

CITY OF SEATTLE
ORDINANCE 126741
COUNCIL BILL 120464

AN ORDINANCE relating to Design Review for affordable housing; adopting temporary regulations to exempt affordable housing projects from Design Review; amending Section 23.41.004 of the Seattle Municipal Code; and adopting a work plan.

WHEREAS, in response to the COVID-19 pandemic, in April of 2020 the Council passed and the Mayor signed Ordinance 126072, which among other provisions exempted certain affordable housing projects, at the applicant’s option, from the requirement to undergo design review if the applicant filed a complete building permit application while the ordinance was in effect. Ordinance 126072 was effective for 180 days; and

WHEREAS, in October of 2020, the Council passed and the Mayor signed Ordinance 126188, which reinstated the same exemption for a period of time ending sixty days after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020; and

WHEREAS, the Mayor terminated the foregoing civil emergency on October 31, 2022, such that Ordinance 126188 will expire at the end of December, 2022; and

WHEREAS, The City of Seattle is considering changes to its Design Review program, including the applicability of the program to affordable housing projects, but those changes will take time to develop and adopt; and

WHEREAS, in light of the considerations further described below, it is critical that the design review exemption for affordable housing projects established by Ordinance 126188 be reinstated for a limited time while the City evaluates and pursues permanent changes to the Design Review program; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

1 Section 1. The Council makes the following findings:

2 A. On November 2, 2015, the Mayor declared a civil emergency to address the
3 homelessness crisis in the City of Seattle, which the Council ratified and confirmed. Despite
4 concerted efforts to prevent and reduce it, homelessness continues at exceptionally high levels.
5 The 2020 Point-in-Time count for Seattle/King County (which understates the true extent of
6 homelessness) found 11,751 people experiencing homelessness on one night in January, with 47
7 percent unsheltered and 53 percent sheltered. By 2022, that number had increased to 13,368,
8 with 57 percent unsheltered and 43 percent sheltered. Homelessness disproportionately impacts
9 people and households of color.

10 B. Experiencing homelessness is traumatic and can trigger, create, or exacerbate health
11 conditions, substance use, and mental and behavioral health conditions. Sleeping outdoors
12 increases the likelihood of developing exposure-related conditions. Moreover, unsheltered
13 people face conditions that further the spread of COVID-19.

14 C. Even when they do not end up unsheltered, persons who are evicted due to inability to
15 meet housing costs face other harmful outcomes, including worsened mental health, increased
16 likelihood of teenage pregnancy and alcoholism, worsened educational outcomes and higher
17 dropout rates for children, and higher likelihood of experiencing job loss.

18 D. Seattle residents with lower incomes face enormous challenges remaining housed
19 while meeting basic needs. Nearly 46,000 households are spending more than half their incomes
20 on housing costs, which classifies them as severely cost-burdened by federal standards. Average
21 rents increased faster than incomes in most Seattle zip codes in the 2010-2019 period.

22 E. The supply of housing affordable to those with lower incomes is extremely
23 constrained; there is an effective shortage of nearly 21,000 rental units that are both affordable

1 and available to households at 80 percent of AMI or below. For households at 50 percent of
2 AMI or less, there is little prospect that affordable market rate housing will be available in the
3 future.

4 F. No single policy response will be sufficient to address all of the foregoing issues.
5 However, increasing the supply of income- and rent-restricted housing that is affordable to
6 households at or below 60 percent of AMI is crucial to reducing housing instability and keeping
7 lower-income families housed. Given the interconnected nature of the housing market, provision
8 of such rent- and income- restricted housing at a large scale and on a rapid timeline is essential to
9 preventing and ameliorating homelessness.

10 G. In recent years, Seattle has devoted substantial resources to development of such
11 housing. In 2021, 489 new City-funded rental housing units were placed in service, and an
12 additional 5,400 City-funded affordable apartments are under development. However, lengthy
13 and complex land use review processes, such as design review, add time and cost to affordable
14 housing development. Design review can add months to the time required to permit affordable
15 housing projects, increasing costs and delaying the time when affordable units can enter service.

