

Director's Report and Recommendation

2023 Low-Income Housing/Affordable Units Land Use Code Omnibus Ordinance
May 12, 2023

Introduction

The Seattle Office of Housing ("OH") coordinates with the Seattle Department of Construction and Inspections ("SDCI") on changes to and routine maintenance of Land Use Code ("LUC") provisions specific to low-income housing and other homes with affordability restrictions. The proposed amendments are "omnibus" amendments, meaning they update and correct affordable housing-related provisions in multiple LUC chapters.

The proposed amendments are categorized as follows:

- ① Repeal more than a dozen obsolete and redundant LUC definitions related to affordable housing and eligible residents.
- ② Update the project specific definition of "low-income housing" and add new unit-specific definitions for "low-income unit," "moderate-income unit," and "restricted unit."
- ③ Simplify and increase consistency of provisions by using the terms "low-income housing," "low-income unit," "moderate-income unit," and "restricted unit" throughout the LUC, as applicable.
- ④ Make existing design review exemption and authorization to request waiver or modification of certain development standards (only if they do not increase building envelope size) for permanent supportive housing applicable to all low-income housing. Currently, these provisions are also available, on a temporary basis, to low-income housing that includes at least a minimum share of affordable units for households with incomes no higher than 60% AMI (area median income). Those temporary provisions sunset in January 2024. The proposed changes would make those provisions permanent and also extend them to include sale and resale-restricted homes providing ongoing affordability to buyer households with incomes no higher than 80% AMI.
- ⑤ Simplify and increase consistency of routine requirements for developments with units subject to housing affordability restrictions, where possible. Nothing in this legislation changes the terms of housing agreements already in effect.
- ⑥ Consolidate all affordable housing-related provisions of incentive zoning in downtown zones in SMC Chapter 23.58A.
- ⑦ Simplify and improve clarity and readability of affordable housing-related LUC provisions, including by correcting punctuation and grammatical errors.

Most of the amendments are technical in nature. Obsolete LUC provisions are repealed, and complex provisions are simplified and clarified. The substantive amendments include changing existing use-related provisions so that they apply to all, rather than just some, low-income housing. For low-income housing, the legislation makes the temporary design review exemption permanent and authorizes requests for waiver or modification of certain development standards that do not increase the size of

the building envelope. The amendments proposed in this omnibus legislation aim to facilitate development of low-income housing by streamlining permit reviews and reducing permitting timelines and costs.

The following is a section-by-section description of the proposed amendments. The numbering system outlined above identifies the category that best describes each change. The Director's Report starts by outlining changes to Chapter 23.84A "Definitions" since those terms are foundational to the legislation. After that section, amendments are addressed sequentially by LUC chapter. Amended LUC sections may also include minor grammatical corrections to existing language, corrections of typographical errors, and corrections or simplification of Code section hierarchy and updated references as applicable. Descriptions of those technical edits are limited or omitted.

SMC Chapter 23.84A - Definitions

- ① Repeal the following definitions listed below in Sections 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.032, and 23.84A.042. Update LUC provisions using obsolete terms to instead reference low-income housing, low-income unit, moderate-income unit, or restricted unit, as applicable.
- "Affordable housing" and "Housing, affordable"
 - "Household, low-income" and "Low-income household"
 - "Household, moderate-income" and "Moderate-income household"
 - "Household, very low-income" and "Very low-income household"
 - "Housing, moderate income" and "Moderate-income housing"
 - "Housing, very low-income" and "Very low-income housing"
 - "Low-income disabled multifamily structure" and "Multifamily structure, low-income disabled"
 - "Low-income elderly/low-income disabled multifamily structure" and "Multifamily structure, low-income elderly/low-income disabled"
 - "Multifamily structure, low-income elderly"
 - "Multifamily structure, very low-income disabled" and "Very low-income disabled multifamily structure"
 - "Multifamily structure, very low-income elderly" and "Very low-income elderly multifamily structure"
 - "Multifamily structure, very low-income elderly/very low-income disabled" and "Very low-income elderly/very low-income disabled multifamily structure"
 - "Multifamily residential use, low-income disabled"
 - "Multifamily residential use, low-income elderly"
 - "Multifamily residential use, low-income elderly/low-income disabled"

Section 23.84A.016 "H"

- ② Change the definition of "Housing, low-income," which is currently "housing affordable to, and occupied by, low-income households," to "a structure or structures for which:

1. An application for public funding for the capital costs of development or rehabilitation of the structure(s) has been or will be submitted; and

2. Public funding is awarded prior to issuance of the first building permit that includes the structural frame for each structure and is conditioned on one or more regulatory agreements, covenants, or other legal instruments, enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other public agency, if approved by the Director of Housing being executed and recorded on the title of the property that includes the low-income housing and such legal instruments either:
 - a. For a minimum period of 40 years, require rental of at least 40 percent of the dwelling units, small efficiency dwelling units, or congregate residence sleeping rooms as restricted units with rent and income limits no higher than 60 percent of median income; or
 - b. For a minimum period of 50 years, require at least 40 percent of the dwelling units as restricted units sold to buyers with incomes no higher than 80 percent of median income at prices (initial sale and resale) to allow modest growth in homeowner equity while maintaining long-term affordability for income-eligible buyers, all as determined by the Director of Housing.”

This definition is carefully crafted to mirror terms of standard regulatory agreements for low-income housing, including agreements for projects financed solely with low-income housing tax credits, tax-exempt bonds, and private debt. It provides sufficient flexibility to apply to publicly funded housing developments that are not necessarily City-funded. Most low-income housing exceeds the minimum requirements described in this definition for affordability levels and duration given the highly competitive nature of scarce public funding to address our region’s housing crisis.

Details specific to tenure, AMI limits, and term of affordability are currently spelled out in the body of the LUC, often in an inconsistent manner, meaning that a development that satisfies the low-income housing requirements of one provision might not satisfy the requirements of another provision. The proposed low-income housing definition is substantively consistent with existing provisions governing Mandatory Housing Affordability (MHA) exemptions but provides far greater clarity to help ensure consistent interpretation as projects move through permitting.

Section 23.84A.024 “L”

- ② Add cross reference to new term, “Low-income unit,” as defined under “Unit, low-income” in Section 23.84A.040.

Section 23.84A.025 “M”

- ⑦ Simplify and improve clarity and readability of the definition of “median income.”
- ② Add cross reference to new term, “moderate-income unit,” which is defined under “Unit, moderate-income” in Section 23.84A.040.

