

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE related to land use and zoning; establishing an incentive program for high performance buildings in urban centers; amending Sections 23.40.060, 23.41.004, 23.41.012, and 23.41.014 to the Seattle Municipal Code (SMC); and adding a new Section 23.40.070 to the SMC.

..body

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

Section 1. Section 23.40.060 of the Seattle Municipal Code, last amended by Ordinance 125163, is amended as follows:

**23.40.060 Living Building Pilot Program**

\* \* \*

B. Minimum standards. A project shall qualify for the Living Building Pilot Program if it is located outside of the shoreline jurisdiction, ~~((has been))~~ is reviewed in accordance with the full design review process provided in Section 23.41.014, and meets full Living Building Certification by achieving either all of the imperatives of the International Living Future Institute’s (ILFI) Living Building Challenge <sup>SM</sup> 3.1 certification or all of the following:

1. The project meets ILFI Living Building Challenge <sup>SM</sup> ~~((3-1))~~ Petal ~~((Recognition))~~ certification by attaining at least three of the seven performance areas, or “Petals,” of the ILFI Living Building Challenge <sup>SM</sup> ~~((3-1))~~ program, (Place, Water, Energy, Health and Happiness, Materials, Equity, and Beauty), including at least one of the following three petals: Water, Energy, or Materials;

~~((2. Total building energy use is 75 percent or less of the energy use targets established in the 2012 Seattle Energy Code’s Target Performance Path, Section C402.1.5; and))~~

1                    2. Total annual building energy use that is 25 percent less than a baseline  
2 defined as the Energy Use Intensity (EUI) targets in the Target Performance Path of Seattle  
3 Energy Code Section C401.3;

4                    3. None of the space heating and water heating in the project shall be provided  
5 using on-site combustion of fossil fuel; and

6                    ((3)) 4. The project uses only nonpotable water except to the extent other  
7 applicable local, state, or federal law requires the use of potable water.

8                    C. ((Extra)) Additional floor area or structure height beyond otherwise applicable  
9 maximum

10                    1. A project qualifying for the Living Building Pilot Program may contain:

11                    a. ((Fifteen)) Twenty-five percent more gross floor area than the  
12 otherwise applicable maximum floor area ratio under the provisions of the zone; or

13                    b. In the case of projects not regulated by floor area ratio, including  
14 residential development in Downtown or certain Seattle Mixed zones, ((45)) 25 percent more  
15 floor area than the maximum floor area otherwise resulting from the application of  
16 development standards. The Director may promulgate rules to define the measurement of floor  
17 area according to this subsection 23.40.060.C.1.b.

18                    2. Projects qualifying for the Living Building Pilot Program that include the  
19 renovation of an unreinforced masonry structure by seismic strengthening, in compliance with  
20 Appendix Chapter A1 of the Seattle Existing Building Code, may gain:

21                    a. Thirty percent more gross floor area than the otherwise applicable  
22 maximum floor area ratio under the provisions of the zone; or

1                                    b. In the case of projects not regulated by floor area ratio, including  
2 residential development in Downtown or certain Seattle Mixed zones, 30 percent more floor  
3 area than the maximum floor area otherwise resulting from the application of development  
4 standards. The Director may promulgate rules to define the measurement of floor area  
5 according to this subsection 23.40.060.C.2.b.

6                                    ((2)) 3. A project qualifying for the Living Building Pilot Program may employ  
7 additional structure height, above the otherwise applicable maximum height ((, of up to 10 feet  
8 for a development in a zone with a height limit of 85 feet or less)) as shown in Table A for  
9 23.40.060.

<b><u>Table A for 23.40.060</u></b>		
<b><u>Additional Height</u></b>		
<b><u>Height Limit of the Zone</u></b>	<b><u>Additional height above the otherwise applicable maximum height limit for residential use</u></b>	<b><u>Additional height above the otherwise applicable maximum height limit for non-residential use</u></b>
<b><u>Zones with height limits of 85 feet or less</u></b>	<u>12.5 feet</u>	<u>15 feet</u>
<b><u>Zones with height limits greater than 85 feet</u></b>	<u>25 feet</u>	<u>30 feet</u>

10                                    ((3. A project qualifying for the Living Building Pilot Program may employ  
11 additional structure height, above the otherwise applicable maximum height, of up to 20 feet  
12 for development in a zone with a height limit greater than 85 feet.))

