

May 24, 2021

MEMORANDUM

To: Land Use and Neighborhoods Committee
From: Ketil Freeman, Analyst
Subject: Council Bill 120081 – Affordable Housing on Religious Organization Property

On May 26, 2021, the Land Use and Neighborhoods (LUN) Committee will have an initial briefing on [Council Bill \(CB\) 120081](#). CB 120081 would implement [Substitute House Bill \(SHB\) 1377](#) by creating a density bonus for affordable housing development on property owned or controlled by religious organizations.

This memorandum (1) provides background on enabling statutory authority, (2) briefly describes what the bill would do, (3) provides a preliminary issue identification, and (4) sets out next steps.

Enabling Statutory Authority

Substitute House Bill 1377 was enacted in 2019. Portions of the bill applicable to jurisdictions planning under the Growth Management Act, like Seattle, are now codified in [RCW 36.70A.545](#).

Among other things, RCW 36.70A.545 requires that local jurisdictions, “must allow an increased density bonus consistent with local needs for any affordable housing development of any single-family or multifamily residence located on property owned or controlled by a religious organization...”¹ and “may develop policies to implement this section if it receives a request from a religious organization...”² The statute further requires that:

- All residential development in a project utilizing the bonus must be affordable to lower income households,³ defined as households with an adjusted income of less than 80 percent of the area median income (AMI), regardless of whether a unit is owned or rented;⁴ and
- The residential development must remain affordable for at least 50 years.⁵

The statute applies to new development as well as rehabilitation of existing affordable housing development.⁶ For the purposes of the statute, a religious organization is defined by: “the federally protected practice of a recognized religious assembly, school, or institution that owns

¹ RCW 36.70A.545(1).

² RCW 36.70A.545(2).

³ RCW 36.70A.545(1)(a).

⁴ RCW 36.70A.545(7)(b).

⁵ RCW 36.70A.545(1)(b).

⁶ RCW 36.70A.545(6).

or controls real property.”⁷ This is the same definition applicable to religious organizations that host homeless encampments under the authority of [RCW 36.01.290](#).

Council Bill 120081

CB 120081 was developed by the Office of Planning and Community Development (OPCD) and the Office of Housing (OH) in response to requests from religious organizations. As proposed, the bill would establish eligibility requirement and bonus provisions for properties owned or controlled by religious organizations that are redeveloped with affordable housing. Affordability levels would be the minimum established by statute – all residential units affordable to households at 80 percent of AMI or below for at least 50 years.

General bonus provisions are provided in the table below. For more detail, see [Affordable Housing on Religious Organization Property, Director’s Report](#). May 2021.

Zone Type	Proposed Bonus for Most Zones
Single-family ⁸	<ul style="list-style-type: none"> • An additional 0.5 Floor Area Ratio (FAR) of development capacity • A 15 percent increase to lot coverage maximums • All subject to some site size and locational requirements for eligible parcels
Multifamily zones ⁹	<ul style="list-style-type: none"> • An additional floor • An additional 0.2 – 1.0 FAR • Up to 0.3 to 0.5 FAR exemption for development in urban centers and villages and within a quarter mile of frequent transit service
Commercial Zones with Heights up to 85 Feet ¹⁰	<ul style="list-style-type: none"> • Two additional floors • An additional 0.25 – 1.5 FAR • Up to 0.5 FAR exemption for development in urban centers and villages and within a quarter mile of frequent transit service
Commercial Zones with Heights Greater than 85 Feet ¹¹	<ul style="list-style-type: none"> • Four to six additional floors • An additional 0.75 – 1.75 FAR • Up to 1.0 FAR exemption for development in urban centers and villages and within a quarter mile of frequent transit service
Downtown and Seattle Mixed Zones ¹²	<ul style="list-style-type: none"> • For zones with heights up to 85 Feet, two additional floors and an additional 1.5 FAR • For zones with heights greater than 85 feet, four additional floors and an additional 3.0 FAR

⁷ RCW 36.70A.545(7)(c).

⁸ Director’s Report, p.13.

⁹ Ibid p. 12.

¹⁰ Id.

¹¹ Id.

¹² Id. p. 15

The proposal would also allow development standards for bonus development to apply to less intensively zoned portions of split zoned lots, provided that the less intensively zoned portion of the lot comprises 35 percent or less of the total development area and is not in a Single-family zone;¹³ and allow small-scale commercial development with participating affordable housing development in Lowrise multifamily zones.¹⁴

Preliminary Issue identification

Because the LUN Committee meeting on June 9 is cancelled, this memorandum sets out some preliminary issues with discussion for Committee consideration.

1. Level of Affordability and Term. The enabling statute establishes a minimum affordability level of 80 percent of AMI and a 50-year term. The Comprehensive Plan identifies that lower income households are more likely to have a housing cost-burden. Some affordable housing regulatory and incentive programs establish lower thresholds for rental housing. Specifically, the Mandatory Housing Affordability - Residential (MHA-R) program establishes minimum affordability levels of 60 percent of AMI for rental housing and 80 percent of AMI for owned housing, at initial occupancy, and sets a 75-year term for units provided through the performance option.¹⁵ An 80 percent of AMI affordability level provides affordable housing at a higher affordability level than is typically provided by the market in new development and is more likely to generate revenue for religious organizations and development partners. As a practical matter, many developments likely to take advantage of the bonus would require additional funding, most of which could only be used to develop rental units affordable to households with incomes of 60 percent of AMI or lower.

Should the 80 percent of area median income affordability threshold be lower; should there be different thresholds based on type of residential tenure; and should the term of affordability be longer?

2. Design Review. Design Review is not required for development in Single-family zones.¹⁶ However, to recognize height, bulk, and scale impacts at zone transitions, there are lower design review thresholds for projects on properties that abut Single-family zones.¹⁷ CB 120081 would allow development of a scale in Single-family zones that would be subject to Design Review if developed in multifamily zones abutting Single-family zones. Affordable housing development is exempt from Design Review during the Covid-19 civil emergency. Normally affordable housing projects that exceed size thresholds are subject to administrative design review.

Should participating projects in Single-family zones be subject to Design Review?

¹³ Id. p.15.

¹⁴ Id. p.13.

¹⁵ SMC [23.58.B.050](#) and [23.58C.050](#).

¹⁶ [SMC 23.41.004](#).

¹⁷ Ibid at Table A.

3. “Owned or Controlled” Eligibility Standard. For transitional encampments, which are shorter duration land uses with a height, bulk and scale that is typically less than that allowed by the underlying zone, the City has recognized short term leasehold interests, partnership agreements, and contracts for fiscal sponsorship with religious organizations as qualifying means to establish control of property. Development that could be possible under the proposed bonus for religious organizations would be of longer duration with a greater appearance of height, bulk and scale.

Should the City define “controlled by a religious organization” for the purposes of establishing eligible developments?

Next Steps

The LUN Committee is scheduled to hold a public hearing and may vote on the bill at its meeting on June 23rd.

cc: Dan Eder, Interim Director
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