Section 23.84A.030 “P”

- ③ Move the definition for “permanent supportive housing” (or “PSH”) to this Section 23.84A.030 and update it to clarify PSH as a type of low-income housing paired with on- or off-site human services to support people living with complex and disabling behavioral health or physical health conditions and experiencing homelessness or at imminent risk of homelessness prior to moving

into such housing. “Permanent supportive housing” would continue to also be listed as a “residential use” in Section 23.84A.032.

Section 23.84A.032 “R”

- ⑦ The definition of “domestic violence shelter” (under “residential use”) currently refers to domestic violence shelters as “a dwelling unit.” This is corrected to read “a structure or portion of a structure.”
- ② Add “low-income housing,” as defined in Section 23.84A.016, to list of “residential uses.”
- ⑦ Retain “permanent supportive housing” in Section 23.84A.032’s list of “residential uses,” but repeal the description, which is now in Section 23.84A.030 “P”.

Section 23.84A.038 “T”

- ③ Use the newly defined term “restricted units” to simplify and clarify the definitions of “TDR site, DMC housing,” “TDR Site, housing,” and “TDR site, Landmark housing.”

Section 23.84A.040 “U”

- ② Add three new unit-specific definitions. The first two differentiate the maximum AMI limit depending on tenure (rental versus ownership). The third definition, “restricted unit” is a generic term used to reference units in a property subject to a LUC-required regulatory agreement with the City. The definitions are:

“Unit, low-income” means a dwelling unit that, for a minimum period of at least 50 years, is a restricted unit affordable to and reserved solely for families with annual incomes not to exceed 60 percent of median income for rental units or 80 percent of median income for ownership units according to one or more regulatory agreements, covenants, or other legal instruments that, as a condition to issuance of the first building permit that includes the structural frame for the structure that includes the low-income unit, shall be executed and recorded on the title of the property and are enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other public agency if approved by the Director of Housing.

“Unit, moderate-income” means a dwelling unit that, for a minimum period of at least 50 years, is a restricted unit affordable to and reserved solely for families with annual incomes not to exceed 80 percent of median income for rental units or 100 percent of median income for ownership units according to one or more regulatory agreements, covenants, or other legal instruments that, as a condition to issuance of the first building permit that includes the structural frame for the structure that includes the moderate-income unit, shall be executed and recorded on the title of the property and are enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other public agency if approved by the Director of Housing.

“Unit, restricted” means a unit on a property subject to a recorded agreement with the City of Seattle that limits both the unit’s rent or sale price, as applicable, and eligible residents’ annual income at a specified percentage of median income. For purposes of each restricted unit, eligible residents shall be a “family” according to 24 CFR Section 5.403 or successor provision,

and the family's "annual income" shall be determined according to 24 CFR Section 5.609 or successor provision, unless otherwise approved in writing by the Director of Housing.

SMC Chapter 22.900G Fees Collected for Other Departments

Section 23.900G.015 Fees for review by the Office of Housing

- ⑥ Amend Section 23.900G.015 – Simplify housing review fee provisions and delete reference to sections that are either repealed or in which housing-related incentives language now references Chapter 23.58A "Incentive provisions." Applicability and housing review fee amount is unchanged.

SMC Chapter 23.34 Amend Official Land Use Maps (Rezoning)

Section 23.34.012 Neighborhood Residential Small Lot (RSL) zone, function and locational criteria

- ⑦ Amend subsection 23.34.012.A – Clarify language about the housing affordability function of RSL zones.

Section 23.34.020 Lowrise 3 (LR3) zone, function and locational criteria

- ⑦ Amend subsection 23.34.020.C – Technical edit to condense phrase and correct punctuation.

SMC Chapter 23.41 Design Review

Section 23.41.004 Applicability

- ④ Repeal subsection 23.41.004.A.5 and amend subsection 23.41.004.B.8 – Absent temporary provisions adopted in 2020, developments of a size that trigger design review requirements and in which at least 40% of total units are restricted at levels no higher than 60% AMI are subject to administrative design review. Ord. 126072 and Ord. 126188, adopted by City Council in 2020 under the COVID Emergency Order, temporarily changed the administrative design review requirement to a design review exemption. In December 2022, City Council adopted Ord. 120464 to extend the design review exemption until January 2024 under the Homelessness Emergency Order. The proposal is to repeal subsection 23.41.004.A.5 and amend subsection 23.41.004.B.8 to establish an ongoing design review exemption for low-income housing, as defined by this legislation. This change would make the design review exemption available for the first time to publicly funded developments that include affordable ownership homes for households with incomes no higher than 80% AMI. The number of developments eligible for a design review exemption would increase modestly. Based on OH ownership funding awards for 2020, 2021, and 2022, the net annual increase would average approximately two to three projects totaling 40 to 60 units. For rental housing funded by OH during the same time period, annual new construction of multifamily housing that is not PSH but temporarily eligible for exemption from design review averages approximately five to six projects totaling 685 units.

Examples of guidance culminating from design review include enhancements to building entries to distinguish them from their surroundings, artwork or special landscaping in exterior communal areas, additional seating to encourage congregation and social interaction in patio areas, increased window depth throughout a building, or use of textured materials similar to

other buildings in the immediate area. Recommendations can increase soft costs, like design and architecture time and fees, sometimes also increase hard costs of construction, in which case subsidy amounts agreed to by the Seattle Office of Housing or another public funding partners could need to be increased. This could translate to less low-income housing even though immediate and long-term need for low-income housing already dwarf available resources. Exempting low-income housing from design review can mitigate associated and often unexpected cost increases. This exemption has been in place on a temporary basis for the large majority of low-income housing development activity for the past three years with no known adverse impacts.

- ④ Repeal subsection 23.41.004.D – The provisions in this subsection 23.41.004.D are “temporary provisions for affordable housing projects” first enacted under the Covid Emergency Order. This subsection, until it sunsets in January 2024, authorizes applicants to request waiver and modification for specific development standards through the design review exemption for low-income housing with at least a minimum share of 60% AMI units. The list of development standards for which waivers and modifications can be requested through design review is the same as currently allowed by Section 23.42.057 as a Type I decision for PSH. This legislation amends that Section so that it applies to all low-income housing, not just PSH. (Detail about development standards permissible for waiver and modification requests is provided in the explanation for Section 23.42.057 below.)
- ④ New subsection 23.41.004.D – A new subsection would also allow low-income housing that vests according to Section 23.76.026 prior to the effective date of this legislation to use the design review exemption. That option could help a few City-funded projects that are still early enough in the permitting process.