13                                    4. A rooftop feature of a project qualifying for the Living Building Pilot  
14 Program may extend above the additional structure height ((bonus)) provided in ((subsections  
15 23.40.060.C.2 or)) subsection 23.40.060.C.3 if the extension is consistent with the applicable  
16 standards established for that rooftop feature within the zone.

17                                    5. ((Extra)) Additional floor area or structure height available pursuant to  
18 subsections 23.40.060.C.1 through ((C.4)) 23.40.060.C.3 shall be in addition to any bonus,

1 extra, or otherwise additional floor area or structure height available according to any other  
2 provision of this Title 23, which shall be obtained in compliance with the applicable provisions  
3 of this Title 23. Additional floor area or structure height, including additional stories, approved  
4 pursuant to subsections 23.40.060.C.1 through 23.40.060.C.3 shall be disregarded in the  
5 application of the limit on the number of stories in a structure in a Lowrise zone that achieves  
6 extra height pursuant to subsection 23.45.514.F.

7 6. ~~((Extra))~~ Additional floor area or structure height included in a project  
8 pursuant to subsections 23.40.060.C.1 through ~~((23.40.060.C.4))~~ 23.40.060.C.3 ~~((, or the units~~  
9 ~~contained in such extra floor area or structure height,))~~ shall be excluded for purposes of  
10 calculating performance or payment amounts pursuant to subsections 23.58B.040.A.1,  
11 23.58B.050.A.1, 23.58C.040.A.1, and 23.58C.050.A.1, and shall also be exempt from  
12 satisfying any non-housing-related requirements for obtaining bonus, extra, or otherwise  
13 additional floor area or structure height according to Chapter 23.49 or Chapter 23.58A.

14 7. For a development containing residential and non-residential uses, the  
15 additional gross floor area or structure height included in a project pursuant to subsections  
16 23.40.060.C.1 through 23.40.060.C.3 is that which corresponds to the use that occupies the most  
17 gross floor area in the development.

18 8. As an allowance for mechanical equipment fully contained within a structure  
19 related to participation in the pilot:

20 a. One-half percent shall be deducted in computing gross floor area subject  
21 to floor area limits in addition to any allowance for mechanical equipment included in the  
22 applicable zone; and



1 the satisfaction of the Director that the completed building as designed will meet all of the  
2 minimum standards in subsection 23.40.060.B.

3 2. The project shall be constructed and completed in accordance with the  
4 approved project plans and documents.

5 ((4)) 3. No later than two years after issuance of a final Certificate of Occupancy  
6 for the project, or such later date as may be allowed by the Director for good cause or a phased  
7 project, the owner shall submit to the Director a report demonstrating how the project complies  
8 with the standards contained in subsection 23.40.060.B. Compliance must be demonstrated  
9 through an independent report from a third party. The report must be produced by ILFI or  
10 another independent entity approved by the Director.

11 ((2)) 4. If the Director determines that the report submitted provides satisfactory  
12 evidence that the project has complied with the standards contained in subsection 23.40.060.B,  
13 the Director shall send the owner a written statement that the project has complied with the  
14 standards of the Living Building Pilot Program. If the Director determines that the project does  
15 not comply with the standards in subsection 23.40.060.B, the Director shall notify the owner of  
16 the aspects in which the project does not comply. Nothing in the written statement or  
17 participation in the Living Building Pilot Program shall constitute or imply certification of the  
18 project by ILFI as a Living Building under the Living Building Challenge <sup>SM</sup>. Components of  
19 the project that are included in order to comply with the minimum standards of the Living  
20 Building Pilot Program shall remain for the life of the project.

21 ((3)) 5. Within 90 days after the Director notifies the owner of the aspects in  
22 which the project does not comply, or such longer period as the Director may allow for good

1 cause, the owner may submit a supplemental report demonstrating that the project complies  
2 with the standards in subsection 23.40.060.B.

