

*Investing in Portland's Future*



## **Green Building Policy**

***To support the intent and application of the Green Building Policy of the City through advocating and incorporating sustainable and green building practices in all projects to the maximum extent practicable, and as a condition of receiving financial assistance from the Commission as applicable.***

.....Adopted by the PDC Board of Commissioners on June 22, 2005 - Resolution #6262



## Green Building Program Guidelines

### A. Description

The PDC Green Building Program ("Program") requires developers receiving financial assistance from the Commission and direct Commission funded construction projects to integrate green building practices into construction projects and meet the established U.S. Green Building Council Leadership in Energy and Environmental Design ("LEED") or Earth Advantage Small Commercial rating system standards.

### B. Authority

1. Resolution Number 36310 adopted by the Portland City Council on April 27, 2005, amending the Green Building Policy adopted by the Portland City Council on January 10, 2001, requires the Portland Development Commission to enforce certain development standards when providing financial assistance to various projects.
  - a. These Program Guidelines ("Guidelines") are intended to implement the responsibilities assigned to the Commission by the City Council in these actions.
  - b. Definitions contained in the City Green Building Policy (BCP-ENB-9.01) are hereby included by reference in these Guidelines.
2. The PDC Board of Commissioners adopted Resolution 6262 on June 22, 2005 authorizing the Green Building Program Guidelines.

### C. 3. The Executive Director approved these Guidelines based on the authority granted him in Section J.2 in these Guidelines on June 17, 2010, for implementation on July 1, 2010. Development Projects Subject to These Guidelines

1. A project receiving PDC financial assistance in an amount:
  - a. > 10% of the total project cost; **AND**
  - b. > \$300,000

**NOTE:** "PDC financial assistance" shall include any:

- Loan or grant of funds directly provided by PDC.
  - Indirect financial benefit provided by PDC as the result of writing down the value of land.
2. These Guidelines further apply only to the construction or rehabilitation of a building or structure that is > 10,000 square feet in total area **and** is part of a project meeting the criteria in Section C-1.

### D. Types of Construction Within a Qualifying Project Subject to These Guidelines

1. **New Construction** - new buildings or structures for the following uses:
  - a. Commercial / Mixed-Use
  - b. Residential

2. **Rehabilitation Construction** - an existing building or structure that is modified, renovated or remodeled; including tenant improvements, and intended for the following uses:
- a. Commercial / Mixed-Use
  - b. Residential
  - c. City-Owned Buildings

**E. Individual Project Requirements**

NEW CONSTRUCTION	
Development Type	Green Building Standard Required
<ul style="list-style-type: none"> <li>• Commercial / Mixed Use for buildings &gt; 70,000 square feet</li> </ul>	LEED™ NC (New Construction) Silver Certification
<ul style="list-style-type: none"> <li>• Commercial / Mixed Use for buildings 10,000 to 70,000 square feet</li> </ul>	LEED™ NC (New Construction) Silver Certification OR Earth Advantage Small Commercial
<ul style="list-style-type: none"> <li>• Residential</li> </ul>	Greening Portland's Affordable Housing (ALL)
< 5 stories of the structure	Earth Advantage Green Certification
= 5 stories	Earth Advantage Green or LEED NC Silver based on the particular configuration of entire building
> 5 stories	LEED NC Silver Certification
<ul style="list-style-type: none"> <li>• City-owned Buildings</li> </ul>	<ul style="list-style-type: none"> <li>- LEED™ NC Gold Certification</li> <li>- Eco-roof or Energy Star approved roofing materials</li> <li>- Operations &amp; maintenance according to guidelines established by the Bureau of General Services</li> </ul>

REHABILITATION	
Development Type	Green Building Standard Required
<ul style="list-style-type: none"> <li>• Commercial / Mixed Use</li> </ul>	
Full Building Commercial / Mixed Use for buildings > 70,000 square feet	LEED™ NC (New Construction) Silver Certification
Full Building Commercial / Mixed Use for buildings	LEED™ NC (New Construction) Silver Certification OR

10,000 to 70,000 square feet	Earth Advantage Small Commercial
<ul style="list-style-type: none"> <li>○ Partial-building</li> <li>○ Tenant Improvements</li> </ul>	LEED™ CI (Commercial Interiors) Silver and/or G-Rated Tenant Improvement Guide Certification
<ul style="list-style-type: none"> <li>• Residential</li> </ul>	Greening Portland's Affordable Housing (ALL)
< 5 stories of the structure	Earth Advantage Green Certification
= 5 stories	Earth Advantage Green or LEED NC Silver based on the particular configuration of entire building
> 5 stories	LEED NC Silver Certification
<ul style="list-style-type: none"> <li>• City-owned Buildings</li> </ul>	LEED™ CI (Commercial Interiors) Silver and/or G-Rated Tenant Improvement Guide Certification

#### F. Good Faith Deposit

In all financial assistance agreements where compliance with these Guidelines is required and not otherwise exempted, the developer will be required to provide PDC with a deposit in the amount of \$10,000 and in the form of either a cashier's check or promissory note, as determined by the project manager, as security that the developer will make a good faith effort to comply with these Guidelines ("Good Faith Deposit").

