

ORDINANCE NO. 760

AN ORDINANCE OF THE CITY OF SHORELINE AMENDING THE UNIFIED DEVELOPMENT CODE, SHORELINE MUNICIPAL CODE TITLE 20, CHAPTERS 20.20, 20.30, AND 20.50, AND ESTABLISHING A NEW SUBCHAPTER WITHIN SMC 20.50 TO IMPLEMENT A DEEP GREEN INCENTIVE PROGRAM

WHEREAS, the City of Shoreline is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington, and planning pursuant to the Growth Management Act, Title 36.70A RCW; and

WHEREAS, buildings are responsible for a large portion of negative environmental impacts, accounting for approximately fifty percent of U.S. carbon emissions and contributing to climate change, persistent toxins in the environment, raw resource consumption, impacts to water supply, habitat loss, and other related concerns; and

WHEREAS, the City Council designated adoption of a Living Building Challenge Ordinance and consideration of a Petal Recognition Program as priority strategies for 2016-2019 on September 14, 2015, thereby requesting the Department of Planning & Community Development and the Planning Commission to develop recommendations for implementing the Living Building Program within the City of Shoreline; and

WHEREAS, the Deep Green Incentive Program 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, capture and treat all of their water, and operate efficiently with maximum beauty; and

WHEREAS, Deep Green and Living Buildings require a fundamentally different approach to building design, permitting, construction, and operations that may necessitate flexibility in current codes and regulatory processes in order to support their development; and

WHEREAS, the City has been a leader in encouraging sustainable building through construction of a LEED Gold City Hall; adoption of regulations that require green building in areas near future light rail stations at 145th and 185th; identifying energy and water efficient buildings as a primary strategy to meet its greenhouse gas reduction targets adopted through the Climate Action Plan; and initiated other processes, regulations, and incentives to encourage the private market to follow the City's lead; and

WHEREAS, the goal of this Ordinance and implementing regulations is to encourage the development of buildings that meet the criteria for certification under the International Living Future Institute, Built-Green, US Green Building Council, or Salmon Safe programs, through a variety of incentives; and

WHEREAS, the environmental impacts of the proposed amendments resulted in the

issuance of a Determination of Non-Significance (DNS) on October 13, 2016; and

WHEREAS, pursuant to RCW 36.70A.370, the City has utilized the process established by the Washington State Attorney General so as to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, the City has provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the proposed amendments to Title 20; and

WHEREAS, the City has provided public notice of the amendments and the public hearing as provided in SMC 20.30.070; and

WHEREAS, on October 20, 2016, the City of Shoreline Planning Commission reviewed the proposed amendments; and

WHEREAS, on December 1, 2016, the Planning Commission held a public hearing on the proposed amendments so as to receive public testimony and continued the public hearing until January 5, 2017 and again to January 19, 2017; and

WHEREAS, at the conclusion of January 19, 2017 continued public hearing, the Planning Commission adopted its recommendation on the proposed amendments for submittal to the City Council; and

WHEREAS, on March 27, 2017, the City Council held a study session on the proposed amendments as recommended by the Planning Commission; and

WHEREAS, the City Council has considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, the City Council has determined, as provided in SMC 20.30.350, that the proposed amendments are consistent with and implement the Shoreline Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and is not contrary to the best interest of the citizens and property owners of the City; and

WHEREAS, the City desires to establish a Deep Green Incentive Program supporting the development of new buildings and the retrofitting of existing buildings that meet the standards defined by the International Living Future Institute, Built Green, US Green Building Council, or Salmon Safe;

**THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE,
WASHINGTON DO ORDAIN AS FOLLOWS:**

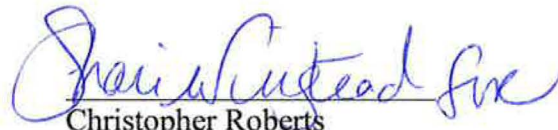
Section 1. Amendment of the Unified Development Code, SMC Title 20. The amendments to the Unified Development Code, SMC Title 20, chapters SMC 20.20, 20.30, and 20.50, attached hereto as Exhibit A, are adopted.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

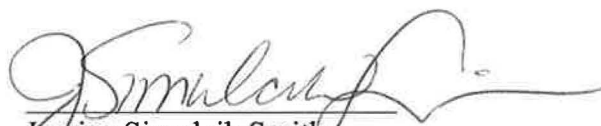
Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Effective Date. A summary of this ordinance consisting of the title shall be published in the official newspaper and the ordinance shall take effect five days after.