SMC Chapter 23.42 General Use Provisions

Section 23.42.055 Low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.42.055 title - Amend Section title to read “Development of affordable units on property owned or controlled by a religious organization.”
- ⑦ Amend Section 23.42.055 - Simplify and provide greater clarity and readability of provisions related to development of affordable units on religious organization-owned property. Define “affordable units” for purposes of this Section, which has unique affordability requirements consistent with state authorizing statute RCW 35A.63.300. Condense affordability requirements for housing on religious-owned property. The changes remove details that are addressed in required regulatory agreements and are beyond a level appropriate for the LUC. What constitutes “monthly rent” is an example of language that is repealed.

Section 23.42.057 Permanent supportive housing

- ④ Amend Section 23.42.057 title – Change the title of this Section to read “Waivers and modifications for low-income housing.”
- ④ Amend Section 23.42.057 – Amend this Section to allow waiver or modification from certain development standards for all low-income housing, including affordable homes for buyer

households with incomes no higher than 80% AMI. Currently, SDCI may issue Type I decisions (which do not require public notice) on waiver and modification requests only from PSH applicants. The amendments would extend that authorization to include all low-income housing. As mentioned in the Section 23.41.004 amendments summary above, applicants whose residential projects have a certain share of units affordable no higher than 60% AMI can request waiver and modification of the same development standards according to temporary design review provisions. Those provisions sunset in January 2024. With this legislation, authorization to submit requests would no longer be temporary and it would apply to all low-income housing. Development standards that could be modified are unchanged. They relate to size of parking spaces, ratios of parking space sizes, overhead weather protection, façade details, size and design of indoor and outdoor communal areas, street-level details, and other similar physical development standards as determined by the SDCI Director, provided they do not increase the size of the building envelope. The existing community engagement requirement for PSH in Section 23.42.057 is unchanged.

- ④ New subsection 23.42.057.D – A new subsection would also allow low-income housing that vests according to Section 23.76.026 prior to the effective date of this legislation to request waivers and modifications under Section 23.42.057 if needed. That option could help a small number of City-funded projects that are still early enough in the permitting process.

Section 23.42.070 Parking for rented or leased multifamily dwelling units and commercial uses

- ③ Amend Section 23.42.070.B.2 – Amend this subsection to reference the term “moderate-income units.” This is an existing exception related to leases for housing and residential parking.

SMC Chapter 23.44 Neighborhood Residential

Section 23.44.019 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.44.019 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

Section 23.44.024 Clustered housing planned developments

- ③ Amend Section 23.44.024 – Replace the words “affordable housing,” which is undefined for purposes of Chapter 23.44, with low-income housing.

Section 23.44.034 Planned residential development (PRD)

- ③ Amend Section 23.44.034 - Replace the words “affordable housing,” which is undefined for purposes of Chapter 23.44, with low-income housing.

Section 23.44.041 Accessory dwelling units

- ③ Amend subsection 23.44.041.A.1 – This subsection allows a second accessory dwelling unit to be built on a lot by one of three ways. The applicant can add a second accessory dwelling unit by (1) converting floor area within an existing structure; (2) building a new structure that complies with green building standards; or (3) entering into an agreement with the City to rent the

second accessory dwelling unit at affordability levels no higher than 80% AMI for 50 years. The amendment replaces language describing the third option with the defined term low-income unit. For applicants that opt for deed restrictions on the second accessory dwelling unit, the change reduces the affordability limit to 60% AMI for rental occupancy and allows the 80% AMI limit if the accessory dwelling unit is owner occupied. The minimum 50-year duration of the housing covenants is unchanged.

SMC Chapter 23.45 Multifamily

Section 23.45.510 Floor area

- ③ Amend subsection 23.45.510.D.13 – Replace permanent supportive housing with low-income housing. This change extends to all low-income housing an existing floor area exemption for accessory human services. That type of use is currently only exempt for purposes of calculating FAR in PSH developments. Although most low-income housing that also includes accessory human services is PSH, this change eliminates an FAR penalty for other low-income housing that might include this use. Consumer and credit counseling, information and referral services for employment or education, food banks, and community health care clinics are examples of accessory human service uses.

Section 23.45.512 Density limits and family-size unit requirements – LR zones

- ③ Amend subsection 23.45.512.A.4 – This subsection currently allows a higher density limit for certain affordable housing in LR1 zones. The amendment simplifies a three-part Code provision to a single sentence stating, “Low-income housing shall have a maximum density of one dwelling unit per 400 square feet of lot area.” The density exception is unchanged, but using the term low-income housing clarifies the affordability requirements and adopts a standard duration for housing covenants (the language currently refers to the “life of the structure,” which is inconsistent with the City’s and other public agencies’ regulatory agreements).

Section 23.45.516 Method to achieve extra residential floor area in HR zones

- ⑦ Amend subsection 23.45.516.B.1 – Removes the word “program” in reference to affordable housing incentives. The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.

Section 23.45.550 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.45.550 title – Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

SMC Chapter 23.47A Commercial

Section 23.47A.004 Permitted and prohibited uses

- ③ Amend Table A for 23.47A.004 – In column of table that states permanent supportive housing is permitted outright in C2 zones, change permanent supportive housing to low-income housing. Currently low-income housing that is not PSH would require application for a conditional use permit in C2 zones.

Section 23.47A.005 Street-level uses

- ③ Amend subsection 23.47A.005.C.2.a – In a provision about allowable street-level residential uses, replace reference to low-income housing existing as of 5/1/2006 with simply low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.
- ⑦ Amend subsection 23.47A.005.C.2.d – Delete reference to conversion of live-work space to an accessory dwelling unit that meets the owner occupancy requirement of subsection 23.44.041.C. The current Code does not include an owner occupancy requirement.
- ③ Repeal subsection 23.47A.005.C.2.e and subsection 23.47A.005.C.2.f – These subsections identify other affordable housing allowed as street-level residential uses. With the amendment to reference low-income housing in subsection 23.47A.005.C.2.a, these subsections are no longer necessary.
- ③ Amend subsection 23.47A.005.D.1.o - In a list of uses that must comprise at least 80 percent of the street-level, street-facing façade, replace permanent supportive housing with low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.

Section 23.47A.013 Floor area ratio

- ③ Amend subsection 23.47A.013.B.9 - Replace permanent supportive housing with low-income housing. This change extends to all low-income housing an existing floor area exemption for accessory human services. Accessory human services are currently exempt for purposes of calculating FAR only in PSH developments. Although most low-income housing that also includes accessory human services is PSH, this change eliminates an FAR penalty for other low-income housing that might include this use. Consumer and credit counseling, information and referral services for employment or education, food banks, and community health care clinics are examples of accessory human service uses.