1. The Good Faith Deposit will be returned if and when PDC has determined the developer has "complied" with these Guidelines.
2. The Good Faith Deposit will be forfeited to PDC if the developer is determined to be "non-compliant" with these Guidelines

#### G. Compliance

1. **Progress Reports.** According to a schedule agreed to by both parties in the financial assistance agreement, the developer shall submit an up-dated *LEED or Earth Advantage Checklist* and any additional supporting documentation to PDC indicating:
  - a. The progress towards meeting requirements of these Guidelines.
  - b. The likelihood that requirements will be met or exceeded.
  - c. Any issues or circumstances that may prevent the developer from meeting Requirements.
2. **Final Report.** Within five (5) business days of receiving notification of LEED or Earth Advantage certification approval or denial, the developer shall notify and submit to PDC evidence of,
  - a. LEED or Earth Advantage Certification approval; **OR**
  - b. LEED or Earth Advantage Certification denial.
3. **Determination**

- a. If the developer's required certification is approved, the developer will be deemed to have "complied" with these Guidelines and the Good Faith Deposit will be returned.
- b. If the developer's required certification is denied, the developer will be deemed to be "non-compliant" with these Guidelines.

#### **H. Non-Compliance Request for Waiver**

If a developer's request for certification is denied by LEED or Earth Advantage, the developer may, within 10 (ten) business days of receiving such notice, submit to PDC a "Request for Waiver" from required compliance with these Guidelines based on the "good faith effort" made by the developer to comply.

1. A *Request for Waiver* must contain:
  - a. The following documentation appropriate to the type of construction.
    - i. **Commercial:** Final LEED or Earth Advantage certification application, documentation and response from U.S. Green Building Council.
    - ii. **Residential:** Final LEED or Earth Advantage certification application, documentation and response from certification agency(s).
  - b. An explanation of the efforts and accomplishments made by the developer to achieve compliance with these Guidelines.
  - c. An explanation of the practical or economic infeasibility of implementing certain green building design or construction techniques that if implemented would otherwise have likely resulted in certification.
  - d. Any other supporting documentation or information the developer wishes to submit.
2. Within 30 (thirty) days of receiving the *Request for Waiver*, the PDC Executive Director shall make a determination as to whether a Waiver should be approved or denied based on the good faith effort the developer made to comply with these Guidelines.

In order to establish the developer's good faith efforts, the documentation and information submitted by the developer with the *Request for Waiver*, and any other information obtained by PDC from the developer during design and construction, must establish that the developer:

- a. Complied with the LEED or Earth Advantage certification application process;
  - b. Submitted timely progress reports to PDC;
  - c. Undertook reasonable, appropriate and on-going efforts to obtain certification;  
**AND**
  - d. That compliance would otherwise have been obtained but for the practical or economic infeasibility of implementing certain green building design or construction techniques.
3. If a *Request for Waiver* is approved by the PDC Executive Director, the developer will be relieved from meeting the requirements of these Guidelines, and the Good Faith Deposit returned to the developer.

4. If a *Request for Waiver* is denied by the PDC Executive Director, the developer will be deemed to have not made a “good faith effort” to meet requirements of these Guidelines and shall forfeit the Good Faith Deposit to PDC

## I. **Exemptions**

1. **Programs.** The following programs are categorically exempt from these guidelines due to the generally small amount of financial assistance provided by the Commission.
  - a. Storefront Improvement Program
  - b. Neighborhood Housing Program will be exempt from meeting Green Building Standards otherwise required in Section E of these Guidelines, except Greening Portland’s Affordable Housing
2. **Affordable Housing Project.** A project otherwise required to follow these Guidelines, but where at least 51% of housing units are either:
  - a. rental housing affordable to households at 60% area Median Family Income and have a regulatory agreement with PDC; and/or
  - b. ownership housing in which sales prices are no greater than 95% of the Multnomah County average sales price **and** homebuyer incomes are no greater than 100% of the area median income.
  - c. **Definitions.**
    - i. **Median Family Income:** Area median income is established annually by the U.S. Department of Housing and Urban Development, or its successor agency, and applies to the year of sale for ownership units, and applies annually during the period of the PDC affordability agreement for rental units.
    - ii. **Sales Price:** a price which does not exceed 95 percent of the Federal Housing Administration mortgage maximum for a single unit in the Portland Metropolitan area as established annually will be exempt from meeting all Green Building Standards otherwise required in Section E of these Guidelines, except Greening Portland’s Affordable Housing
3. **Individual Projects.** A project otherwise required to follow these Guidelines may be exempted from program requirements subject to the following.
  - a. **Exemption Criteria.** The project developer must demonstrate that complying with these Guidelines,
    - i. would burden the project with extraordinary costs affecting the economic feasibility of the project; **OR**
    - ii. is not reasonably feasible due to unique construction or reconstruction circumstances of the project.
  - b. **Exemption Process.**
    - i. The developer must request an exemption in writing, and provide an explanation and provide any supporting documents necessary to demonstrate the need for an exemption.

- ii. The request is reviewed by PDC staff in consultation with the Portland Office of Sustainable Development to assess the request for exemption and make a recommendation to the PDC Board of Commissioners.
- iii. The exemption must be approved or denied by the PDC Board of Commissioners.
- iv. If an exemption is granted, the developer must agree to:
  - Integrate green building practices into the design and construction of the project to the maximum extent possible and feasible.
  - Provide PDC with reports during construction on the effort to incorporate green building practices into the project.

**J. Administration of Guidelines**

1. **Administrator.** The PDC Executive Director, or designee, shall be responsible for the administration of these Guidelines.
2. **Changes.** The PDC Executive Director is authorized to change or revise these Guidelines as necessary to remain current with City of Portland Green Building Policy, or implement changes to improve the administration, effectiveness or practical application of the PDC Green Building Policy.
3. **Disputes.** The Executive Director is authorized to resolve any dispute arising from the application, administration or enforcement of these Guidelines, with the exception of the PDC Board of Commissioner's decisions regarding the issuance of an exemption.