PASSED BY THE CITY COUNCIL ON APRIL 17, 2017.


Christopher Roberts
Mayor

ATTEST:


Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:


Margaret King
City Attorney

Date of Publication: April 20, 2017
Effective Date: April 25, 2017

**Amendments to Shoreline Municipal Code Title 20
Chapters 20.20, 20.30, and 20.50
Deep Green Incentive Program**

20.20.016 D definitions.

Deep Green- refers to an advanced level of green building that requires more stringent standards for energy and water use, stormwater runoff, site development, materials, and indoor air quality than required by the Building Code. With regard to the Deep Green Incentive Program, this definition is divided into tiers based on certification programs as follows:

- Tier 1- International Living Future Institute's (ILFI) Living Building Challenge™ or Living Community Challenge™;
- Tier 2- ILFI's Petal Recognition™ or Built Green's Emerald Star™; and
- Tier 3- US Green Building Council's Leadership in Energy and Environmental Design™ (LEED) Platinum, Built Green's 5-Star™, or ILFI's Net Zero Energy Building™ (NZEB) in combination with Salmon Safe where applicable.

20.20.032 L definitions.

Living Building™- generates all of its own energy with renewable resources, captures and treats all of its water, and operates efficiently and for maximum beauty. With regard to the Deep Green Incentive Program, it refers specifically to the International Living Future Institute's Living Building Challenge™ or Living Community Challenge™ programs, which are comprised of seven performance areas. These areas, or "Petals", are place, water, energy, health and happiness, materials, equity, and beauty.

20.30.045 Neighborhood meeting for certain Type A proposals.

A neighborhood meeting shall be conducted by the applicant or owner for the following in the R-4 or R-6 zones.

1. developments consisting of more than one single-family detached dwelling unit on a single parcel. This requirement does not apply to accessory dwelling units (ADUs); or
2. developments requesting departures under the Deep Green Incentive Program, SMC 20.50 Subchapter 9.

This neighborhood meeting will satisfy the neighborhood meeting requirements when and if an applicant or owner applies for a subdivision (refer to SMC 20.30.090 for meeting requirements).

20.30.080 Preapplication meeting.

A preapplication meeting is required prior to submitting an application for any Type B or Type C action and/or for an application for a project that may impact a critical area or its buffer consistent with SMC 20.80.045.

A preapplication meeting is required prior to submitting an application for any project requesting departures through the Deep Green Incentive Program to discuss why departures are necessary to achieve certification through International Living Future Institute, Built Green, US Green Building Council, or Salmon Safe programs. A representative from prospective certifying agency will be invited to the meeting, but their attendance is not mandatory. The fee for the preapplication meeting will be waived.

Applicants for development permits under Type A actions are encouraged to participate in preapplication meetings with the City. Preapplication meetings with staff provide an opportunity to discuss the proposal in general terms, identify the applicable City requirements and the project review process including the permits required by the action, timing of the permits and the approval process.

Preapplication meetings are required prior to the neighborhood meeting.

The Director shall specify submittal requirements for preapplication meetings, which shall include a critical areas worksheet and, if available, preliminary critical area reports. Plans presented at the preapplication meeting are nonbinding and do not “vest” an application.

20.30.297 Administrative Design Review (Type A).

1. Administrative Design Review approval of departures from the design standards in SMC 20.50.220 through 20.50.250 and SMC 20.50.530 through 20.50.610 shall be granted by the Director upon their finding that the departure is:
 - a) Consistent with the purposes or intent of the applicable subsections; or
 - b) Justified due to unusual site constraints so that meeting the design standards represents a hardship to achieving full development potential.
2. Projects applying for certification under the Living Building or Community Challenge, Petal Recognition, Emerald Star, LEED-Platinum, 5-Star, or Net Zero Energy Building/Salmon Safe programs may receive departures from development standards under SMC 20.40, 20.50, 20.60, and/or 20.70 upon the Director’s finding that the departures meet A and/or B above, and as further described under 20.50.630. Submittal documents shall include proof of enrollment in the programs listed above.