16 H. Through the 2022 budget process, the Council established a work program through the
17 Statement of Legislative Intent for the Seattle Department of Construction and Inspections (SLI
18 SDCI-004-A-001) to convene a stakeholder group to review the Design Review program and
19 recommend changes, considering (among other items) the program's effect on housing costs and
20 a review of national best practices for design review programs. Legislative changes resulting
21 from that effort or otherwise could involve changes to the applicability of the Design Review
22 program, its processes, or other matters, both for housing projects generally and for affordable

1 housing projects. However, any such legislative changes are unlikely to be finalized until, at the
2 earliest, next year.

3 I. In response to the COVID-19 pandemic, Ordinances 126072 and 126188 provided a
4 temporary exemption from design review, at the applicant’s option, for certain affordable
5 housing projects (e.g., projects meeting the requirements according to SMC 23.41.004.A.5,
6 which applies to projects substantially consisting of units serving households at or below 60
7 percent of AMI). Nineteen publicly funded developments totaling approximately 2,400 low-
8 income housing units have availed themselves of the design review exemption provided by these
9 ordinances, substantially advancing the date when those projects enter service. However,
10 Ordinance 126188 expires at the end of 2022.

11 J. The Council does not wish to prejudge what permanent changes might be made to the
12 Design Review program as a result of SDCI’s ongoing review. However, the Council finds that,
13 while consideration of permanent changes to the Design Review program is ongoing during the
14 next year, continuing the design review exemption for affordable housing projects established by
15 Ordinance 126188 will avoid an imminent threat to public health and safety by accelerating the
16 permitting and completion of affordable housing projects that will prevent housing instability
17 and prevent and ameliorate homelessness.

18 K. SDCI and the City’s Office of Housing have identified approximately 450 low-income
19 housing units that could be exempt from design review if this legislation is adopted. These units
20 would serve individuals and families with incomes no higher than 60 percent of AMI.

21 L. Based on the foregoing facts, the Council finds that an exemption from conducting
22 SEPA review of the design review exemption proposed herein is appropriate and necessary
23 under Seattle Municipal Code Section 25.05.880.

1 Section 2. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance
2 126685, is amended as follows:

3 **23.41.004 Applicability**

4 A. Design review required

5 1. Subject to the exemptions in subsection 23.41.004.B, design review is required
6 in the following areas or zones when development is proposed that exceeds a threshold in Table
7 A or Table B for 23.41.004:

- 8 a. Multifamily;
- 9 b. Commercial;
- 10 c. Seattle Mixed;
- 11 d. Downtown; and
- 12 e. Stadium Transition Area Overlay District as shown in Map A for
13 23.74.004, when the width of the lot exceeds 120 feet on any street frontage.

14 2. Subject to the exemptions in subsection 23.41.004.B, design review is required
15 in the following areas or zones when commercial or institution development is proposed that
16 exceeds a threshold in Table A or Table B for 23.41.004:

- 17 a. Industrial Buffer; and
- 18 b. Industrial Commercial.

19 3. The gross floor area of the following uses is not included in the total gross floor
20 area of a development for purposes of determining if a threshold is exceeded:

- 21 a. Religious facilities;
- 22 b. Elementary and secondary schools;
- 23 c. Uses associated with a Major Institution Master Plan (MIMP); or

1 d. Development of a major institution use within a Major Institution
2 Overlay (MIO) district.

3 4. Any development proposal participating in the Living Building or 2030
4 Challenge High Performance Existing Building Pilot Program according to Sections 23.40.060
5 and 23.40.070, including a development proposal for an existing structure, regardless of size or
6 site characteristics, is subject to full design review according to Section 23.41.014.

7 5. Any development proposal, regardless of size or site characteristics, is subject
8 to the administrative design review process according to Section 23.41.016 if it receives public
9 funding or an allocation of federal low-income housing tax credits, and is subject to a regulatory
10 agreement, covenant, or other legal instrument recorded on the property title and enforceable by
11 The City of Seattle, Washington State Housing Finance Commission, State of Washington, King
12 County, U.S. Department of Housing and Urban Development, or other similar entity as
13 approved by the Director of Housing, which restricts at least 40 percent of the units to occupancy
14 by households earning no greater than 60 percent of median income, and controls the rents that
15 may be charged, for a minimum period of 40 years.