Section 23.47A.040 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.47A.040 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

SMC Chapter 23.48 Seattle Mixed

Section 23.48.005 Uses

- ③ Amend subsection 23.48.005.D.1.j - In a list of one or more uses required along the street-level façade of specified streets, replace permanent supportive housing with low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.

Section 23.48.020 Floor area ratio (FAR)

- ③ Amend subsection 23.48.020.B.8 - Replace permanent supportive housing with low-income housing. This change extends to all low-income housing an existing floor area exemption for

accessory human services. That type of use is currently only exempt for purposes of calculating FAR in PSH developments. Although most low-income housing that also includes accessory human services is PSH, this change eliminates an FAR penalty for other low-income housing that might include this use. Consumer and credit counseling, information and referral services for employment or education, food banks, and community health care clinics are examples of accessory human service uses.

Section 23.48.100 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.48.100 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

Section 23.48.232 Lot area limits in SM-SLU/R 65-95

- ③ Amend subsection 23.48.232.F.4.c – Replace detailed affordability provisions with the term moderate-income unit in a provision that provides an option for satisfying requirements to include a non-residential structure in an otherwise residential or mixed-use zone. Simplification of this provision eliminates an obsolete 20-year term of affordability for restricted units. The AMI limits are unchanged.

Section 23.48.605 Uses in SM-U zones

- ③ Amend subsection 23.48.605.C.1.k – In a list of one or more uses required along the street-level façade of specified streets replace permanent supportive housing with low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.

Section 23.48.920 Floor area ratio in SM-RB zones

- ③ Amend subsection 23.48.920.B.6 - Replace detailed eligibility language specific to a higher FAR limit for certain affordable housing with the term low-income housing. The change expands the provision to include affordable ownership for households with incomes no higher than 80% AMI. Currently, the FAR limit only applies to low-income housing with rent and income limits no higher than 60% AMI, publicly funded developments that include affordable ownership homes for households with incomes no higher than 80% AMI.

SMC Chapter 23.49 Downtown Zoning

Section 23.49.007 Mandatory housing affordability (MHA)

- ⑦ Amendment to Section 23.49.007 title - Change the title of this Section to “Mandatory housing affordability (MHA) in Downtown zones” for clarity and consistency with titles of parallel sections in other zone chapters.

Section 23.49.008 Structure height

- ⑥ Amend Section 23.49.008 – Throughout this Section, reference Chapter 23.58A “Incentive provisions” in lieu of bonus provisions according to Chapter 23.49.015. Chapter 23.49.015 became obsolete with implementation of MHA in Downtown zones. This Code clean-up does not change requirements for development in Downtown zones. Requirements for bonus residential floor area continue to be satisfied by complying with Chapter 23.58C, the affordable

housing incentive program authorized by RCW 36.70A.540 commonly referred to as MHA-Residential.

- ⑦ Amend subsection 23.49.008.G – Amend this subsection for clarity. This subsection allows 10 additional feet in height and has MHA requirements different than Chapter 23.58C for the floor area and units on that additional floor.
- ⑦ New subsection 23.49.008.I – Add a new subsection stating that low-income housing may achieve maximum height according to provisions of the zone without meeting the requirements of Section 23.49.008. This language mirrors existing language in Section 23.49.023, which outlines incentive zoning requirements for South Downtown zones. Although this change does not alter existing requirements, it eliminates the potential for unnecessary reviews to establish that low-income housing provides more restricted units than required through incentive zoning, if applicable.

Section 23.49.010 General requirements for residential uses

- ⑥ Amend subsection 23.49.010.B.1 – In reference to common recreation area requirements, replace “excluding any floor area in a residential use gained in a project through a voluntary agreement for housing according to Section 23.49.015” with “excluding any bonus residential floor area achieved according to Section 23.58A.014.” Chapter 23.49.015 became obsolete with implementation of MHA in Downtown zones.

Section 23.49.012 Bonus floor area for voluntary agreements for housing and child care

- ⑥ Amend Section 23.49.012 - Repeal housing-related portions of this Section that became obsolete in 2017 with adoption of Downtown upzones to implement MHA and instead reference Chapter 23.58A, “Incentive provisions.” This Code clean-up does not change requirements for development in Downtown zones. Requirements for bonus non-residential floor area are satisfied by complying with Chapter 23.58C, the affordable housing impact mitigation program commonly referred to as MHA-Commercial.
- ⑦ Amend subsection 23.49.012.C.1 (as renumbered) – Condense and update in lieu payment provisions for childcare. The per square foot cash contribution amount is updated to reflect the current payment amount according to [SDCI Tip 258, Developer Contributions - Incentive Zoning](#). Amended language related to automatic adjustments to the payment amount in proportion to changes in the CPI-U All Items index improves clarity and readability consistent with original intent.
- ⑦ Amend subsection 23.49.012.C.2 (as renumbered) – Update the name of the Washington state department that oversees licensing for childcare facilities. Also update the name of the Human Services Department’s childcare assistance program.

Section 23.49.014 Transfer of development rights

- ③ Amend subsection 23.49.014.B.8 – Simplify and clarify requirements for affordable housing as a condition to transfer of housing TDR, Landmark housing TDR, or DMC housing TDR by using the term restricted units.

Section 23.49.015 Bonus residential floor area in DOC1, DOC2, and DMC zones outside South Downtown for voluntary agreements for low-income housing and moderate-income housing

- ⑥ Repeal Section 23.49.015 - This Section became obsolete in 2017 upon adoption of Downtown upzones to implement MHA. All provisions related to bonus floor area above base height limit now reference Chapter 23.58A.

Section 23.49.023 Extra residential floor area and hotel floor area in South Downtown; transferable development potential (TDP); limits on TDP sending sites

- ⑦ Amend subsection 23.49.023.B - Delete the word “programs” in reference to options for satisfying conditions to extra floor area.
- ③ Amend subsection 23.49.023.B.2 – Simplify and clarify a provision waiving extra floor area requirements for affordable, income-restricted housing by using the term low-income housing.

Section 23.49.037 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.49.037 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.
- ⑦ Amend Section 23.49.037 – Change “affordability and eligibility requirements of Section 23.42.055” to read “requirements of Section 23.42.055.” The reference relates to all requirements of that Section, not just the “affordability and eligibility” requirements.

