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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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 *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 ~~its~~their own energy with renewable resources, that ~~captures~~capture and ~~treats~~treat all of ~~its~~their water, and ~~operates~~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 Living Buildings 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 BuildingTM 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 either meet the prerequisites of the *Living Building Challenge*TM or suitable alternative minimum 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*; ~~NOW THEREFORE,~~TM;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

1 Section 1. ~~Subsection E of~~ Section 23.40.060 of the Seattle Municipal Code, which
2 section was adopted by Ordinance 123206, is amended as follows:

3 **23.40.060 Living Building Pilot Program**

4 * * *

5
6 B. Project qualification.

7 1. Eligible projects. Only projects that are eligible for design review under Section
8 23.41.004 and located outside of the shoreline jurisdiction may qualify for the Living Building
9 Pilot Program.

10 2. Enrollment period. The enrollment period ~~((is limited to three years from the~~
11 ~~effective date of this ordinance))~~ expires on December 31, 2015 or when twelve projects have
12 successfully qualified, whichever comes first.

13 * * *

14
15 E. Compliance with minimum standards.

16 1. Minimum standards. While the intent of the Living Building Pilot Program is to
17 encourage development of buildings that meet or exceed the goals of the Living Building
18 Challenge, qualifying Living Building Pilot Program projects that are granted departures shall
19 meet ~~either all of the prerequisites of the Living Building Challenge or at a minimum, 60 percent~~
20 ~~of the prerequisites of the Living Building Challenge and all~~ one of the following ~~alternative~~
21 ~~standards:~~ ((either))
22

23 a.a. all of the ((prerequisites)) Imperatives of the Living Building
24 Challenge, version 2.1; or
25

1 b. at least three of the seven performance areas, or “petals,” of the Living
2 Building Challenge, version 2.1 (Site, Water, Energy, Health, Materials, Equity, and Beauty),
3 including at least one of the following three petals: Energy, Water, or Materials; or

4 c. a high performance minimum of 60 percent of the
5 ~~((prerequisites))~~Imperatives of the Living Building Challenge, version 2.1, and all of the
6 following alternative standards:

7 ~~((a-))1~~ total building energy usage, subtracting energy generated
8 on site, is 25 percent or less of the average energy usage for a comparable building not in the
9 Living Building Program, based on the Energy Information Administration's 2003 Commercial
10 Buildings Energy Use Survey, Energy Information Administration's 2005 Residential Energy
11 Consumption Survey, or other baseline approved by the Director that would provide a
12 comparable estimate;

13 ~~((b-))2~~ total building water usage, subtracting harvested
14 rainwater, is 25 percent or less of the average water usage for a comparable building not in the
15 Living Building Program, based on Seattle Public Utility estimates or other baseline approved by
16 the Director that would provide a comparable estimate; and

17 ~~((c-))3~~ at least 50 percent of stormwater is captured and used on
18 site.

19 ***

20 2. No later than two years after issuance of a final Certificate of Occupancy for
21 the project, or such later date as may be allowed by the Director for good cause, the owner shall
22 submit to the Director a report demonstrating how the project complies with the standards

1 contained in subsection 23.40.060.E.1.((has met the Living Building Challenge prerequisites and
2 the standards described in subsection 23.40.006.E.1.))

3 3. If the Director determines that the report submitted pursuant to subsection
4 23.40.060.E.2 provides satisfactory evidence that the project has complied with the standards
5 contained in subsection 23.40.060.E.1, the Director shall, in consultation with the International
6 Living Future Institute (ILFI) and subject to procedures and requirements established by
7 Director's Rule, send the owner a ((certificate))letter of approval stating that the project has
8 complied with the performance standards of the City's Living Building Pilot Program. If the
9 Director determines that the project does not comply with the standards in subsection
10 23.40.060.E.1, the Director shall notify the owner of the aspects in which the project does not
11 comply. Nothing in the letter of approval or participation in the Living Building Pilot Program
12 shall constitute or imply certification of the project by ILFI as a Living Building under the
13 Living Building Challenge. Components of the project that are included in order to comply with
14 the minimum standards of this program shall remain for the life of the project.

17 4. Within 90 days after the Director notifies the owner of the ways in which the
18 project does not comply, or such longer period as the Director may allow for good cause, the
19 owner may submit a supplemental report demonstrating that it has made alterations or
20 improvements such that the project now meets the standards in subsection 23.40.060.E.1.

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

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

3 **23.41.012 Development standard departures**

4 * * *

5 D. Departures for the Living Building Pilot Program.

6 1. Criteria for Departures. Departures from Land Use Code requirements for
7 projects participating in the Living Building Pilot Program pursuant to Section 23.40.060 may be
8 allowed if an applicant demonstrates that the departure would result in a development that better
9 meets the intent of adopted design guidelines or that the departure would result in a development
10 that better meets the goals of the Living Building ~~((Challenge))~~Pilot Program and ~~((would not
11 conflict with))~~ adopted design guidelines. In making this recommendation, the Board shall
12 consider the extent to which the anticipated environmental performance of the building would be
13 substantially compromised without the departures.
14

15 2. Scope of Departures. In addition to the departures allowed under
16 ~~((Section))~~subsection 23.41.012.B, departures for projects participating in the Living Building
17 Pilot Program established under Section 23.40.060 may also be granted for the following:
18

19 a. Permitted, prohibited or conditional use provisions, but only for
20 accessory uses that would directly address a prerequisite of the Living Building Challenge,
21 including but not limited to uses that could re-use existing waste streams or reduce the
22 transportation impacts of people or goods.
23

24 b. Residential density limits;

25 c. Downtown view corridor requirements;
26

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

1) ~~U((#))~~ up to 15 percent above the otherwise applicable limit;

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

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

b) An urban village or urban center.

e. Maximum size of use;

f. Structure height, subject to the following:

1) Structure height up to 10 feet; or

2) Structure height up to 20 feet for development on sites in IC zones with height limits of 45 feet or less, ~~if~~when the sites are located in an Urban Village or Urban Center; ~~((, except only), and 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; ((except only))~~

3) ~~((#))~~

3) Rooftop features may be allowed to extend ~~((more than 10 feet above the otherwise applicable limit))~~ above the structure height approved pursuant to this subsection 23.41.012.D.2.f;

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

h. Standards for storage of solid-waste containers;

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

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

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

Easements.

* * *

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

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

President _____ of the City Council

Approved by me this ____ day of _____, 2012.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

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Monica Martinez Simmons, City Clerk

(Seal)