3 ((4)) 6. If the owner fails to timely submit the report required by subsection  
4 23.40.060.F.1 or to demonstrate compliance with the standards contained in subsection  
5 23.40.060.B, or if the owner fails to submit a supplemental report within the time allowed  
6 pursuant to subsection 23.40.060.F.3, the Director shall determine that the project has failed to  
7 demonstrate compliance with the standards contained in subsection 23.40.060.B, and the  
8 owner shall be subject to the penalty in subsection 23.40.060.G.

### 9 G. Penalties for the Living Building Pilot Program

10 1. Failure to submit the report required by subsection 23.40.060.F.1 by the date  
11 required is subject to a penalty of \$500 per day from the date the report was due to the date it is  
12 ((submitted)) received by the Department.

13 2. Failure to demonstrate compliance with the provisions contained in  
14 subsection 23.40.060.B is subject to a maximum penalty of ((five)) three percent of the  
15 construction value set forth in the building permit for the structure based on the extent of  
16 noncompliance with the standards contained in subsection 23.40.060.B. A minimum penalty of  
17 one percent will be applied if any of the provisions contained in subsection 23.40.060.B are not  
18 achieved in their entirety. Additional penalties for minimum energy and water criteria, at one  
19 percent and one-half percent respectively, will be based on the extent of noncompliance  
20 compared to the baselines provided in this Section 23.40.060 and calculated according to the  
21 methodology in subsections 23.40.060.G.2.a and 23.40.060.G.2.b for each component. An  
22 additional penalty of one-half percent will be applied for not achieving Petal Certification.

1 Penalties shall be calculated according to Tables B and C for 23.40.060 and this subsection  
2 23.40.060.G:

3 a. Energy: Percentage of noncompliance = 100 x [(Pilot Program  
4 Target) - (Metered Energy Use Intensity)] / [(SEC target) - (Pilot Program Target)];

5 where “SEC target” means Energy Use Intensity (EUI) targets in the Target Performance Path  
6 of Seattle Energy Code Section C401.3, and “Pilot Program target” means the SEC target x  
7 0.75.

8 b. Water: Percentage of noncompliance = 100 x [1 - [(total gallons/year  
9 of non-potable water used) / (total gallons/year of water needed for non-potable uses)]]

**Table B for 23.40.060**

<b><u>Percentage of Noncompliance for Energy</u></b>	<b><u>Penalty</u></b> <b><u>(percentage of construction value)</u></b>
<u>Greater than zero up to 10</u>	<u>0.1</u>
<u>Greater than 10 up to 20</u>	<u>0.2</u>
<u>Greater than 20 up to 30</u>	<u>0.3</u>
<u>Greater than 30 up to 40</u>	<u>0.4</u>
<u>Greater than 40 up to 50</u>	<u>0.5</u>
<u>Greater than 50 up to 60</u>	<u>0.6</u>
<u>Greater than 60 up to 70</u>	<u>0.7</u>
<u>Greater than 70 up to 80</u>	<u>0.8</u>
<u>Greater than 80 up to 90</u>	<u>0.9</u>
<u>Greater than 90</u>	<u>1.0</u>

10

**Table C for 23.40.060**

<b><u>Percentage of Noncompliance for Water</u></b>	<b><u>Penalty</u></b> <b><u>(percentage of construction value)</u></b>
<u>Greater than zero up to 10</u>	<u>0.05</u>
<u>Greater than 10 up to 20</u>	<u>0.10</u>
<u>Greater than 20 up to 30</u>	<u>0.15</u>
<u>Greater than 30 up to 40</u>	<u>0.20</u>
<u>Greater than 40 up to 50</u>	<u>0.25</u>
<u>Greater than 50 up to 60</u>	<u>0.30</u>



1 B. Minimum standards. A project shall qualify for the 2030 Challenge High

2 Performance Existing Building Pilot Program if:

3 1. It is located within an urban center excluding lots within the shoreline  
4 jurisdiction, and lots within the Chinatown International District Special Review District.

5 2. It is reviewed in accordance with the full design review process provided in  
6 Section 23.41.014, except for development subject to special district review under Chapter  
7 23.66 or historic review under Chapters 25.12 through 25.30, in which case the applicable  
8 review board shall conduct the design review with the authority to recommend design  
9 departures as provided to the Design Review Board pursuant to Section 23.41.012.

10 3. It includes renovation of an existing structure that complies with the  
11 provisions for substantial alterations in the Seattle Energy Code and the Seattle Existing  
12 Building Code.