Section 23.49.041 Combined lot development

- ⑦ Amend subsection 23.49.041.D.5 - Simplify this provision by deleting a redundant reference to housing affordability levels that the SDCI Director may consider when deciding whether to allow combined lot development.

Section 23.49.058 Downtown Office Core 1 (DOC1), Downtown Office Core 2 (DOC2), and Downtown Mixed Commercial (DMC) upper-level development standards

- ⑥ Amend subsection 23.49.058.C.1.b – Replace reference to Section 23.49.015 with reference to Chapter 23.58A, “Incentive provisions.” Section 23.49.015 became obsolete in 2017 with adoption of Downtown upzones to implement MHA.

Section 23.49.164 Downtown Mixed Residential, maximum width, depth and separation requirements

- ③ Amend subsection 23.49.164.C - Simplify this subsection by using the term low-income housing. Alternative development standards that apply to low-income housing existing on or before 9/11/1988 would apply to all low-income housing. The amendments enable a lengthy description of affordability and term of housing covenants to be repealed since those details are captured in the definition of low-income housing.
- ③ Amend subsection 23.49.164.D.7 – Simplify this subsection by using the term low-income housing. SDCI Director consultation with the Director of Neighborhoods prior to a decision on

waiver and modification requests for affordable housing is modified to also include the Director of Housing. The basis for SDCI’s decision on departures in South Downtown DMR/C zones is clarified as facilitation of low-income housing development. The amendments enable a lengthy description of affordability and term of housing covenants to be repealed since those details are captured in the definition of low-income housing.

Section 23.49.180 Additional height in the PSM 85-120 zone

- ⑥ Amend subsection 23.49.180.A – Amend this subsection regarding “general intent” to provide greater clarity and readability and to reference the definition of affordable housing according to Chapter 23.58A, “Incentive provisions.”
- ⑥ Amend subsections 23.49.180.C and 23.49.180.E.1 – Amend these subsections to reference Chapter 23.58A, “Incentive provisions.” Although there are no longer developable lots in the PSM 85-120 zone, this change means an obsolete Section 23.49.181 can be repealed.

Section 23.49.181 Bonus floor area for affordable housing in the PSM 85-120 zone

- ⑥ Delete Section 23.49.181 - Repeal obsolete Section 23.49.181 in concert with amendments to Section 23.49.180. All provisions related to bonus floor area in the PSM 85-120 zone now reference Chapter 23.58A.

SMC Chapter 23.54 Quantity and design standards for access, off-street parking, and solid waste storage

Section 23.54.015 Required parking and maximum parking limits

- ③ Amend Table B for 23.54.015 – This amendment replaces detailed provisions in the body of the Table and in multiple footnotes with a single, short statement that parking is not required for low-income units and moderate-income units. The provision would apply to low-income units and moderate-income units in multifamily residential uses and cottage housing developments. Existing provisions provide a parking exemption for each unit affordable at 80% AMI. As amended, homes with long-term initial sale and resale price restrictions ensuring affordability to buyer households with incomes no higher than 100% AMI would also qualify for the per unit exemption. To date, there are no homes subject to affordability limits higher than 80% AMI in Seattle. Development of such units would require exclusively private sector financing, which is unlikely. However, the change is consistent with the original intent of the provision to reduce parking requirements for affordable housing.
- ③ Amend footnote 5 in Table D for 23.54.015 – This focuses applicability of existing exemption and waiver provisions on units in publicly funded low-income housing. For units with an affordability limit above 30% AMI but less than 60% AMI (for rental) or 80% AMI (for ownership), a waiver is only allowed if alternative bike storage is provided. That requirement is unchanged. The affordability limit is increased to 80% AMI so that the exemption also would apply to development that creates homeownership opportunities with ongoing affordability of sales and resales for low-income buyers. The 80% AMI affordability limit provides additional flexibility and potential cost savings for publicly funded development of affordable for-sale homes.

SMC Chapter 23.58A Incentive provisions

Section 23.58A.002 Scope of chapter; general rules

- ⑦ Add new subsection 23.58A.002.D - Add a new subsection stating that low-income housing may achieve bonus floor area according to provisions the zone without meeting the requirements of Chapter 23.58A. This language mirrors existing language in Section 23.49.023, which outlines incentive zoning requirements for South Downtown zones. Although this change does not alter existing requirements, it eliminates the potential for unnecessary reviews to establish that low-income housing provides more restricted units than required through incentive zoning, if applicable.

Section 23.58A.003 Affordable housing incentive programs: purpose and findings

- ⑦ Amend Section title - Amend the title of this Section to read “Affordable housing incentives: purpose and findings.” Delete the word “programs.” The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.
- ⑦ Amend subsection 23.58A.003.A and subsection 23.58A.003.C.1 - Remove the word “program” in these two subsections. The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.
- ⑦ Amend subsection 23.58A.003.C1 – Simplify and clarify this subsection regarding findings by referencing affordable housing as defined specifically for purposes of Chapter 23.58A. In addition, delete an unnecessary modifier for affordable housing that reads “not receiving public subsidies” since AMI limits for publicly funded affordable housing are equivalent to or lower than Chapter 23.58A AMI limits that apply to performance units provided as a condition to extra floor area.

Section 23.58A.004 Definitions

- ⑦ Amend Section 23.58A.004 – Replace “a unit or units of housing” with defined term “restricted units” in Chapter 23.58A’s definition of “affordable housing.” Replace “low-income housing” with “affordable housing,” as defined for purposes of Chapter 23.58A, throughout this Section and other technical corrections and clarifications.

Section 23.58A.014 Bonus residential floor area for affordable housing

- ⑦ Amend subsection 23.58A.014.B.1 - Clarify calculation of floor area provided as affordable housing as a condition of bonus floor area by using the term “net unit area.” Subsection 23.86.007.B defines that term for the purpose of measuring residential units. In addition, remove a provision that became obsolete many years ago with adoption of affordability requirements for units with net unit area 400 square feet or less.
- ⑤ Amend subsection 23.58A.014.B.2 – Add new provision to authorize release of the housing performance agreement if a property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.
- ⑦ Amend subsection 23.58A.014.B.3 – Simplify duration of affordable housing agreement language.