20.30.770 Enforcement provisions.

D. Civil Penalties.

8. Deep Green Incentive Program.

- a. Failure to submit the supplemental reports required by subsection 20.50.630(F) by the date required- within six months and two years of issuance of the Certificate of Occupancy- is subject to civil penalties as specified in 20.30.770(D)(1) and 20.30.770(D)(4).
- b. If the project does not meet the requirements after two years of occupancy as detailed under SMC 20.50.630(F)(5)(a-c), the applicant or owner will required to pay the following:

- i. Failure to demonstrate compliance with the provisions contained in subsection 20.50.630(F)(6)(a-c) is subject to a maximum penalty of five percent of the construction value set forth in the building permit for the structure. This fee may be reduced at the discretion of the Director based on the extent of noncompliance.
- ii. In addition, the applicant or owner shall pay any permit or other fees that were waived by the City.

20.50.400 Reductions to minimum parking requirements.

A. Reductions of up to 25 percent may be approved by the Director using a combination of the following criteria:

1. On-street parking along the parcel's street frontage.
2. Shared parking agreement with nearby parcels within reasonable proximity where land uses do not have conflicting parking demands. The number of on-site parking stalls requested to be reduced must match the number provided in the agreement. A record on title with King County is required.
3. Parking management plan according to criteria established by the Director.
4. A City approved residential parking zone (RPZ) for the surrounding neighborhood within one-quarter mile radius of the subject development. The RPZ must be paid by the developer on an annual basis.
5. A high-capacity transit service stop within one-quarter mile of the development property line with complete City approved curbs, sidewalks, and street crossings.
6. A pedestrian public access easement that is eight feet wide, safely lit and connects through a parcel between minimally two different rights-of-way. This easement may include other pedestrian facilities such as walkways and plazas.
7. City approved traffic calming or traffic diverting facilities to protect the surrounding single-family neighborhoods within one-quarter mile of the development.

B. A project applying for parking reductions under the Deep Green Incentive Program may be eligible for commercial and multi-family projects based on the certification they intend to achieve. No parking reductions will be eligible for single-family projects. Reductions will be based on the following tiers:

1. Tier 1 – Living Building or Living Community Challenge Certification: up to 50% reduction in parking required under 20.50.390 for projects meeting the full International Living Future Institute (ILFI) program criteria;
2. Tier 2 – Living Building Petal or Emerald Star Certification: up to 35% reduction in parking required under 20.50.390 for projects meeting the respective ILFI or Built Green program criteria;
3. Tier 3 - LEED Platinum, 5-Star, or Net Zero Energy Building/Salmon Safe Certification: up to 20% reduction in parking required under 20.50.390 for projects meeting the respective US Green Building Council, Built Green, or ILFI and Salmon Safe program criteria.

BC. In the event that the Director approves reductions in the parking requirement, the basis for the determination shall be articulated in writing.

CD. The Director may impose performance standards and conditions of approval on a project including a financial guarantee.

DE. Reductions of up to 50 percent may be approved by Director for the portion of housing providing low income housing units that are 60 percent of AMI or less as defined by the U.S. Department of Housing and Urban Development.

EF. A parking reduction of 25 percent may be approved by the Director for multifamily development within one-quarter mile of the light rail station. These parking reductions may not be combined with parking reductions identified in subsections A, B, and ED of this section.

FG. Parking reductions for affordable housing or the Deep Green Incentive Program may not be combined with parking reductions identified in subsection A of this section.

THE ENTIRE CODE SECTION BELOW CONSTITUTES A NEW SUBCHAPTER.

Subchapter 9: 20.50.630 – Deep Green Incentive Program (DGIP)

A. **Purpose.** The purpose of this section is to establish an incentive program for Living and Deep Green Buildings in the City of Shoreline. The goal of the DGIP is to encourage development that meets the International Living Future Institute's (ILFI) Living Building Challenge™, Living Community Challenge™, Petal Recognition™, or Net Zero Energy Building™ (NZEB) programs; Built Green's Emerald Star™ or 5-Star™ programs; the US Green Building Council's (USGBC) Leadership in Energy and Environmental Design™ (LEED) Platinum program; and/or the Salmon Safe™ program by:

1. encouraging development that will serve as a model for other projects throughout the city and region resulting in the construction of more Living and Deep Green Buildings; and
2. allowing for departures from Code requirements to remove regulatory barriers.