13 4. It retains either the opaque portions of all exterior walls, or the superstructure  
14 of existing structures. The Director may allow openings in the exterior walls to be relocated or  
15 resized. For the purposes of this subsection 23.40.070.B, “superstructure” shall mean the  
16 foundation, structural frame, floor framing, and slabs of the structure.

17 5. Additions comply with the requirements of Table A for 23.40.070.

<b>Table A for 23.40.070</b>		
<b>Height limit of the zone</b>	<b>Minimum height of existing buildings</b>	<b>Maximum increase in area of existing building footprint</b>
<b>Zones with height limits of 85 feet or less</b>	47 percent of the maximum height limit of the zone	20 percent of the area of the footprint of existing buildings
<b>Zones with height limits greater than 85 feet</b>	60 percent of the maximum height limit of the zone	

6. It meets all of the following:

a. Total annual building energy use that is 25 percent less than a baseline defined as the Energy Use Intensity (EUI) targets in the Target Performance Path of Seattle Energy Code Section C401.3;

b. None of the space heating and water heating in the project shall be provided using on-site combustion of fossil fuel;

c. Combined annual stormwater runoff and potable water use is 50 percent lower than the 2030 Challenge High Performance Existing Building Pilot Program baselines, which are as follows:

1) The stormwater baseline is the annual average rainfall on a development site in gallons to be calculated as follows: total site area in square feet x 2.1 feet (Seattle's average annual runoff depth) x 7.48 (conversion of cubic feet to gallons) = stormwater baseline;

2) The annual potable water baselines are shown in Table B for 23.40.070.

<b>Table B for 23.40.070 Potable Water Baselines</b>	
<b>Uses<sup>1, 2</sup></b>	<b>Potable Water Baseline Usage (gallons/square feet/year)</b>
Restaurant	125.99
Lodging uses	50.07
Multifamily residential use	41.14
Manufacturing uses	32.53
Nursing or assisted living facilities	30.11
Hospital	26.12
Sales and services, general	24.77
Medical services	21.00
Offices	14.21



<b>Table D for 23.40.070</b>		
<b>Non-work trips other than driving alone</b>		
<b>Urban Center</b>	<b>2014 Mode Share Baselines</b>	<b>Mode Share for Non-Work Trips</b>
University District	79 percent	90 percent
Northgate	46 percent	55 percent

1 C. Extra floor area and/or structure height beyond otherwise applicable maximums

2 1. Projects qualifying for the 2030 Challenge High Performance Existing

3 Building Pilot Program are allowed:

4 a. Twenty-five percent more gross floor area than the otherwise  
5 applicable maximum floor area ratio under the provisions of the zone; or

6 b. In the case of projects not regulated by floor area ratio, including  
7 residential development in Downtown or certain Seattle Mixed zones, 25 percent more floor  
8 area than the maximum floor area otherwise resulting from the application of development  
9 standards. The Director may promulgate rules to define the measurement of floor area  
10 according to this subsection 23.40.070.C.1.b.

11 2. Projects qualifying for the 2030 Challenge High Performance Existing

12 Building Pilot Program that include the renovation of an unreinforced masonry structure by  
13 seismic strengthening, in compliance with Appendix Chapter A1 of the Seattle Existing  
14 Building Code, may gain:

15 a. Thirty percent more gross floor area than the otherwise applicable  
16 maximum floor area ratio under the provisions of the zone; or

17 b. In the case of projects not regulated by floor area ratio, including  
18 residential development in Downtown or certain Seattle Mixed zones, 30 percent more floor  
19 area than the maximum floor area otherwise resulting from the application of development

1 standards. The Director may promulgate rules to define the measurement of floor area  
2 according to this subsection 23.40.070.C.2.b.

3 3. A project qualifying for the 2030 Challenge High Performance Existing  
4 Building Pilot Program may employ additional structure height as shown in Table E for  
5 23.40.070.

