

**CITY OF SEATTLE**  
**ORDINANCE** 127054  
COUNCIL BILL 120761

AN ORDINANCE relating to conversions of existing nonresidential structures to residential use; adding a new Section 23.40.080 to the Seattle Municipal Code.

WHEREAS, greater downtown Seattle has experienced significantly increased vacancy rates for commercial offices since the COVID 19 pandemic; and

WHEREAS, The City of Seattle holds it as a high priority to support economic recovery for downtown neighborhoods; and

WHEREAS, on June 29, 2023, Mayor Bruce Harrell released a Downtown Activation Plan that identified numerous strategies and actions to support downtown recovery, including actions that increase residential uses in downtown; and

WHEREAS, City departments are engaging in planning processes for long-term solutions to increase downtown activity that may include programmatic actions, such as establishing a crisis care center, and capital investments; and

WHEREAS, in addition to long-term strategies a variety of immediate actions are sought to increase downtown activation and vitality in the short term; and

WHEREAS, during 2023 the State Legislature passed, and Governor Inslee signed, Engrossed Substitute House Bill 1042 amending the state law to create more housing units by removing some of the state’s restrictions on adding dwelling units within existing structures; and

WHEREAS, in May and June 2023, the Office of Planning and Community Development (OPCD) sponsored a competitive call for ideas to convert Seattle downtown commercial

1 spaces to residential use, and OPCD received 13 proposals that provided suggestions for  
2 policy and code changes; and

3 WHEREAS, this legislation is responsive to the call for policy changes to incentivize conversion  
4 of vacant commercial buildings to activate downtown and is intended to be narrowly  
5 tailored to achieve that purpose; and

6 WHEREAS, Mandatory Housing Affordability (MHA) exemption for commercial, Downtown,  
7 or Seattle (SM) Mixed zones is appropriate given the focus on downtown activation and  
8 unused commercial spaces; and

9 WHEREAS, approximately twelve projects downtown are anticipated for conversion over the  
10 next seven years; and

11 WHEREAS, these twelve projects can be completed without exempting additional zones from  
12 MHA; and

13 WHEREAS, OPCD and SDCI will be monitoring the success of conversions in the Downtown,  
14 commercial and Seattle Mixed-Use zones, so there will additional opportunity to revisit  
15 the expansion of the MHA exemptions; and

16 WHEREAS, the proposed actions of this ordinance would increase housing supply; and

17 WHEREAS, the City through its Seattle Department of Construction and Inspections (SDCI)  
18 may provide additional flexibilities outside of this legislation with respect to application  
19 of the construction codes to proposals for conversion of existing structures to residential  
20 uses on a case-by-case basis using existing authority, and Mayor Harrell has directed  
21 SDCI to explore such flexibilities with owners of candidate structures; and

22 WHEREAS, nothing in this proposed legislation authorizes the City to approve permit  
23 applications in cases in which the building cannot satisfy life safety standards; and

1 WHEREAS, Council encourages developers converting buildings from office to residential to  
2 include units that use universal design; and

3 WHEREAS, universal design is “a concept in which products and environments are designed to  
4 be usable by all people, to the greatest extent possible, without the need for adaption or  
5 specialized design,” and

6 WHEREAS, including such units would go beyond legal compliance to make units accessible  
7 and more desirable to people with disabilities; NOW, THEREFORE,

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

9 Section 1. A new Section 23.40.080 is added to the Seattle Municipal Code as follows:

10 **23.40.080 Conversion to residential use in an existing structure**

11 A. For the purposes of this Section 23.40.080, “conversion to residential use in an  
12 existing structure” means a development that meets all the following criteria:

13 1. It does not expand a structure horizontally beyond the boundaries of the  
14 existing or approved exterior walls except for addition of incidental features that are necessary to  
15 accommodate residential use such as: ramps for ADA access, replacement windows or sheathing,  
16 addition of material enabling increased insulation, structural features to increase safety, additions  
17 for the purpose of complying with construction and energy codes and building performance  
18 standards for the conversion to residential use, circulation features for fire and life safety,  
19 mechanical equipment, plumbing and duct work, or awnings and bays. The horizontal expansion  
20 for incidental features shall not increase the floor area of the structure by more than 5 percent.

21 2. It does not expand the structure vertically beyond the existing or approved roof  
22 elevation, except by up to 15 feet to accommodate configuration or expansion of top floor  
23 residential use or rooftop features in residential use. Stair and elevator penthouses, mechanical

1 equipment, and rooftop features allowances otherwise provided by the underlying zone may be  
2 placed on top of the 15-foot accommodation for configuration of top floor residential use without  
3 disqualifying the development from meeting this criterion.

4           3. The building in which the conversion would occur received either a temporary  
5 or permanent certificate of occupancy prior to March 1, 2024, or if no temporary or permanent  
6 certificate of occupancy is available is determined by the Director to have been legally occupied  
7 or is in a building approved for future development for which an unexpired Master Use Permit  
8 was issued, prior to March 1, 2024.

9           4. It is a conversion of floor area from nonresidential uses to residential uses that  
10 increases the number of dwelling units or congregate residence sleeping rooms in the structure.

