



Legislation Text

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

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:

Section 1. The Council makes the following findings:

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

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

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

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

E. The supply of housing affordable to those with lower incomes is extremely constrained; there is an effective shortage of nearly 21,000 rental units that are both affordable and available to households at 80

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

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

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

H. Through the 2022 budget process, the Council established a work program through the Statement of Legislative Intent for the Seattle Department of Construction and Inspections (SLI SDCI-004-A-001) to convene a stakeholder group to review the Design Review program and recommend changes, considering (among other items) the program's effect on housing costs and a review of national best practices for design review programs. Legislative changes resulting from that effort or otherwise could involve changes to the applicability of the Design Review program, its processes, or other matters, both for housing projects generally and for affordable housing projects. However, any such legislative changes are unlikely to be finalized until, at the earliest, next year.

I. In response to the COVID-19 pandemic, Ordinances 126072 and 126188 provided a temporary exemption from design review, at the applicant's option, for certain affordable housing projects (e.g., projects meeting the requirements according to SMC 23.41.004.A.5, which applies to projects substantially consisting

of units serving households at or below 60 percent of AMI). Nineteen publicly funded developments totaling approximately 2,400 low-income housing units have availed themselves of the design review exemption provided by these ordinances, substantially advancing the date when those projects enter service. However, Ordinance 126188 expires at the end of 2022.

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

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

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

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

23.41.004 Applicability

A. Design review required

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

a. Multifamily;

- b. Commercial;
- c. Seattle Mixed;
- d. Downtown; and
- e. Stadium Transition Area Overlay District as shown in Map A for 23.74.004, when the

width of the lot exceeds 120 feet on any street frontage.

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

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

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

- a. Religious facilities;
- b. Elementary and secondary schools;
- c. Uses associated with a Major Institution Master Plan (MIMP); or
- d. Development of a major institution use within a Major Institution Overlay (MIO)

district.

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

5. Any development proposal, regardless of size or site characteristics, is subject to the administrative design review process according to Section 23.41.016 if it receives public funding or an allocation of federal low-income housing tax credits, and is subject to a regulatory agreement, covenant, or

other legal instrument recorded on the property title and enforceable by The City of Seattle, Washington State Housing Finance Commission, State of Washington, King County, U.S. Department of Housing and Urban Development, or other similar entity as approved by the Director of Housing, which restricts at least 40 percent of the units to occupancy by households earning no greater than 60 percent of median income, and controls the rents that may be charged, for a minimum period of 40 years.

6. Any development proposal that is located in a Master Planned Community zone and that includes a request for departures, regardless of size or site characteristics, is subject to full design review according to Section 23.41.014. If a development proposal in a Master Planned Community zone does not include a request for departures, the applicable design review procedures are in Section 23.41.020. A development proposal in a Master Planned Community zone, which includes a request for departures and provides affordable housing per subsection

23.41.004.A.5, shall be subject to administrative design review according to Section 23.41.016.

7. Subject to the exemptions in subsection 23.41.004.B, design review is required for additions to existing structures when the size of the proposed addition or expansion exceeds a threshold in Table A or Table B for 23.41.004. Administrative design review, as described in Section 23.41.016, is required for certain other additions to existing structures according to rules promulgated by the Director.

* * *

C. Optional design review

1. Design review. Development proposals that are not subject to design review may elect to be reviewed pursuant to the full, administrative, or streamlined design review process if:

a. The development proposal is in any zone or area identified in subsection 23.41.004.A.1 or 23.41.004.A.2 or in the Stadium Transition Area Overlay District, except development that is within a Master Planned Community zone is not eligible for optional design review; and

b. The development proposal does not include the uses listed in subsection

23.41.004.A.3.

2. Administrative design review. According to the applicable process described in Section 23.41.016, administrative design review is optional for a development proposal that is not otherwise subject to this Chapter 23.41 and is on a site that contains an exceptional tree, as defined in Section 25.11.020, when the ability to depart from development standards may result in protection of the tree as provided in Sections 25.11.070 and 25.11.080.

D. Temporary provisions for affordable housing projects

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

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

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

b. Requirements for the size of parking spaces;

c. Requirements for overhead weather protection;

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

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

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

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

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

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

WORK PLAN:

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

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

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

circumstances.

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

Passed by the City Council the _____ day of _____, 2022, and signed by me in open session in authentication of its passage this ____ day of _____, 2022.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2022.

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2022.

Elizabeth Adkisson, Interim City Clerk

(Seal)