

Amendment 1 Version #1 to CB 120824 – Downtown Activation Plan: Design Review Exemption

Sponsor: Councilmember Morales

Vesting for Exempt projects

Effect: Council Bill (CB) 120824 would allow eligible projects to vest prior to permit application by filing a letter establishing their eligibility, provided that a permit application is made within 90 days. This is similar to the vesting provisions available through Design Review that are intended to mitigate the risk to the applicant of a regulatory change during the sometimes-lengthy Design Review period. The mayor did not propose, nor did the Council authorize, similarly favorable vesting when it approved permanent Design Review exemptions for low-income housing ([Ordinance 126855](#)) or temporary exemptions for projects providing units on-site under the Mandatory Housing Affordability program ([Ordinance 126854](#)).

This amendment would maintain current vesting provisions applicable all other projects that are not subject to Design Review. Outside of Design Review a project vests with a Master Use Permit decision or through filing a complete building permit application.

Amend Sections 1, 5, and 7 of CB 120824 as follows:

Section 1. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance 126862, is amended as follows:

23.41.004 Applicability

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E. Temporary provisions

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3. Downtown Activation Plan

a. A development proposal that is subject to design review according to this Section 23.41.004 shall be exempt from this Chapter 23.41, unless ineligible for exemption due to other code provisions, if:

1) The proposal includes residential use comprising at least 50 percent of its chargeable floor area, except if at least 50 percent of the chargeable floor area in nonresidential use is lodging then no residential use is required; or includes a research and development laboratory use; and

2) The proposal is located on a property within the Downtown Urban Center, Uptown Urban Center, South Lake Union Urban Center, First Hill Urban Center, or an area within the Greater Duwamish Manufacturing and Industrial Center, as shown on Map A for 23.41.004; or within an area included in an adopted expansion area of an urban center or manufacturing and industrial center shown on Map A for 23.41.004; and

3) The applicant files a letter of eligibility for exemption pursuant to subsection 23.76.010.G, ~~provided that permit application materials are subsequently filed per subsection 23.76.026.A.4;~~ and

4) The proposal does not involve a Type IV or Type V Council land use decision.

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Section 5. Section 23.76.010 of the Seattle Municipal Code, last amended by Ordinance 126685, is amended as follows:

23.76.010 Applications for Master Use Permits

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G. A letter of eligibility for exemption from design review is required for applications subject to temporary provisions in subsection 23.41.004.E.3. This letter of eligibility shall document a proposal's consistency with the qualifications for design review exemption in subsection 23.41.004.E.3.a, including:

1. Describing the proposed uses within the proposal per subsection 23.41.004.E.3.a.1;
2. Identifying the location of the development site within the area subject to temporary design review exemption per subsection 23.41.004.E.3.a.2; ~~and~~
3. A statement that the proposal does not involve a Type IV or Type V Council land use decision; ~~and~~
- ~~4. An acknowledgement that complete Master Use Permit application materials must be submitted within 90 days to establish vesting as indicated in subsection 23.76.026.A.4.~~

Section 7. Section 23.76.026 of the Seattle Municipal Code, last amended by Ordinance 126685, is amended as follows:

23.76.026 Vesting

A. Master Use Permit components other than subdivisions and short subdivisions. Except as otherwise provided in this Section 23.76.026 or otherwise required by law, applications for all Master Use Permit components other than subdivisions and short subdivisions shall be considered vested under the Land Use Code and other land use control ordinances in effect on the date:

1. That notice of the Director's decision on the application is published, if the decision is appealable to the Hearing Examiner;

2. Of the Director's decision, if the decision is not appealable to the Hearing Examiner; ~~((or))~~ or

3. A valid and fully complete building permit application is filed, as determined under Section 106 of the Seattle Building Code or Section R105 of the Seattle Residential Code, if it is filed prior to the date established in subsections 23.76.026.A.1 or 23.76.026.A.2((-)) ~~;~~

~~4. Of the filing of a letter of eligibility for exemption from design review pursuant to subsection 23.41.004.E.3, provided that a valid and complete Type I or Type II Master Use Permit application pursuant to Section 23.76.010 is filed within 90 days. If a complete Type I or Type II Master Use application pursuant to Section 23.76.010 has not been filed within 90 days for a proposal associated with a filed letter of eligibility for exemption from design review, the filed letter of eligibility for exemption from design review and its relevance to establishing vesting under Title 23 shall be void. A filed letter of eligibility may be withdrawn by the applicant. A new letter of eligibility may be filed, that defines a new 90-day timeframe for providing a valid and complete Type I or Type II Master Use Permit application.~~