AN ORDINANCE relating to land use and zoning, amending Sections 23.40.060, 23.41.012 and 23.90.018 to revise the Living Building and Seattle Deep Green Pilot program.

WHEREAS, the City of Seattle has been a leader in encouraging sustainable building since it adopted a Sustainable Building Policy in February 2000, and 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™ 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 City Council adopted Ordinance 123206 in December 2009 and adopted Ordinance 123942 in July 2012 to establish and expand the Living Building Pilot Program and add a new category of building typology called Seattle Deep Green; and

WHEREAS, the City Council adopted Resolution 31400 in June 2013, requesting the Department of Planning and Development develop recommendations for improving the Living Building Pilot Program by December 31, 2013, and legislation implementing a new Seattle Deep Green Pilot Program no later than December 31, 2014; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The title and subsections B and E of Section 23.40.060 of the Seattle Municipal Code, which Section was last amended by Ordinance 116909, are amended as follows:

23.40.060 Living Building ((and Seattle Deep Green)) Pilot Program

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B. Project qualification.
1. Eligible projects. Only projects that are eligible for design review under Section 23.41.004 and located outside of the shoreline jurisdiction may qualify for the Living Building Pilot Program(( or the Seattle Deep Green Pilot Program)).

2. Enrollment period. The enrollment period for ((both)) the Living Building Pilot Program(( and the Seattle Deep Green Pilot Program )) expires on the earlier of December 31, 2015 or ((for each program as follows:

   a. The enrollment period for the Living Building Pilot Program shall expire when applications for twelve projects have been submitted for a Master Use Permit. ((for the Living Building Pilot Program; and

   b. The enrollment period for the Seattle Deep Green Pilot Program shall expire when applications for three projects have been submitted for a Master Use Permit under the standards of subsection 23.40.060.E.1.a or b for the Living Building Pilot Program or the Seattle Deep Green Pilot Program.))

3. Application requirements. In order to qualify for the Living Building Pilot Program, applicants ((must)) shall submit a plan demonstrating how their project will meet each of the ((prerequisites)) imperatives of the Living Building Challenge, including an overall design concept, proposed energy balance, proposed water balance, and descriptions of innovative systems. In addition, an applicant shall include a description of how the project serves as a model for testing code improvements to stimulate and encourage Living Buildings in the city.

C. Design review. All Living Building Pilot Program projects are subject to Design Review and shall be reviewed in accordance with the Design Review Process provided in Section 23.41.014

D. Height measurement technique. At the discretion of the applicant, the height of a qualifying project shall be determined using either the definition of building height in Section
E. Compliance with minimum standards.

1. ((Minimum Standards for both the Living Building Pilot Program and the Seattle Deep Green Pilot Program.)) Qualifying projects under ((both)) the Living Building Pilot Program ((and the Seattle Deep Green Pilot Program)) that are granted departures shall meet one of the following:

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

   1) all of the Imperatives of the Living Building Challenge, version 2.1; or

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

      a) total building energy usage((, not including energy generated on site,)) shall be ((25)) 75 percent or less of the ((average energy usage for a comparable building not in the Living Building Pilot Program)) energy consumed by a “standard reference design building.” ((based on)) as defined in the Seattle Energy Code in effect at the time a complete building permit application is submitted;

      b) total building water usage, not including harvested rainwater, shall be 25 percent or less of the average water usage for a comparable building not in the Living Building Pilot Program, based on Seattle Public Utility estimates or other baseline approved by the Director that would provide a comparable estimate; and
c) at least 50 percent of stormwater shall be captured and used on site.

b. RESERVED((Seattle Deep Green Pilot Program. Qualifying Seattle Deep Green Pilot Program projects that are granted departures shall meet a minimum of 60 percent of the Imperatives of the Living Building Challenge, version 2.1, and all of the following alternative standards:

1) total building energy usage, not including energy generated on site, shall be 25 percent or less of the average energy usage for a comparable building not in the Living Building or Seattle Deep Green Pilot Program, based on the Energy Information Administration's 2003 Commercial Buildings Energy Use Survey, Energy Information Administration's 2005 Residential Energy Consumption Survey, or other baseline approved by the Director that would provide a comparable estimate; and

2) total building water usage, not including harvested rainwater, shall be 25 percent or less of the average water usage for a comparable building not in the Living Building or Seattle Deep Green Pilot Program, based on Seattle Public Utility estimates or other baseline approved by the Director that would provide a comparable estimate; and

3) at least 50 percent of stormwater shall be captured and used on site)).