<b>Table E for 23.40.070</b>		
<b>Additional height</b>		
<b>Height Limit of the Zone</b>	<b>Additional height above the otherwise applicable maximum height limit for residential use</b>	<b>Additional height above the otherwise applicable maximum height limit for non-residential use</b>
<b>Zones with height limits of 85 feet or less</b>	12.5 feet	15 feet
<b>Zones with height limits greater than 85 feet</b>	25 feet	30 feet

6 4. A rooftop feature of a project qualifying for the 2030 Challenge High  
7 Performance Existing Building Pilot Program may extend above the additional structure height  
8 provided in subsection 23.40.070.C.3 if the extension is consistent with the applicable  
9 standards established for that rooftop feature within the zone. In such cases, the additional  
10 structure height shall be deemed the height limit above which rooftop features are permitted.

11 5. Additional floor area or structure height available pursuant to subsections  
12 23.40.070.C.1 through 23.40.070.C.3 shall be in addition to any bonus, extra, or otherwise  
13 additional floor area or structure height available according to any other provision of this Title  
14 23, which shall be obtained in compliance with the applicable provisions of this Title 23.  
15 Additional floor area or structure height, including additional stories, approved pursuant to  
16 subsections 23.40.070.C.1 through 23.40.070.C.3 shall be disregarded in the application of the  
17 limit on the number of stories in a structure in a Lowrise zone that achieves extra height  
18 pursuant to subsection 23.45.514.F.

1                   6. Additional floor area or structure height included in a project pursuant to  
2 subsections 23.40.070.C.1 through 23.40.070.C.3 shall be excluded for the purposes of  
3 calculating performance or payment amounts pursuant to subsections 23.58B.040.A.1,  
4 23.58B.050.A.1, 23.58C.040.A.1, and 23.58C.050.A.1, and shall also be exempt from  
5 satisfying any non-housing-related requirements for obtaining bonus, extra, or otherwise  
6 additional floor area or structure height according to Chapter 23.49 or Chapter 23.58A.

7                   7. For a development containing residential and non-residential uses, the  
8 additional floor area or structure height included in a project pursuant to subsections  
9 23.40.060.C.1 through 23.40.060.C.3 is that which corresponds to the use that occupies the most  
10 gross floor area in the development.

11                   8. As an allowance for mechanical equipment fully contained within a structure  
12 related to participation in the pilot:

13                   a. One-half percent shall be deducted in computing gross floor area subject  
14 to floor area limits in addition to any allowance for mechanical equipment included in the  
15 applicable zone; and

16                   b. Four percent shall be deducted for all mechanical equipment in  
17 computing gross floor area subject to floor area limits in zones that do not include an allowance  
18 for mechanical equipment; and

19                   c. Calculation of the allowance excludes gross floor area exempt for floor  
20 area limits pursuant to the applicable zone(s).

21                   D. For a project qualifying for the 2030 Challenge High Performance Existing Building  
22 Pilot Program, the provisions of the remainder of this Title 23 apply unless specifically

1 modified by the provisions of this Section 23.40.070. In the event of a conflict, the provisions  
2 of this Section 23.40.070 prevail.

3 E. Compliance with minimum standards

4 1. The approved project plans and any other documents, together with any  
5 subsequent changes or amendments to those project plans and documents, shall demonstrate to  
6 the satisfaction of the Director that the completed building as designed will meet all of the  
7 minimum standards in subsection 23.40.070.B.

8 2. The project shall be constructed and completed in accordance with the  
9 approved project plans and documents.

10 3. No later than two years after issuance of a final Certificate of Occupancy for  
11 the project, or such later date as may be allowed by the Director for good cause or a phased  
12 project, the owner shall submit to the Director a report demonstrating how the project complies  
13 with the standards contained in subsection 23.40.070.B. Compliance must be demonstrated  
14 through an independent report produced by an independent entity approved by the Director.

15 4. If the Director determines that the report submitted provides satisfactory  
16 evidence that the project has complied with the standards contained in subsection 23.40.070.B,  
17 the Director shall send the owner a written statement that the project has complied with the  
18 standards of the 2030 Challenge High Performance Existing Building Pilot Program. If the  
19 Director determines that the project does not comply with the standards in subsection  
20 23.40.070.B, the Director shall notify the owner of the aspects in which the project does not  
21 comply. Components of the project that are included in order to comply with the minimum  
22 standards of the 2030 Challenge High Performance Existing Building Pilot Program shall  
23 remain for the life of the project.

