

## Chapter 197. Planning, Design and Development

### § 197-4. Green Commercial Building Standards.

- A. Standards for Compliance for Covered Projects: All covered projects shall meet a minimum LEED™ "Certified" rating. In order to meet the minimum LEED™ "Certified" rating the following requirements shall be fulfilled by the applicant:
1. LEED™ Registration and Certification: Applicants must register covered projects with the U.S. Green Building Board. LEED™ certification through the U.S. Green Building Council as required under this Chapter.
  2. Building Commissioning: Building commissioning by the US Green Building Council is required under this Chapter. Applicants must verify that fundamental building systems are designed, installed, and calibrated to operate as intended.
- B. Submission of Pre-Permitting Documentation.
1. Design Review Documentation: The applicant shall submit documentation indicating the measures to be used to achieve the applicable LEED™ rating. The documentation, which shall be submitted to the Green Building Compliance Officials for review, shall also indicate how many credits the covered project will achieve in each category and the level of LEED™ certification that will be met. This documentation shall include:
    - (a) The Green Building Project Checklist;
    - (b) The Green Building Worksheet with an analysis of each credit claimed; and
    - (c) Any other documentation that may be necessary to show compliance with this Chapter.
- C. Building Permit Documentation: Required submissions; fees.
1. The applicant shall submit a completed Green Building Project Checklist with the first building permit plan set submitted. All building plans shall indicate in the general notes or individual detail drawings, where feasible, the green building measures to be used to attain the applicable LEED™ rating.
  2. Every applicant shall pay a fee of one (\$1.) dollar per square foot of the project, not to exceed two hundred thousand (\$200,000.) dollars, to be held in a "Huntington Green Building Trust and Agency Account" that shall be established by the Town Comptroller. An applicant who receives LEED "Certified" status shall have this fee refunded except for an administrative fee of \$0.1 per square foot of the project and an additional fee of \$0.1 per square foot to provide for training initiatives for Town staff charged with administering this Local Law.
  3. Screening Meeting: After submission of the documentation required by Section 197-4(B) the Green Building Compliance Officials shall arrange a meeting with the applicant to discuss the proposed measures, as needed.
  4. Application Processing: As a condition of processing the application, the applicant may be required to pay for the reasonable costs of an outside consultant to review documentation to determine compliance with the LEED Green Building Rating System certification process. All such costs shall be paid by cash or certified check and are in addition to any other required fee. Within thirty (30) days of the date on the written request for payment, the applicant shall submit to the Department of Planning and Environment

for deposit into a non-interest bearing trust and agency account maintained by the Town an amount determined by the Director of Planning and Environment, or his/her designee, to be utilized by the Town to pay for such services during the review process. Upon request, the applicant shall be provided with copies of invoices submitted to the Town for the work of outside consultants and studies. In the event the sum initially deposited by the applicant is not sufficient and additional funds are necessary, the applicant shall pay such additional sums within twenty (20) days of the date on the written request for payment. After all reasonable charges have been paid to the vendor(s) by the Town, any balance remaining on deposit in the account shall be returned to the applicant. In the event an application is withdrawn at any stage by the applicant, any unused portion of the sums on deposit shall be returned to the applicant.

D. Review of Pre-Permitting Documentation.

1. Approval: Notwithstanding any other provision of the Huntington Town Code, no building permit shall be issued for any covered project unless and until the Green Building Compliance Officials have approved the pre-permitting documentation submitted for the covered project. The Green Building Compliance Officials shall only approve the pre-permitting documentation if it is determined that the pre-permitting documentation indicates that the covered project can achieve the applicable LEED™ rating. If the Green Building Compliance Officials determine that these conditions have been met, the pre-permitting documentation shall be marked "Approved," and returned to the applicant. The Green Building Compliance Officials shall notify the Building Division that the pre-permitting documentation has been approved. No building permit shall be issued until the pre-permitting documentation has been approved under this section or an exemption has been granted under Section.
2. Non-Approval: If the Green Building Compliance Officials determine that the pre-permitting documentation is incomplete or fails to indicate that the covered project will meet the required LEED™ rating for the covered project, he or she shall either:
  - (a) Return the pre-permitting documentation to the applicant marked "Denied", including a statement of reasons, and so notify the Building Division; or
  - (b) Return the pre-permitting documentation to the applicant marked "Further Explanation Required," and detail the additional information needed.
3. Re-Submission: If the pre-permitting documentation is returned to the applicant, the applicant may re-submit the pre-permitting documentation with such additional information as may be required or may apply for an exemption under Section 197-4(F)(5)(a).