11           5. It does not increase the square footage of nonresidential uses in the structure.

12           6. It is located in a commercial zone, a Downtown zone, a Seattle Mixed (SM)  
13 zone, the Highrise (HR) zone, or the Midrise (MR) zone.

14           B. The determination of whether a proposed development qualifies as a conversion to  
15 residential use in an existing structure pursuant to subsection 23.40.080.A, and any related land  
16 use approvals concerning how the standards of this Section 23.40.080 apply shall be Type I  
17 decisions.

18           C. A conversion to residential use in an existing structure meeting the criteria of  
19 subsection 23.40.080.A shall be exempt from all development standards and land use regulations  
20 of Chapter 23.45 (Multifamily), Chapter 23.47A (Commercial), Chapter 23.48 (Seattle Mixed),  
21 Chapter 23.49 (Downtown Zoning), Chapter 23.52 (Transportation Concurrency, and  
22 Transportation Impact Mitigation), Chapter 23.53 (Requirements for Streets, Alleys, and  
23 Easements), Chapter 23.54 (Quantity and Design Standards for Access, Off-Street Parking, and

1 Solid Waste Storage), and Chapter 23.58A (Incentive Provisions), except that the following  
2 categories of development standards and regulations within any of those chapters shall continue  
3 to apply:

- 4 1. Permitted and prohibited use regulations pertaining to nonresidential uses;
- 5 2. Administrative conditional use regulations;
- 6 3. Light and glare standards;
- 7 4. Noise standards;
- 8 5. Institutions;
- 9 6. Home occupations;
- 10 7. Transitional encampment accessory uses;
- 11 8. Landmark Districts and designated landmark structures; and
- 12 9. Subsections 23.54.040.F, 23.54.040.G, 23.54.040.H, 23.54.040.I, and  
13 23.54.040.J, solid waste and recyclable material storage and access.

14 D. A development proposal for conversion to residential use in an existing structure  
15 meeting the criteria of subsection 23.40.080.A in a building with features that are legally  
16 nonconforming to applicable development regulations for nonresidential use shall retain a  
17 comparable legal nonconforming status upon conversion to residential use. The Director may  
18 approve as a Type I decision any additional features of an existing building nonconforming to  
19 applicable development regulations which in the judgment of the Director cannot reasonably be  
20 rendered conforming in connection with conversion to residential use.

21 E. A conversion to residential use in an existing structure meeting the criteria of  
22 subsection 23.40.080.A shall be exempt from design review if the structure is already  
23 constructed or construction has commenced on the structural frame for the structure.

1 F. A conversion to residential use in an existing structure meeting the criteria of  
2 subsection 23.40.080.A.1-5 and located in a commercial zone, Downtown zone, or a Seattle  
3 (SM) Mixed zone shall be exempt from requirements under Chapter 23.58C (Mandatory  
4 Housing Affordability for Residential Development) for any portion of the development proposal  
5 that converts floor area from a nonresidential use to a residential use.

6 G. A conversion to residential use in an existing structure meeting the criteria of  
7 subsection 23.40.080.A shall be subject to the following if the conversion is in a building  
8 approved for future development for which an unexpired Master Use Permit was issued prior to  
9 March 1, 2024, and construction on the structural frame for the structure has not yet commenced:

10 1. Any design review modification to the issued and unexpired Master Use Permit  
11 necessary to add residential use shall be reviewed, and may be approved by the Director as a  
12 Type I decision; and

13 2. Notwithstanding the provisions of subsection 23.58C.025.B, any portion of the  
14 development proposal that converts floor area from a nonresidential use to a residential use shall  
15 be subject to the requirements of Chapter 23.58C that were in effect on the vested date of the  
16 unexpired Master Use Permit.

17 H. An applicant for a conversion to residential use in an existing structure meeting the  
18 criteria of subsection 23.40.080.A that vested to Chapter 23.40 prior to the effective date of this  
19 ordinance may elect to modify the vesting date of the development pursuant to subsection  
20 23.76.026.E to a date subsequent to the effective date of this ordinance.

21 Section 2. The Office of Planning and Community Development shall provide a report to  
22 City Council by January 1, 2028, including the following information, as of the effective date of  
23 the ordinance:

- 1           A. The number of permit applications submitted for conversion;
- 2           B. The number of permits for conversion that the Department grants;
- 3           C. The number of buildings completing conversion;
- 4           D. Whether the project utilized the MHA and design review exemptions;
- 5           E. The number of residential units built; and
- 6           F. Of residential units built, the number of low-income and moderate-income units, as
- 7 defined in SMC 23.84A.040, built.
- 8           Council will review this data upon receipt to determine whether any changes to the
- 9 legislation are necessary.

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

3 Passed by the City Council the 9th day of July, 2024,  
4 and signed by me in open session in authentication of its passage this 9th day of  
5 July, 2024.

6 

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

Approved /  returned unsigned /  vetoed this 11th day of July, 2024.

8 

9 Bruce A. Harrell, Mayor

10 Filed by me this 11th day of July, 2024.

11 

12 Scheereen Dedman, City Clerk

13 (Seal)