compliance with the standards contained in Section 23.40.060.E.1.a or E.1.b,
7 and the owner shall be subject to the penalty in Section 23.90.018.B.6.

8
9 Section 2. Section 23.41.012 of the Seattle Municipal Code, which section was last
10 amended by Ordinance 123809, is amended as follows:

11 **23.41.012 Development standard departures**

12 * * *

13
14 D. Departures for the Living Building Pilot Program or the Seattle Deep Green Pilot
15 Program.

16 1. Criteria for Departures. Departures from Land Use Code requirements for
17 projects participating in the Living Building Pilot Program or the Seattle Deep Green Pilot
18 Program pursuant to Section 23.40.060 may be allowed if an applicant demonstrates that the
19 departure would result in a development that better meets the intent of adopted design guidelines
20 or that the departure would result in a development that better meets the goals of ~~((the Living~~
21 ~~Building Challenge))~~ one of the Pilot Programs and would not conflict with adopted design
22 guidelines. In making this recommendation, the Board shall consider the extent to which the
23 anticipated environmental performance of the building would be substantially compromised
24 without the departures.
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1 2. Scope of Departures. In addition to the departures allowed under ((Section))
2 subsection 23.41.012.B, departures for projects participating in the Living Building Pilot
3 Program or the Seattle Deep Green Pilot Program established under Section 23.40.060 may also
4 be granted for the following:

5 a. Permitted, prohibited or conditional use provisions, but only for
6 accessory uses that would directly address ((a-prerequisite))an Imperative of the Living Building
7 Challenge, version 2.1, including but not limited to uses that could re-use existing waste streams
8 or reduce the transportation impacts of people or goods.

9 b. Residential density limits;

10 c. Downtown view corridor requirements;

11 d. Floor Area Ratio((s)) limits, as follows:

12 1) U((u))p to 15 percent above the otherwise applicable limit;

13 2) In addition, up to all gross floor area for street level general
14 sales and services, eating and drinking establishments, or entertainment uses, when located in:

15 a) An IC zone with a height limit of 45 feet or less; and

16 b) An urban village or urban center;

17 e. Maximum size of use;

18 f. Structure height, subject to the following:

19 1) Structure height up to 10 feet;

20 2) Structure height up to 20 feet for development on sites in IC
21 zones with height limits of 45 feet or less, when the sites are located in an Urban Village or

1 Urban Center, and the gross floor area of each floor above 45 feet is limited to 66 percent of the
2 lot area on which the structure is located;((except only)) and

3 3).((€))Rooftop features may be allowed to extend ((more than 10
4 feet above the otherwise applicable limit))above the structure height approved pursuant to this
5 subsection 23.41.012.D.2.f, if they are consistent with the applicable standards established for
6 rooftop features within the zone;

7
8 g. Quantity of parking required, minimum and maximum parking limits,
9 and minimum and maximum number of drive-in lanes;

10 h. Standards for storage of solid-waste containers;

11 i. The quantity of open space required for major office projects in
12 Downtown zones in subsection 23.49.016.B;

13 j. Standards for the location of access to parking in Downtown zones; and

14 k. Provisions of Chapter 23.53, Requirements for Streets, Alleys and
15 Easements.

16
17 * * *

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20 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
21 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
22 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

23 Passed by the City Council the ____ day of _____, 2012, and
24 signed by me in open session in authentication of its passage this
25 ____ day of _____, 2012.
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President _____ of the City Council

Approved by me this _____ day of _____, 2012.

Michael McGinn, Mayor

Filed by me this _____ day of _____, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Bill Mills/4-8738	Melissa Lawrie/4-5805

Legislation Title:

An Ordinance relating to land use and zoning, amending Sections 23.40.060 and 23.41.012 of the Seattle Municipal Code to provide additional design departures under the Demonstration Program for Living Building Design implemented by Section 23.40.060.

Summary of the Legislation:

The existing Demonstration Program for Living Building Design allows Land Use Code design departures under the City's Design Review process for projects proposed to meet the Living Building Challenge, described further below. The legislation would allow departure from two additional standards as follows:

- Allow up to 20 feet above the zoned height limit for IC zones with a height limit of 45 feet or less that are within urban villages or urban centers, provided that the gross floor area of each floor above 45 feet is limited to 66 percent of the lot area on which the structure is located.
- Exempt certain ground floor retail space from FAR limits in IC zones with a height limit of 45 feet or less and within urban villages or urban centers.

The legislation would also extend the life of the Living Building Pilot Program from its current three-year term, set to expire in early 2013, to December 31, 2015. Finally, the proposal would clarify that review of information demonstrating compliance with minimum standards of the Living Building Pilot Program shall be done in consultation with the International Living Future Institute, according to procedures and requirements to be set forth in a Director's Rule to be drafted and administered by DPD.

Background:

In December 2009, the City Council adopted an ordinance that added the Living Building Pilot Program to the Land Use Code. The purpose of the Pilot Program was to better facilitate the development of buildings that would meet the Living Building Challenge. The Living Building Challenge is a green building rating system created by the International Living Building Institute to recognize buildings meeting the highest level of sustainability. In general, these prerequisites require buildings to be built on non-environmentally sensitive sites, use recycled materials, generate as much or more energy as they use through sustainable sources, capture as much rainwater as they use, treat wastewater on site, and meet a number of standards for other elements. The current pilot program allows for up to 12 projects to participate and sunsets in 2013. Since the pilot program was initiated in 2009 only one project has been reviewed and approved. The amendments are proposed to encourage additional builders to participate.



This legislation does not have any financial implications.

(Please skip to "Other Implications" section at the end of the document and answer questions a-h. Earlier sections that are left blank should be deleted. Please delete the instructions provided in parentheses at the end of each question.)

This legislation has financial implications.

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

b) **What is the financial cost of not implementing the legislation?**
None.

c) **Does this legislation affect any departments besides the originating department?**
No.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

No alternatives have been identified, as the development of Living Buildings is dependent upon participation in a pilot program to study these buildings and appropriate Land Use Code provisions.

e) **Is a public hearing required for this legislation?**

Yes. The City Council must hold a public hearing, currently scheduled for Monday July 9, before the Planning, Land Use and Sustainability (PLUS) Committee.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**

Yes. Publication of notice of the Council public hearing was made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin. Environmental review under the State Environmental Policy Act (SEPA) is also required for this legislation, and publication of notice of the environmental determination was also made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin.

g) **Does this legislation affect a piece of property?**

The legislation is of general application within the City's IC zones with height limits of 45 feet or less and within urban villages or urban centers, such as Fremont.

h) **Other Issues:** None

List attachments to the fiscal note below: None





City of Seattle
Office of the Mayor

June 26, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would amend the Land Use Code to allow more flexibility in applying land use standards for projects qualifying for the Living Building Pilot Program. The pilot was adopted by the City Council in December 2009 to facilitate the development of buildings that would either meet the Living Building Challenge or suitable alternative minimum standards. The Living Building Challenge is a green building rating system that recognizes buildings meeting the highest level of environmental sustainability.

Seattle is already a leader in sustainable building practices, but we all aspire to achieve even greener results. The Living Building Pilot Program is intended to help us gain a better understanding of innovative "living" buildings that can reduce environmental impacts, test new technologies, and serve as a model for development throughout not only the city but also the region and country. Please join me in supporting this legislation so that we can encourage more builders to participate.

Thank you for your consideration of this legislation. Should you have questions, please contact Bill Mills in the Department of Planning and Development at 684-8738.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