E. Construction Compliance.

1. Compliance Review: Building Division staff shall verify that the green building measures and provisions incorporated in the building construction plans and specifications are being implemented. The Green Building Compliance Officials or the Building Division staff may also conduct other inspections as needed to ensure compliance with this Chapter.
  - (a) Substitution of Credits. During compliance review for covered projects, flexibility may be exercised by the Green Building Compliance Officials to substitute the approved credits with other credits in the approved LEED™ Rating System. Substitution shall occur only at the request of the applicant and when it is determined that the originally approved credits are no longer feasible.
2. Compliance Documentation: Prior to final building approval and/or issuance of a certificate of occupancy, the applicant shall submit the following to the Green Building Compliance Officials: (a) documentation that verifies incorporation of the design and construction related credits from the pre-permitting documentation for the covered project; and (b) a letter from the project architect or project contractor that certifies that the building has been constructed in accordance with the approved Green Building Project Checklist. The applicant must also provide: (c) any additional documentation required by the LEED™ Reference Guide for LEED™ certification, and (d) any additional information the applicant believes is relevant to determining its good faith efforts to comply with this Chapter.
3. Non-Compliance: Penalties. If, as a result of any such inspection, the Green Building Compliance Officials or Building Division staff determines that the covered project does not comply with the pre-permitting documentation, a stop-work order may be issued. At the discretion of the Green Building Compliance

Officials such a stop-work order may apply to the portion of the project impacted by noncompliance or to the entire project. The stop-work order shall remain in effect until the Green Building Compliance Officials determine that the project will be brought into compliance with the pre-permitting documentation and this Chapter.

F. Exemptions.

1. Historic Structures: All historic structures are exempt from the requirements of this Chapter. Applicants for historic structures are encouraged to use their best efforts to incorporate as many of the green building measures as feasible from the LEED™ Commercial Rating System without compromising the historical integrity of the structure.
2. Non-Covered Projects: Applicants for non-covered projects though exempt from the requirements of this Chapter, shall be encouraged to use their best efforts to incorporate as many green building measures as feasible from the LEED™ Commercial Rating System.
3. Existing Projects: Projects that are design and plan completed as of the effective date of this legislation are exempt from the provisions of this Local Law
4. Town-Sponsored Project: any non-residential construction project, under four thousand (4,000) square feet, primarily funded and sponsored by the Town of Huntington or on land owned by the Town of Huntington, shall be exempt from the requirements of this chapter.
5. Hardship or Infeasibility Exemption: If an applicant for a covered project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Chapter, he or she may apply for an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.
  - a. Application: If an applicant for a covered project believes such circumstances exist, the applicant may apply for an exemption at the time that he or she submits the pre-permitting documentation required under Section 197-4(D)(2). The applicant shall indicate in the pre-permitting documentation the maximum number of credits he or she believes is practical or feasible for the covered project and the circumstances that he or she believes make it a hardship or infeasible to comply fully with this Chapter. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technologies, and compatibility of green building requirements with existing building standards.
  - b. Meeting with Green Building Compliance Officials: The Green Building Compliance Officials shall review the information supplied by the applicant, may request additional information from the applicant, and may meet with the applicant to discuss the request.
  - c. Granting of Exemption: If the Green Building Compliance Officials determine that it is a hardship or infeasible for the applicant to meet fully the requirements of this Chapter based on the information provided, the Green Building Compliance Officials shall determine the maximum feasible number of credits reasonably achievable for the covered project and shall indicate this number on the pre-permitting documentation submitted by the applicant. The Green Building Compliance Officials shall return a copy of the pre-permitting documentation to the applicant marked "Approved with Exemption" and shall notify the Building Division that the pre-permitting documentation has been approved. If an exemption is granted, the applicant shall be required to comply with this Chapter in all other respects and shall be required to achieve, in accordance with this Chapter, the number of credits determined to be achievable by the Green Building Compliance Officials.
  - d. Denial of Exemption: If the Green Building Compliance Officials determine that it is possible for the applicant to fully meet the requirements of this Article, he or she shall so notify the applicant in writing. The applicant may resubmit the pre-permitting documentation in full compliance with Sections 197-4(B) and (C). If the applicant does not resubmit the pre-permitting documentation, or if the resubmitted pre-permitting documentation does not comply with this Article, the Green Building Compliance Officials shall deny the pre-permitting documentation in accordance with Section 197-4(B) and (C).

- G. Appeal. It is the intention of the Town Board to protect the legal rights of the public by insuring every applicant under this chapter receives fair and expeditious due process by providing for an administrative hearing officer to preside over denials of Exemptions under this chapter. Any applicant or person who is aggrieved by a Green Building Compliance Officials' determination finding non-compliance with this chapter, or the denial of a Hardship or Infeasibility Exemption, may appeal such determination before a duly appointed hearing officer.
1. All hearings contemplated under this chapter shall be administered by a duly appointed hearing officer. In order to accomplish this goal, the Town Board is exercising its authority under § 10(1)(ii)(a)(12) of the Municipal Home Rule Law, § 136(1) and § 137 of the Town Law and any other applicable provision of law now or hereafter enacted, to supersede and/or expand upon the applicable provisions of § 137 of the Town Law, and any other applicable or successor law, in order to permit an appointed administrative hearing officer to preside over appeals or hearings required to be held under this code.
  2. All hearings shall be recorded.
  3. The hearing officer shall file his/her written findings with the Town Clerk and send a copy of his/her written findings to the applicant by regular or certified mail, no later than 30 days from the close of the hearing.
- H. Judicial review. Any applicant, person, or persons jointly or severally aggrieved by any final determination of the Hearing Officer, may seek to have such order reviewed by the Supreme Court in the manner prescribed by Article 78 of the Civil Practice Act and as otherwise provided for in the laws of the State of New York.