- ⑦ Amend subsection 23.58A.014.B.4 – Simplify and clarify provisions related to size and distribution of affordable housing units.
- ⑤ Amend subsection 23.58A.014.B.5.b - Replace existing annual report provision with standard reporting requirements for properties that include restricted units. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.014.B.5.c - Add a new subsection with a standard annual compliance fee for properties that include restricted units for renter occupancy. The fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58A.014.B.6.a – Condense detailed language related to initial sale and resale prices.
- ⑦ Amend subsection 23.58A.014.B.6.b (as renumbered) - Clarify provision by replacing “consistent with the affordability restriction on the same basis” with reference to the Code section that provides requirements for initial sale and resale prices.
- ⑤ Add new subsection 23.58A.014.B.6.c – Add standard reporting requirements for properties that include restricted units for owner occupancy. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.014.B.6.d – Add a new subsection authorizing a standard annual stewardship fee by rule for properties that include restricted units for owner occupancy, as currently is in the MHA framework. Stewardship fee provisions are now succinct and uniform throughout the land use code.
- ⑦ Amend subsection 23.58A.014.B.8.a – Condense provisions outlining priority locations for off-site affordable housing.
- ⑤ Amend subsection 23.58A.014.B.9 - Replace lengthy and complicated language governing the use of subsidies for affordable housing provided as a condition of bonus floor area with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements for bonus floor area may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying that public benefits required according to Section 23.58A.014 are met.
- ⑤ Amend subsection 23.58A.014.B.10 – Technical edits to existing requirement about housing review fees according to Section 22.900G.015. The applicability and amount of the fee is unchanged.
- ⑦ Amend Section 23.58A.014.C – Condense and update in lieu payment provisions for affordable housing. The per square foot cash contribution amount is updated to reflect the current payment amount according to [SDCI Tip 258, Developer Contributions - Incentive Zoning](#). Amended language related to automatic adjustments to the payment amount in proportion to

changes in the CPI-U All Items index improves clarity and readability consistent with original intent.

Section 23.58A.024 Bonus non-residential floor area for affordable housing and child care

- ⑦ Amend subsection 23.58A.024.B.1 – Clarify calculation of floor area provided as affordable as a condition of bonus floor area by using the term “net unit area.” That term is defined in subsection 23.86.007.B for the purpose of measuring residential units.
- ⑤ Amend subsection 23.58A.024.B.2 – Add new provision to authorize release of the housing performance agreement if the property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.
- ⑦ Amend subsection 23.58A.024.B.3 – Simplify duration of affordable housing agreement language.
- ⑦ Amend subsection 23.58A.024.B.4 – Simplify and clarify provisions related to size and distribution of affordable housing units.
- ⑤ Amend subsection 23.58A.024.B.5.b - Replace existing annual report provision with standard reporting requirements for properties that include restricted units. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.024.B.5.c - Add a new subsection with a standard annual compliance fee for properties that include restricted units for renter occupancy. The fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58A.024.B.6.a – Condense detailed language related to initial sale and resale prices.
- ⑦ Amend subsection 23.58A.024.B.6.b (as renumbered) - Clarify provision by replacing “consistent with the affordability restriction on the same basis” with reference to the Code section that provides requirements for initial sale and resale prices.
- ⑤ Add new subsection 23.58A.024.B.6.c – Add standard reporting requirements for properties that include restricted units for owner occupancy. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.024.B.6.d – Add a new subsection authorizing a standard annual stewardship fee by rule for properties that include restricted units for owner occupancy, as currently is in the MHA framework. Stewardship fee provisions are now succinct and uniform throughout the land use code.
- ⑦ Amend subsection 23.58A.024.B.8.a – Condense provisions outlining priority locations for off-site affordable housing.

- ⑤ Amend subsection 23.58A.024.B.9 - Replace lengthy and complicated language governing the use of subsidies for affordable housing provided as a condition of bonus floor area with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements for bonus floor area may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying that public benefits required according to Section 23.58A.024 are met.
- ⑤ Amend subsection 23.58A.024.B.10 – Technical edits to existing requirement about housing review fees according to Section 22.900G.015. The applicability and amount of the fee is unchanged.
- ⑦ Amend Section 23.58A.014.D – Condense and update in lieu payment provisions for affordable housing and childcare. The per square foot cash contribution amounts are updated to reflect the current payment amounts according to [SDCI Tip 258, Developer Contributions - Incentive Zoning](#). Amended language related to automatic adjustments to the payment amounts in proportion to changes in the CPI-U All Items index improves clarity and readability consistent with original intent.

Section 23.58A.042 Transferable development potential (TDP) and rights (TDR)

- ③ Amend subsection 23.58A.042.E.2 - Simplify and clarify requirements for affordable housing as a condition to transfer of housing TDR, Landmark housing TDR, or DMC housing TDR by using the term “restricted units.”

SMC Chapter 23.58B Affordable housing impact mitigation program for commercial development

23.58B.010 Intent for implementation

- ⑦ Amend Section 23.58B.010 - Replace “program performance” with “outcomes.” This is consistent with the context, which relates to evaluation of MHA-C outcomes, and eliminates potential confusion with MHA’s performance option.

23.58B.020 Applicability and general requirements

- ③ Amend subsection 23.58B.020.C – Replace lengthy paragraph detailing eligibility for MHA-C exemption with single sentence reading “Low-income housing that includes floor area in commercial use is exempt from the requirements of this Chapter 23.58B.”
- ⑦ Amend subsection 23.58B.020.D – Clarify and improve readability of this subsection explaining the relationship of MHA-C to incentive zoning.

Section 23.58B.025 Permit documentation

- ⑦ Amend Section 23.58B.025 – Throughout this Section, clarify calculation of floor area of MHA-C units provided through the performance option by using the term “net unit area.” Subsection 23.86.007.B defines that term for the purpose of measuring residential units.

- ⑤ New subsection 23.58B.025.A.6 – Add a new subsection referencing permit fees required according to Section 22.900G.015, consistent with parallel subsections in other LUC chapters. Applicability and housing review fee amount is unchanged.

Section 23.58B.040 Mitigation of impacts – payment option

- ⑦ In Tables A and B for Section 23.58B.040, the per square foot cash contribution amounts are updated to reflect the current payment amounts according to [SDCI Tip 257, Developer Contributions - Mandatory Housing Affordability](#). Amended language related to automatic adjustments to payment amounts in proportion to changes in the CPI-U Shelter index improves clarity and readability consistent with original intent.
- ⑦ Amend subsection 23.58B.040.B.2 – Delete vague and unnecessary language about commitment of MHA-C funds “over multiple years.”