1                   5. Within 90 days after the Director notifies the owner of the aspects in which  
2 the project does not comply with the standards in subsection 23.40.070.B, or such longer  
3 period as the Director may allow for good cause, the owner will have the opportunity to take  
4 corrective action and submit a supplemental report demonstrating that the project complies  
5 with the standards in subsection 23.40.070.B.

6                   6. If the owner fails to timely submit the report required by subsection  
7 23.40.070.E.1 or to timely demonstrate compliance with the standards contained in subsection  
8 23.40.070.B, or if the owner fails to submit a supplemental report within the time allowed  
9 pursuant to subsection 23.40.070.E.3, the Director shall determine that the project has failed to  
10 demonstrate compliance with the standards contained in subsection 23.40.070.B, and the  
11 owner shall be subject to the applicable penalty in subsection 23.40.070.F.

12                   F. Penalties for the 2030 Challenge High Performance Existing Building Pilot Program

13                   1. Failure to submit the report required by subsection 23.40.070.E.1 by the date  
14 required is subject to a penalty of \$500 per day from the date the report was due to the date it is  
15 received by the Department.

16                   2. Failure to demonstrate compliance with the provisions contained in  
17 subsection 23.40.070.B is subject to a minimum penalty of one percent up to a maximum  
18 penalty of three percent of the construction value set forth in the building permit for the  
19 structure based on the extent of noncompliance with the standards contained in subsection  
20 23.40.070.B. A minimum penalty of one percent will be applied if any of the provisions  
21 contained in 23.40.070.B are not achieved in their entirety. Additional penalties will be based  
22 on the extent of noncompliance compared to the baselines provided in 23.40.070.B.6 and  
23 calculated according to the methodology below in subsections 23.40.070.F.2.a through

1 23.40.070.F.2.c for each component. Penalties shall be calculated according to Tables F  
2 through H for 23.40.070:

3 a. Energy: Percentage of noncompliance = 100 x  $[(\text{Metered Energy Use}$   
4  $\text{Intensity}) - (2030 \text{ Target})] / [(\text{SEC target}) - (2030 \text{ Pilot Target})]$ ;

5 b. Water: Percentage of noncompliance = 100 x  $[(2030 \text{ Pilot Target}) -$   
6  $(\text{water managed } (\%))] / [(2030 \text{ Pilot Target})]$ ;

7 c. Transportation: Percentage of noncompliance = 100 x  $[(\text{Mode share}$   
8  $\text{result}) - (2030 \text{ Pilot Target})] / [(2014 \text{ baseline}) - (2030 \text{ Pilot Target})]$ ;

9 where “2030 Pilot Target” means the 2030 Challenge High Performance Existing Building  
10 Pilot Program Target.

<b>Table F for 23.40.070</b>	
<b>Percentage of Noncompliance for Energy</b>	<b>Penalty (percentage of construction value)</b>
Greater than zero up to 10	0.1
Greater than 10 up to 20	0.2
Greater than 20 up to 30	0.3
Greater than 30 up to 40	0.4
Greater than 40 up to 50	0.5
Greater than 50 up to 60	0.6
Greater than 60 up to 70	0.7
Greater than 70 up to 80	0.8
Greater than 80 up to 90	0.9
Greater than 90	1.0

11

<b>Table G for 23.40.070</b>	
<b>Percentage of Noncompliance for Water</b>	<b>Penalty (percentage of construction value)</b>
Greater than zero up to 10	0.05
Greater than 10 up to 20	0.10
Greater than 20 up to 30	0.15
Greater than 30 up to 40	0.20
Greater than 40 up to 50	0.25

<b>Table G for 23.40.070</b>	
<b>Percentage of Noncompliance for Water</b>	<b>Penalty (percentage of construction value)</b>
Greater than 50 up to 60	0.30
Greater than 60 up to 70	0.35
Greater than 70 up to 80	0.40
Greater than 80 up to 90	0.45
Greater than 90	0.50

1

<b>Table H for 23.40.070</b>	
<b>Percentage of Noncompliance for Transportation</b>	<b>Penalty (percentage of construction value)</b>
Greater than zero up to 10	0.05
Greater than 10 up to 20	0.10
Greater than 20 up to 30	0.15
Greater than 30 up to 40	0.20
Greater than 40 up to 50	0.25
Greater than 50 up to 60	0.30
Greater than 60 up to 70	0.35
Greater than 70 up to 80	0.40
Greater than 80 up to 90	0.45
Greater than 90	0.50