B. Project qualification.

1. Application requirements. In order to request exemptions, waivers, or other incentives through the Deep Green Incentive Program, the applicant or owner shall submit a summary demonstrating how their project will meet each of the requirements of the relevant certification program, such as including an overall design concept, proposed energy balance, proposed water balance, and descriptions of innovative systems.
2. Qualification process. An eligible project shall qualify for the DGIP upon determination by the Director that it has submitted a complete application pursuant to SMC 20.30.297 Administrative Design Review, and has complied with the application requirements of this subsection.
3. The project must be registered with the appropriate third-party certification entity such as the International Living Future Institute, Built Green, US Green Building Council, or Salmon Safe.

4. Projects requesting departures under the DGIP shall meet the current version of the appropriate certification program, which will qualify them for one of the following tiered packages of incentives:
 - a. Tier 1 - Living Building Challenge or Living Community Challenge Certification: achieve all of the Imperatives of the ILFI programs;
 - b. Tier 2 – Emerald Star or Petal Certification: satisfy requirements of Built Green program or three or more ILFI Petals, including at least one of the following- Water, Energy, or Materials; or
 - c. Tier 3- LEED Platinum, 5-Star, or NZEB plus Salmon Safe: satisfy requirements of the respective USGBC, Built Green, or ILFI/Salmon Safe programs. The addition of Salmon Safe certification to NZEB projects is not required for detached single-family projects.

C. **Director’s determination.** All Shoreline Deep Green Incentive Program projects are subject to review by the Director under Section 20.30.297. Any departures from the Shoreline Development Code (SMC Title 20) must be approved by the Director prior to submittal of building permit application.

D. **Incentives.** A project qualifying for the Shoreline Deep Green Incentive Program will be granted the following tiered incentive packages, based on the certification program for which they are applying:

1. A project qualifying for Tier 1 - Living Building Challenge or Living Community Challenge may be granted a waiver of 100% City-imposed pre-application and permit application fees. A project qualifying for Tier 2 – Emerald Star or Petal Recognition may be granted a waiver of 75% of City-imposed application fees. A project qualifying for Tier 3 – LEED Platinum, 5-Star, or NZEB/Salmon Safe may be granted a waiver of 50% of City-imposed application fees.
2. Projects qualifying for the DGIP may be granted a reduced Transportation Impact Fee based on a project-level Transportation Impact Analysis.
3. Departures from Development Code requirements when in compliance with SMC 20.50.630(E).
4. Expedited permit review without additional fees provided in SMC Chapter 3.01

E. **Departures from Development Code requirements.** The following requirements must be met in order to approve departures from Development Code requirements:

1. The departure would result in a development that meets the goals of the Shoreline Deep Green Incentive Program and would not conflict with the health and safety of the community. In making this recommendation, the Director shall consider the extent to which the anticipated environmental performance of the building would be substantially compromised without the departures.
2. A Neighborhood Meeting is required for projects departing from standards in the R-4 or R-6 zones.
3. Departures from the following regulations may be granted for projects qualifying for the Shoreline Deep Green Incentive Program:

- a. SMC 20.50.020. Residential density limits
 - i. Tier 1 – Living Building Challenge or Living Community Challenge Certification: up to 100% bonus for the base density allowed under zoning designation for projects meeting the full Challenge criteria;
 - ii. Tier 2 – Emerald Star or Living Building Petal Certification: up to 75% bonus for the base density allowed under zoning designation for projects meeting the program criteria;
 - iii. Tier 3 - LEED Platinum, 5-Star, or NZEB/Salmon Safe Certification: up to 50% bonus for the base density allowed under zoning designation for projects meeting the program criteria.