2. No later than two years after issuance of a final Certificate of Occupancy for the project, or such later date as may be allowed by the Director for good cause, the owner shall submit to the Director a report demonstrating how the project complies with the standards contained in subsection((s)) 23.40.060.E.1.a((or E.1.b)). Compliance must be demonstrated through an independent report from a third party. The report must be produced by the International Living Future Institute (ILFI) or another independent entity approved by the Director.
3. If the Director determines that the report submitted ((pursuant to subsection 23.40.060.E.2)) provides satisfactory evidence that the project has complied with the standards contained in subsection 23.40.060.E.1.a(( or E.1.b)), the Director shall((, in consultation with the International Living Future Institute (ILFI) and subject to procedures and requirements established by Director's Rule,)) send the owner a ((letter of approval stating)) written statement that the project has complied with the ((performance-)) standards of the Living Building Pilot Program(( or Seattle Deep Green Pilot Program)). If the Director determines that the project does not comply with the standards in subsection 23.40.060.E.1.a, the Director shall notify the owner of the aspects in which the project does not comply. Nothing in the ((letter of approval )) written statement or participation in the Living Building Pilot Program ((or the Seattle Deep Green Pilot Program)) shall constitute or imply certification of the project by ILFI as a Living Building under the Living Building Challenge. Components of the project that are included in order to comply with the minimum standards of ((either )) the Living Building Pilot Program ((or the Seattle Deep Green Pilot Program)) shall remain for the life of the project.

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

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

Section 2. Subsection D of Section 23.41.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 116909, is amended as follows:
23.41.012 Development standard departures

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D. Departures for the Living Building Pilot Program (or the Seattle Deep Green Pilot Program).

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

2. Scope of Departures. In addition to the departures allowed under subsection 23.41.012.B, departures for projects participating in the Living Building Pilot Program (or the Seattle Deep Green Pilot Program) established under Section 23.40.060 may also be granted for the following:

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

b. Residential density limits;
   ((c. Downtown view corridor requirement))
   c((d)). Floor Area Ratios ((limits, as follows: 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;)

   d((e)). Maximum size of use;
   e((f)). Structure height, subject to the following:
   (1) Structure height up to 10 feet for development in zones with height limits of 45 feet or less, to allow increased floor-to-floor heights;

   (2) Structure height up to 20 feet for development on sites in IC zones with height limits of 45 feet or less, when the sites are located in an Urban Village or Urban Center, 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)) in zones with height limits greater than 45 feet, to allow increased floor-to-floor heights;(( and))

   (3) The additional height allowed for the structure will not allow an additional story beyond the number that could be built under the otherwise applicable height limit; and

   ((3))(4) Rooftop features may be allowed to extend above the structure height approved pursuant to this subsection 23.41.012.D.2.e, if they are consistent with the applicable standards established for rooftop features within the zone;

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

   g((h)). Standards for storage of solid-waste containers;

   h((i)). The quantity of open space required for major office projects in Downtown zones in subsection 23.49.016.B;
i(j). Standards for the location of access to parking in Downtown zones;

and


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Section 3. Subsection B.7 of Section 23.90.018 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.90.018 Civil Enforcement Proceedings and Penalties

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B. Specific violations.

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7. Violation of subsection 23.40.060.E.1.a by failing to demonstrate full compliance with the standards contained in subsection 23.40.060.E.1.a is subject to a maximum penalty of 10 percent of the construction value set forth in the building permit for the structure and a minimum penalty of 1 percent of construction value, based on the extent of compliance with standards contained in subsection 23.40.060.E.1.a.

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Section 4. 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 __________________________, 2014, and signed by me in open session in authentication of its passage this ___ day of ____________________, 2014.
President __________ of the City Council

Approved by me this ___ day of _____________________, 2014.

_________________________________
Edward B. Murray, Mayor

Filed by me this ___ day of __________________________, 2014.

__________________________________
Monica Martinez Simmons, City Clerk

(Seal)