Section 23.58B.050 Mitigation of impacts – performance option

- ⑦ Amend subsection 23.58B.050.A.1 – Clarify calculation of floor area of MHA-C units provided through the performance option by using the term “net unit area.” Subsection 23.86.007.B defines that term for the purpose of measuring residential units.
- ⑤ Amend subsection 23.58B.050.B.7 (as renumbered) - Replace lengthy and complicated language governing the use of subsidies for MHA-C units provided through the performance option with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements of Chapter 23.58B may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying that public benefits required according to Section 23.58B.050 are met.
- ⑤ Amend subsection 23.58B.050.B.11 (as renumbered) – Condense and clarify annual report provisions with standard reporting requirements for properties that include MHA-C units provided under the performance option. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58B.050.14 (as renumbered) – Condense and clarify annual compliance fee requirements for properties that include MHA-C units provided through the performance option. The fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58B.050.B.17 (as renumbered) - Add new provision to authorize release of the housing performance agreement if the property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.

Section 23.58B.060 Definitions

- ③ Amend Section 23.58B.060 – Change the term “MHA-C housing” to “MHA-C unit” and in the definition of MHA-C unit, change “means housing provided” to “means a restricted unit” provided. Use the term MHA-C unit throughout Chapter 23.58B, as applicable.

Chapter 23.58C Mandatory housing affordability for residential development

23.58C.020 Definition

- ⑦ Amend Section 23.58A.020 – Improve clarity and readability of Chapter 23.58C’s definition of “unit” and correct punctuation errors. Establish term “MHA-R unit” for any restricted unit provided to comply with Chapter 23.58C. Replace phrase “unit provided through the performance option” with “MHA-C unit” throughout the Chapter.

23.58C.025 Applicability and general requirements

- ③ Amend subsection 23.58C.025.C – Replace lengthy paragraph detailing eligibility for MHA-R exemption with single sentence reading “Low-income housing is exempt from the requirements of this Chapter 23.58C.”
- ⑦ Amend subsection 23.58C.025.D – Clarify and improve readability of this subsection explaining the relationship of MHA-R to incentive zoning.

23.58C.030 Permit documentation

- ⑤ New 23.58C.030.A.7 – Add a new subsection referencing permit fees required according to Section 22.900G.015, consistent with parallel subsections in other LUC chapters. Applicability and housing review fee amount is unchanged.

23.58C.040 Affordable housing—payment option

- ⑦ In Tables A and B for Section 23.58C.040, the per square foot cash contribution amounts are updated to reflect the current payment amounts according to [SDCI Tip 257, Developer Contributions - Mandatory Housing Affordability](#). Amended language related to automatic adjustments to payment amounts in proportion to changes in the CPI-U Shelter index improves clarity and readability consistent with original intent.
- ⑦ Amend subsection 23.58C.040.B.1 – Delete vague and unnecessary language about commitment of MHA-C funds “over multiple years.”

23.58C.050 Affordable housing—performance option

- ⑦ Amend subsection 23.58C.050.C.2.c – Add reference to 23.86.007.B, which defines net unit area.
- ⑤ Amend subsection 23.58C.050.C.5 - Replace lengthy and complicated language governing the use of subsidies for MHA-C units provided through the performance option with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements of Chapter 23.58C may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying delivery of public benefits according to Section 23.58C.050.
- ⑤ Amend subsection 23.58C.050.C.6.d - Condense and clarify annual report provisions with standard reporting requirements for properties that include MHA-R units provided under the performance option. Reporting requirements are now succinct and uniform throughout the land use code.

- ⑤ Amend subsection 23.58C.050.6.e – Condense and clarify annual compliance fee requirements for properties that include MHA-R units for renter occupancy. The fee amount is unchanged and adjustments for inflation would now be at the discretion of the Director of Housing rather than mandatory. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑦ Amend subsection 23.58C.050.6.i – Clarify calculation of payment in lieu of continuing affordability when rental MHA-R units are converted to ownership MHA-R units, consistent with intent. The percentage of in-lieu payment amount owed is unchanged.
- ⑦ Amend subsection 23.58C.050.C.7.c.2 – Delete “program” in reference to rules established by the Director of Housing.
- ⑤ Amend subsection 23.58C.050.C.7.d – Condense and clarify annual stewardship fee requirements for properties that include MHA-R units for owner occupancy. Director of Housing establishment of the initial fee by rule is unchanged. Stewardship fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58C.050.C.7.f – Add new provision requiring the applicant or third-party stewardship entity, as applicable, to submit a compliance report for affordable homes for owner-occupancy no less than annually.
- ⑤ Amend subsection 23.58C.050.E – Add new provision to authorize release of the housing performance agreement if the property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.

SMC 23.66 Special review districts

Section 23.66.100 Creation of district, legislative findings and purpose

- ⑦ Amend subsection 23.66.100.A – Change “housing types for all income groups” to “housing types for people of all income levels.”
- ⑦ Amend subsection 23.66.100.C – Improve clarity and readability of general provisions related to social diversity in pioneer square zones. Change “housing for persons of many income groups” to “housing for persons with a wide range of incomes.”

Section 23.66.310 Union Station Corridor goals and objectives

- ⑦ Amend subsection 23.66.310.B – Delete the word “existing” in aspirational provision about preservation of low-income housing.

SMC 23.70 Mobile home park overlay district

Section 23.70.008 Permitted and prohibited uses

- ⑦ Amend subsection 23.70.008.A – In subsection related to uses permitted outright in the mobile home park overlay district, delete use of defined term low-income housing, which as modified is inconsistent with the overlay’s housing requirements. Improve clarity and readability of this sentence.

Section 23.70.010 Development standards for residential uses

- ⑦ Amend subsection 23.70.010.B – Improve clarity and readability of this subsection related to housing with affordability restrictions. Clarify provision that addresses requirements that would apply in event the lot is subject to more than one regulatory agreement. In subsection 23.70.008.B.1.a, delete “adjusted for household size” after references to median income. The definition of “median income” according to Section 23.84A.025 adjusts for household size. Subsection 23.70.008.B.1.b is corrected to also reference congregate residence sleeping rooms, consistent with subsection 23.70.008.B.1.a.
- ⑦ Amend subsection 23.70.010.B.5.a (as renumbered) – Change reference to “low-income housing development” to instead read “housing development according to subsection 23.70.008.B.”
- ⑦ New subsection 23.70.010.B.6 – Consolidate details about what constitutes “monthly rent” for purposes of subsection 23.70.010.B in a single subsection. Identical language is currently repeated twice in subsection 23.70.010.B.