2

3. A project shall be established in the SDCI Construction and Inspections Fund

3

to receive revenue from penalties under this subsection 23.40.070.G. Revenue from penalties

4

under this subsection 23.40.070.G shall be restricted to use only for programs that aim to

5

improve energy efficiency, water efficiency, and reduce greenhouse gas emissions of Seattle

6

buildings. The SDCI Director shall recommend allocations of these penalty revenues to the

7

Mayor and City Council.

1 Section 3. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance  
2 125291, is amended as follows:

3 **23.41.004 Applicability**

4 A. Design review required

5 1. Design review is required for any new multifamily, commercial, or industrial  
6 development proposal that exceeds one of the following thresholds in Table A for 23.41.004:

<b>Table A for 23.41.004 Thresholds for Design Review</b>		
<b>Zone</b>		<b>Threshold</b>
a.	Lowrise 2 (LR2) and Lowrise 3 (LR3)	8 dwelling units or 4,000 square feet of non-residential gross floor area
b.	Midrise (MR)	20 dwelling units or 4,000 square feet of non-residential gross floor area
c.	Highrise (HR)	20 dwelling units or 4,000 square feet of non-residential gross floor area
d.	Neighborhood Commercial (NC1, NC2, NC3)	4 dwelling units or 4,000 square feet of non-residential gross floor area
e.	Commercial (C1, C2)	4 dwelling units or 12,000 square feet of non-residential gross floor area, located on a lot in an urban center or urban village <sup>1</sup> , or on a lot that abuts or is across a street or alley from a lot zoned single-family, or on a lot located in the area bounded by: NE 95th St., NE 145th St., 15th Ave. NE, and Lake Washington
f.	Seattle Mixed (SM)	20 dwelling units or 12,000 square feet of non-residential gross floor area
g.	Industrial Commercial (IC) zone within all designated urban villages and urban centers	12,000 square feet of non-residential gross floor area
h.	Master Planned Community (MPC) <sup>2</sup>	20 dwelling units or 12,000 square feet of non-residential gross floor area

**Table A for 23.41.004  
Thresholds for Design Review**

Zone	Threshold
i. All zones—congregate residences, and residential uses in which more than 50 percent of dwelling units are small efficiency dwelling units <sup>3</sup>	<p>Developments containing at least 5,000 but less than 12,000 square feet of gross floor area are subject to Streamlined Design Review (SDR) pursuant to Section 23.41.018.</p> <p>Developments containing at least 12,000 but less than 20,000 square feet of gross floor area are subject to Administrative Design Review (ADR) pursuant to Section 23.41.016.</p> <p>Developments containing 20,000 square feet or more of gross floor area are subject to Design Review pursuant to Chapter 23.41.</p>

Footnotes to Table A for 23.41.004

- <sup>1</sup> Urban centers and urban villages are identified in the Seattle Comprehensive Plan.
- <sup>2</sup> If an application in a Master Planned Community zone does not include a request for departures, the applicable design review procedures are in Section 23.41.020. If an application in a Master Planned Community zone includes a request for departures, then the applicable design review procedures are in Section 23.41.014.
- <sup>3</sup> When a congregate residence or development in which more than 50 percent of dwelling units are small efficiency dwelling units is subject to more than one design review threshold, the gross square footage threshold on line i shall apply.

1                                    2. Design review is required for all new Major Institution development  
2 proposals that exceed any applicable threshold listed in this subsection 23.41.004.A, unless the  
3 structure is located within a Major Institution Overlay (MIO) district.