Minimum lot size of 10,000 square feet is required in all zones with a density maximum in order to request a density bonus. Density bonus is not available in R-4 and R-6 zones. Any additional units granted would be required to be built to the same green building standard as the first.
- b. SMC 20.50.390. Parking requirements (not applicable in R-4 and R-6 zones):
 - i. Tier 1 – Living Building Challenge or Living Community Challenge Certification: up to 50% reduction in parking required under 20.50.390 for projects meeting the full Challenge criteria;
 - ii. Tier 2 – Emerald Star or Living Building Petal Certification: up to 35% reduction in parking required under 20.50.390 for projects meeting the program criteria;
 - iii. Tier 3 - LEED Platinum, 5-Star, or NZEB/Salmon Safe Certification: up to 20% reduction in parking required under 20.50.390 for projects meeting the program criteria.
- c. Lot coverage standards, as determined necessary by the Director;
- d. Use provisions, as determined necessary by the Director
- e. Standards for storage of solid-waste containers;
- f. Standards for structural building overhangs and minor architectural encroachments into the right-of-way;
- g. Structure height bonus of up to 10 feet in a zone with height limit of 35 feet. Height bonus is not available in R-4, R-6, R-8, and MUR-35' zones. Structure height bonus up to 20 feet for development in a zone with a height limit of 45 feet or greater; and
- h. A rooftop feature may extend above the structure height bonus provided in SMC 20.50.020 or 20.50.050 if the extension is consistent with the applicable standards established for that rooftop feature within the zone.

F. Compliance with minimum standards.

1. For projects requesting departures, fee waivers, or other incentives under the Deep Green Incentive Program, the building permit application shall include a report from the design team demonstrating how the project is likely to achieve the elements of the program through which it intends to be certified.
2. For projects applying for an ILFI certification (Tiers 1, 2, or 3), after construction and within six months of issuance of the Certificate of Occupancy, the applicant or owner must show proof that an LBC Preliminary Audit has been scheduled;

- such as a paid invoice and date of scheduled audit. After construction and within twelve months of issuance of Certificate of Occupancy, the applicant or owner must show a preliminary audit report from ILFI demonstrating project compliance with the Place, Materials, Indoor Air Quality, and Beauty/Inspiration Imperatives that do not require a performance period.
3. For projects aiming for Built Green Emerald Star (Tier 2) or 5-Star (Tier 3) certification, after construction and within six months of issuance of the Certificate of Occupancy, the applicant or owner must show proof that the project successfully met Built Green certification by way of the Certificate of Merit from the program.
 4. For projects pursuing LEED certification (Tier 3), the applicant or owner must show, after construction and within six months of issuance of the Certificate of Occupancy, that the project has successfully completed the LEED Design Review phase by way of the final certification report.
 5. For projects pursuing Salmon Safe certification (Tier 3 in conjunction with NZEB when applicable), the applicant or owner must show, after construction and within six months of issuance of the Certificate of Occupancy, that the project has successfully obtained the Salmon Safe Certificate.
 6. No later than two years after issuance of a final Certificate of Occupancy for the project, or such later date as requested in writing by the owner and approved by the Director for compelling circumstances, the owner shall submit to the Director the project's certification demonstrating how the project complies with the standards contained in this subsection. Compliance must be demonstrated through an independent certification from ILFI, Built Green, or USGBC/Green Building Cascadia Institute (GBCI). A request for an extension to this requirement must be in writing and must contain detailed information about the need for the extension.
 - a. For projects pursuing ILFI certification (Living Building Challenge, Living Community Challenge, Petal Recognition, or Net Zero Energy Building), performance based requirements such as energy and water must demonstrate compliance through certification from ILFI within the two year timeframe noted above.
 - b. For projects pursuing Built Green certification post-occupancy compliance must be demonstrated with analysis proving 12 consecutive months of net zero energy performance and/or 70% reduction in occupant water use. It is the owner's responsibility to submit utility information to Built Green so analysis can be conducted and shown to the Director.
 - c. For projects pursuing LEED certification, the applicant or owner must show proof of certification by way of the final LEED Construction Review report and LEED Certificate issued by USGBC/GBCI.
 7. If the Director determines that the report submitted provides satisfactory evidence that the project has complied with the standards contained in this subsection, the Director shall send the owner a written statement that the project has complied with the standards of the Shoreline Deep Green Incentive Program. If the Director determines that the project does not comply with the standards in

this subsection, the Director shall notify the owner of the aspects in which the project does not comply. Components of the project that are included in order to comply with the minimum standards of the Shoreline Deep Green Incentive Program shall remain for the life of the project.

8. 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 justifiable cause, the owner may submit a supplemental report demonstrating that alterations or improvements have been made such that the project now meets the standards in this subsection.
9. If the owner fails to submit a supplemental report within the time allowed pursuant to this subsection, the Director shall determine that the project has failed to demonstrate full compliance with the standards contained in this subsection, and the owner shall be subject to penalties as set forth in subsection 20.30.770.