16 6. Any development proposal that is located in a Master Planned Community
17 zone and that includes a request for departures, regardless of size or site characteristics, is subject
18 to full design review according to Section 23.41.014. If a development proposal in a Master
19 Planned Community zone does not include a request for departures, the applicable design review
20 procedures are in Section 23.41.020. A development proposal in a Master Planned Community
21 zone, which includes a request for departures and provides affordable housing per subsection
22 23.41.004.A.5, shall be subject to administrative design review according to Section 23.41.016.

1 1. Notwithstanding any contrary provision of this Title 23, a project subject to
2 administrative design review according to subsection 23.41.004.A.5 or a project in a Master
3 Planned Community zone that meets the requirements according to subsection 23.41.004.A.5
4 shall be exempt from design review if the applicant files a complete building permit application
5 while this ordinance is in effect, except that the applicant may elect to have the project be subject
6 to design review notwithstanding the preceding exemption.

7 2. Requests for departures. If a project is exempt from design review according to
8 subsection 23.41.004.D.1, the Director may consider requests for departures from the following
9 development standards in this Title 23:

10 a. Requirements for bike rooms and the quantity of bike parking;

11 b. Requirements for the size of parking spaces;

12 c. Requirements for overhead weather protection;

13 d. Requirements for facade openings, articulation, and modulation and art
14 on the facades of buildings but not including limitations on structure width;

15 e. Requirements for the size and design of common recreational areas,
16 amenity areas, community rooms, and similar indoor amenities but not including any required
17 outdoor open space;

18 f. Requirements related to residential uses, transparency, blank facades,
19 and floor-to-floor height at street level, except as otherwise limited in subsection 23.41.012.B;

20 and

21 g. Other similar standards as determined by the Director, not including
22 those listed in subsection 23.41.012.B, that pertain to the interior of the building and do not
23 affect the size of the building envelope.

1 3. Departures decision. Requests for departures according to subsection
2 23.41.004.D.2 shall be evaluated by the Director, in consultation with the Office of Housing, in
3 light of the particular population designed to be served by the project, and may be granted by the
4 Director as a Type I decision if the departure would not impact the overall height, bulk, and scale
5 of the proposed building and would result in additional housing units meeting the standards of
6 subsection 23.41.004.A.5 being constructed.

7 Section 3. The Council approves the following work plan for the development of
8 permanent regulations to address the matters in this ordinance, as well as other design review-
9 related matters as appropriate, and directs the Seattle Department of Construction and
10 Inspections, in consultation with the Office of Planning and Community Development, to
11 transmit proposed legislation to the Council by August 1, 2023.

12 **WORK PLAN:**

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|--|---------------------------------|
| Outreach on proposed permanent legislation | January 1, 2023 – March 1, 2023 |
| Draft permanent legislation and conduct SEPA review on draft permanent legislation | March 1, 2023 – July 5, 2023 |
| Mayor Transmits Legislation to Council | August 1, 2023 |
| Council Deliberations and Public Hearing on Proposed Legislation | September 2023 |
| Legislation Effective | By December 31, 2023 |

13
14 Section 4. This ordinance shall be automatically repealed without subsequent Council
15 action 12 months after it becomes effective.

16 Section 5. The provisions of this ordinance are declared to be separate and severable. If
17 any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance is
18 held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity
19 of its application to other persons or circumstances.

1 Section 6. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 13th day of December, 2022,
5 and signed by me in open session in authentication of its passage this 13th day of
6 December, 2022.

7 
8 President _____ of the City Council

9 Approved / returned unsigned / vetoed this 15th day of December, 2022.

10 
11 Bruce A. Harrell, Mayor

12 Filed by me this 15th day of December, 2022.

13 
14 Elizabeth Adkisson, Interim City Clerk

15
16 (Seal)