SMC Chapter 23.72 Sand Point overlay district

Section 23.72.002 Purpose and intent

- ③ Amend subsection 23.72.002.C – Change “affordable housing” to “low-income housing.”

Section 23.72.010 Development standards

- ③ Amend subsection 23.72.010.D.1.b – Change “affordable housing structures” to “low-income housing” and correct acronym for the zone referenced in this subsection.

SMC Chapter 23.73 Pike/Pine conservation overlay district

Section 23.73.010 Floor area limits outside the Conservation Core

- ③ Amend subsection 23.73.010.B.1.c – Replace detailed description of affordable housing eligible for exceptions to the floor area limit with reference to the newly defined term “moderate-income unit.” The affordability levels required are unchanged.

Section 23.73.016 Amenity area

- ③ Amend subsection 23.73.016.B – Replace detailed description of affordable housing eligible for an amenity requirement exemption with reference “low-income housing,” as newly defined. The affordability limit for rental units is unchanged. The amendment extends the exemption to also include ownership low-income housing, which has 80% AMI limit. In addition, the change reduces the duration of the affordability requirements from 99 years to 40 or 50 years, depending on tenure, consistent with standard regulatory terms for low-income housing that is City-funded and/or financed with low-income housing tax credits and tax-exempt bonds.
- ③ Amend subsection 23.73.016.C – Shorten and clarify provision allowing amenity area in existing affordable housing to be eliminated. Use term low-income housing, parallel to change in 23.73.016.B.

SMC Chapter 23.75 Master Planned Communities

Section 23.75.020 Definitions

- ⑦ Amend subsection 23.75.020.B – Amend the definition of “affordable housing” to reference “replacement unit,” “60% AMI unit,” and “80% AMI unit,” which are each defined for purposes specific to Chapter 23.75. In the definition of “affordable housing,” state what “household” means since the Chapter 23.84A definition of that same term is incompatible as it relates to restricted units. Also state what “annual income” means for purposes of Chapter 23.75.

In the definition of “replacement unit,” change reference to “housing unit” to just “unit” since the Chapter 23.84A definition of “housing unit” is incompatible with requirements for restricted units.

Replace the words “percent of MI” with “% AMI.” In the definitions of “60% AMI unit” and “80% AMI unit” delete “of affordable housing” because affordable housing by definition includes those unit types. For each of these defined terms, delete “as defined in Section 23.84A.025” in reference to term median income.

Update Chapter 23.75 to use defined terms, as amended.

Section 23.73.085 Residential floor area limits; affordable housing incentive program

- ⑦ Amend Section 23.75.085 title - Amend the title to read “Residential floor area limits; affordable housing incentives.” Remove the word “program.” The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.
- ⑦ Amend subsection 23.75.085.B.2 – Replace detailed language regarding affordability with reference to terms already defined for purposes of this Chapter 23.75. Delete reference to “program.”
- ⑦ Amend Table A for 23.75.085 – Edit Column 2 heading for clarity. Edit Column 2 descriptions of what units count for purposes achieving Tier 1, 2, 3 and 4 maximum residential floor area allowed in the MPC-YT zone. Edit footnote 1 of Table A for clarity.
- ⑦ Amend subsection 23.75.085.D.2.d (as renumbered) – Clarify provision by replacing “requirements on the same basis” with references to the Code sections that provide requirements for initial sale and resale prices.
- ⑦ Amend subsection 23.75.085.D.3 (as renumbered) – Clarify a requirement about minimum average floor area of affordable housing units by using a term “net unit area.” That term is defined in Section 23.86.007.B for the specific purpose of ensuring consistent methodology for measurement of units in developments subject to affordability requirements.
- ⑤ Add a new subsection 23.75.085.D.5 – Add a new subsection with standard reporting requirements for properties that include restricted units. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.75.085.D.6 - Add a new subsection with a standard annual compliance fee for properties that include affordable units. For rental units, the fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A

new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Authorize a standard annual stewardship fee by rule for properties that include restricted units for owner occupancy, as currently is in the MHA framework. Compliance and stewardship fee provisions are now succinct and uniform throughout the land use code.

- ⑤ Amend subsection 23.75.085.E (as renumbered) - Replace lengthy and complicated language governing use of subsidies for affordable housing provided as a condition of bonus floor area with a simple “no other restrictions” clause specific to units rather than the overall project. This means that any unit provided to satisfy MPC-YT development requirements may not, in some cases, be the same unit provided to satisfy unrelated affordability and income restrictions. Some exceptions to this rule apply for developers in the MPC-YT zone. In that zone, developers may “double dip” by using the same units to satisfy public benefits required for both Section 23.75.085 and as a condition of reduced land prices, Washington State Housing Finance Commission bonds and four percent tax credits, and property tax exemptions authorized by Chapter 5.73 (MFTE). This legislation leaves those exceptions in place, with an added qualifier limiting the duration of MFTE to 12 years, consistent with original intent and the terms of the Cooperative Agreement between the City and Seattle Housing Authority. This means that property owners can offer the same unit(s) to satisfy requirements for both their MPC-YT development allowances and their property tax exemptions for up to 12 years.
- ⑦ Amend subsection 23.75.085.F (as renumbered) – Clarify provisions about when affordable housing units count for purposes of allowing development in tiers according to Table A for 23.75.085.
- ⑤ Amend subsection 23.75.085.I – Technical edits to existing requirement about housing review fees according to Section 22.900G.015. The applicability and amount of the fee is unchanged.

SMC Chapter 23.76 Procedures for Master Use Permits and Council land use decisions

Section 23.76.032 Expiration and renewal of Type I and Type II Master Use Permits

- ⑦ Amend subsection 23.76.032.A.1.f – Delete reference to Section 23.49.181, which is repealed by this legislation.

SMC Chapter 23.86 Measurements

Section 23.86.007 Floor area and floor area ratio (FAR) measurement

- ⑦ Amend subsection 23.86.007.B – Amend the definition of “net unit area” to clarify this is a square footage measurement. This eliminates the need to work in the words “square feet” whenever the term “net unit area” is used in the LUC. The LUC defines net unit area to ensure that the size of individual units is measured in a consistent manner. This is especially important for restricted units, where AMI limits oftentimes vary depending on net unit area.

Recommendation

Adoption of these amendments will make land use code provisions related to low-income housing and affordable units easier to understand, administer, and apply. Adoption of these amendments will also help facilitate development of publicly funded low-income housing. The Office of Housing and Seattle Department of Construction and Inspections recommend approval of the proposed legislation.