

**CITY OF SEATTLE**

**ORDINANCE** 127163

**COUNCIL BILL** 120833

AN ORDINANCE relating to land use and zoning; amending subsection 23.49.156.A of the Seattle Municipal Code to clarify bonus allowances in the Living Building Pilot Program.

WHEREAS, on December 14, 2009, the Seattle City Council adopted Ordinance 123206, establishing a Living Building Pilot program; and

WHEREAS, the Council intended for the Living Building Pilot Program (LBPP) to be one of the City's Climate Strategies to fundamentally reshape Seattle's building and transportation systems for a fossil-free future; and

WHEREAS, Seattle's buildings produce over one-third of the city's greenhouse gases and, reducing these building emissions is critical in becoming a carbon-neutral community by 2050; and

WHEREAS, as part of the LBPP, projects explore fundamentally different approaches to building design, construction, and operations, and LBPP applicants are eligible for additional height and/or floor area ratio bonuses as well as departures from the Land Use Code; and

WHEREAS, early design guidance for project 3036043-LU was applied for under 3034374-EG. The Master Use Permit for the project was reviewed by the Design Review Board and approved by the Director of the Department of Construction and Inspections granting certain departures under the LBPP including additional height; and

WHEREAS, the Master Use Permit decision 3036043-LU, was appealed by Belltown Livability Coalition to the Seattle Hearing Examiner along with a request for code interpretation alleging that the subject lot was not eligible for additional height under the LBPP because

1 the height limitation was constrained by a lot size restriction codified in subsection  
2 23.49.156.A of the Seattle Municipal Code (SMC); and

3 WHEREAS, as part of the appeal, Seattle Department of Construction and Inspections (SDCI)  
4 interpreted SMC 23.49.156.A.1 in light of the LBPP code provisions including SMC  
5 23.40.060 and SMC 23.49.008.F and concluded that the subject development project  
6 could take advantage of height bonuses to 175 feet without a minimum lot size of 19,000  
7 square feet under the LBPP; and

8 WHEREAS, the Hearing Examiner disagreed with SDCI's interpretation, stating that "The  
9 legislative body set the minimum lot size at 19,000 square feet for buildings over 145  
10 feet. Regardless of policy reasonableness, only the City Council has authority to enact  
11 code. The Examiner only interprets that code. The legislative body could provide set  
12 criteria so the Department could determine appropriate lot sizes when specified criteria  
13 are met or waive the lot size requirement entirely for living buildings. It has not done so";  
14 and

15 WHEREAS, the Examiner's determination would limit the intent of the LBPP and constrain the  
16 City's goal of providing more housing, especially family-sized housing; and

17 WHEREAS, SDCI proposes this code amendment to explicitly authorize building height in  
18 excess of 145 feet in the Downtown Mixed Residential zone on lots smaller than 19,000  
19 square feet in size to enable the City to allow the proposed 182 units of housing in the  
20 Downtown Urban Center, including ten three-bedroom units as proposed in Master Use  
21 Permit 3036043-LU and to encourage additional lots in the Downtown Urban Center to  
22 apply for the LBPP; and

WHEREAS, this ordinance is necessary to make clear that the City Council intends that the LBPP may allow height bonuses for buildings in the LBPP located in the downtown mixed residential/commercial zone regardless of lot size and incentivize additional properties in this zone to join the LBPP; and

WHEREAS, SDCI evaluated the environmental impact of the proposed ordinance, prepared a threshold determination under the State Environmental Policy Act (SEPA) and sought public comment on the ordinance; however, the ordinance is exempt from administrative or judicial appeal under RCW 36.70A.070(2) for certain development regulations and non-project actions that “increase housing capacity, increase housing affordability, and mitigate displacement”; and

WHEREAS, this ordinance is exempt from administrative or judicial appeal because the ordinance will increase housing capacity, including at least 182 units, ten of which are family-sized units as well as anticipated additional units in the zone;

NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Subsection 23.49.156.A of the Seattle Municipal Code, which section was last amended by Ordinance 125371, is amended as follows:

**23.49.156 Downtown Mixed Residential, minimum lot size**

A. This subsection 23.49.156.A applies to DMR zones outside of South Downtown.

1. The minimum lot size is 19,000 square feet for any structure over 145 feet high, except that a project in a DMR zone that is part of the Living Building Pilot Program pursuant to Section 23.40.060 and uses a height bonus pursuant to subsections 23.40.060.C.5, 23.40.070.C.5, or 23.49.008.F, is exempt from this requirement. Pursuant to subsection 23.76.026.E, an

1 applicant may elect to use this exemption even if the applicant's application vested before the  
2 effective date of this ordinance.

3                   2. To meet the minimum lot size requirement, a lot may be combined with one  
4 or more abutting lots, whether occupied by existing structures or not, provided that:

5                   a. The total area of the combined lots meets the minimum lot size  
6 requirement;

7                   b. All lots have frontage on the same avenue;

8                   c. Any existing structure does not exceed a height of 145 feet;

9                   d. The lot coverage of both the proposed and any existing structures does  
10 not exceed applicable lot coverage limits in Section 23.49.158; and

11                   e. The fee owners of the abutting lot(s) execute a deed or other  
12 agreement, recorded with the King County Recorder's Office as an encumbrance on the  
13 abutting lot(s), that restricts future development of the abutting lot(s) to a maximum height of  
14 145 feet for the life of the proposed structure, and that precludes the use of the abutting lot(s)  
15 in combination with any other abutting lots for purposes of meeting the minimum lot size  
16 requirements for any other lot.

17                   \* \* \*

18                   Section 2. The Council requests that the Office of Planning and Community  
19 Development analyze stacking of height incentives and their impact in various zones where  
20 applicable, including but not limited to the Downtown Regional Center, and provide its findings  
21 and recommendations to the Chair of the Land Use Committee by December 31, 2025.

Section 3. This ordinance shall take effect as provided by Seattle Municipal Code  
Sections 1.04.020 and 1.04.070.

Passed by the City Council the 10th day of December, 2024,  
and signed by me in open session in authentication of its passage this 10th day of  
December, 2024.



President \_\_\_\_\_ of the City Council

☒ Approved / ☐ returned unsigned / ☐ vetoed this 13th day of December, 2024.



Bruce A. Harrell, Mayor

Filed by me this 13th day of December, 2024.



Scheereen Dedman, City Clerk

(Seal)