4                                    3. Design review is required for all new development proposals located in the  
5 Downtown zones listed in Table B for 23.41.004 that exceed any of the following thresholds in  
6 Table B for 23.41.004:

<b>Table B for 23.41.004  Thresholds for Downtown Design Review</b>	
<b>DOC1, DOC2, or DMC zones</b>	
<b>Use</b>	<b>Threshold</b>
Non-residential	50,000 square feet of gross floor area
Residential	20 dwelling units

<b>Table B for 23.41.004 Thresholds for Downtown Design Review</b>	
<b>DRC, DMR, DH1 or DH2 zones, or PMM zone outside the Pike Place Market Historical District</b>	
<b>Use</b>	<b>Threshold</b>
Non-residential	20,000 square feet of gross floor area
Residential	20 dwelling units

1                   4. Design review is required for all new development proposals exceeding 120  
2 feet in width on any single street frontage in the Stadium Transition Area Overlay District as  
3 shown in Map A for 23.74.004, and all new development proposals exceeding 12,000 square  
4 feet of non-residential gross floor area and electing to add extra floor area above the base FAR  
5 that are located in an IC 85-160 zone.

6                   5. Streamlined administrative design review (SDR) to protect trees. As provided  
7 in Sections 25.11.070 and 25.11.080, SDR pursuant to Section 23.41.018 is required for any  
8 new development proposals in LR, MR, and commercial zones if an exceptional tree, as  
9 defined in Section 25.11.020, is located on the lot and is not proposed to be preserved, if  
10 design review would not otherwise be required by this subsection 23.41.004.A.

11                   6. ~~((Design))~~ Full design pursuant to Section 23.41.014 is required for projects  
12 that are eligible for design review under any provision of this Section 23.41.004 and that are  
13 participating in the Living Building or 2030 Challenge High Performance Existing Building  
14 Pilot Program authorized by Sections 23.40.060 and 23.40.070, including a development  
15 proposal for an existing structure.

16                   7. SDR pursuant to Section 23.41.018 is required for all new developments that  
17 include at least three townhouse units, if design review is not otherwise required by this  
18 subsection 23.41.004.A.



1 High Performance Existing Building Pilot Programs established under Sections 23.40.060 and  
2 23.40.070 may also be granted for the following:

3 a. Permitted, prohibited, or conditional use provisions, but only for  
4 accessory uses that would directly address the standards contained in subsection 23.40.060.B  
5 and subsection 23.40.070.B, including but not limited to uses that could re-use existing waste  
6 streams or reduce the transportation impacts of people or goods;

7 b. Residential density limits;

8 c. Maximum size of use;

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

11 e. Standards for storage of solid-waste containers;

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

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

15 ~~((and))~~

16 h. Standards for structural building overhangs and minor architectural  
17 encroachments in Section 23.53.035; ~~((-))~~

18 i. The following departures may be allowed to the extent necessary to  
19 accommodate development that includes the additional floor area gained pursuant to  
20 subsections 23.40.060.C and 23.40.070.C:

21 1) Tower spacing requirements as provided in subsection  
22 23.49.058.D in Downtown Mixed Commercial zones;



1 in agreement in their recommendation to the Director, the Director shall issue a decision that  
2 makes compliance with the recommendation of the Design Review Board a condition of permit  
3 approval, unless the Director concludes that the recommendation of the Design Review Board:

- 4 a. Reflects inconsistent application of the design review guidelines; or
- 5 b. Exceeds the authority of the Design Review Board; or
- 6 c. Conflicts with SEPA conditions or other regulatory requirements

7 applicable to the site; or

- 8 d. Conflicts with the requirements of state or federal law.

9 \* \* \*

10 Section 6. The City Council directs the Office of Sustainability and Environment and  
11 the Department of Construction and Inspections to prepare recommendations for: expansion of  
12 the Living Building and the 2030 Challenge High Performance Existing Building Pilot  
13 Programs into upland lots in shoreline districts where height limits are established by  
14 underlying zoning, and into urban villages; use of a Transfer of Development Rights (TDR)  
15 program to facilitate the sustainable redevelopment of buildings using the Pilot Programs;  
16 applying this TDR program to eligible TDR sending and receiving lots where appropriate,  
17 including upland lots in shoreline environments where the height limits are established by  
18 underlying zoning, designated landmark structures, and within the Pioneer Square Historic  
19 District; and allow development below design review thresholds to be eligible to participate in  
20 the Pilot Programs and maintain their exemption from design review. The recommendations  
21 shall include consideration of an analysis of the use of the current TDR programs in the City  
22 underway by the Office of Planning and Community Development. The recommendations shall  
23 be sent to the City Council by December 31, 2018.

