

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

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

..body

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

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

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

11 NOW, THEREFORE,

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

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

14 **23.40.080 Conversion to residential use in an existing structure**

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

17 1. It does not expand a structure horizontally beyond the boundaries of the
18 existing or approved exterior walls except for addition of incidental features that are necessary to
19 accommodate residential use such as: ramps for ADA access, replacement windows or sheathing,
20 addition of material enabling increased insulation, structural features to increase safety, additions
21 for the purpose of complying with construction and energy codes and building performance
22 standards for the conversion to residential use, circulation features for fire and life safety,

1 mechanical equipment, plumbing and duct work, or awnings and bays. The horizontal expansion
2 for incidental features shall not increase the floor area of the structure by more than 5 percent.

3 2. It does not expand the structure vertically beyond the existing or approved roof
4 elevation, except by up to 15 feet to accommodate configuration or expansion of top floor
5 residential use or rooftop features in residential use. Stair and elevator penthouses, mechanical
6 equipment, and rooftop features allowances otherwise provided by the underlying zone may be
7 placed on top of the 15-foot accommodation for configuration of top floor residential use without
8 disqualifying the development from meeting this criterion.

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

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

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

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

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

1 C. A conversion to residential use in an existing structure meeting the criteria of
2 subsection 23.40.080.A shall be exempt from all development standards and land use regulations
3 of Chapter 23.45 (Multifamily), Chapter 23.47A (Commercial), Chapter 23.48 (Seattle Mixed),
4 Chapter 23.49 (Downtown Zoning), Chapter 23.52 (Transportation Concurrency, and
5 Transportation Impact Mitigation), Chapter 23.53 (Requirements for Streets, Alleys, and
6 Easements), Chapter 23.54 (Quantity and Design Standards for Access, Off-Street Parking, and
7 Solid Waste Storage), Chapter 23.58A (Incentive Provisions), and Subtitle III, Division 3,
8 Overlay Districts, of this Title 23, except that the following categories of development standards
9 and regulations within any of those chapters shall continue to apply:

- 10 1. Permitted and prohibited use regulations pertaining to nonresidential uses;
- 11 2. Administrative conditional use regulations;
- 12 3. Light and glare standards;
- 13 4. Noise standards;
- 14 5. Institutions;
- 15 6. Home occupations;
- 16 7. Transitional encampment accessory uses;
- 17 8. Landmark Districts and designated landmark structures; and
- 18 9. Subsections 23.54.040.F, 23.54.040.G, 23.54.040.H, 23.54.040.I, and
19 23.54.040.J, solid waste and recyclable material storage and access.

20 D. A development proposal for conversion to residential use in an existing structure
21 meeting the criteria of subsection 23.40.080.A in a building with features that are legally
22 nonconforming to applicable development regulations for nonresidential use shall retain a
23 comparable legal nonconforming status upon conversion to residential use. The Director may

1 approve as a Type I decision any additional features of an existing building nonconforming to
2 applicable development regulations which in the judgment of the Director cannot reasonably be
3 rendered conforming in connection with conversion to residential use.

4 E. A conversion to residential use in an existing structure meeting the criteria of
5 subsection 23.40.080.A shall be subject to the following exemptions if the structure is already
6 constructed or construction has commenced on the structural frame for the structure:

- 7 1. Exempt from design review; and
- 8 2. Exempt from requirements under Chapter 23.58C (Mandatory Housing
9 Affordability for Residential Development) for any portion of the development proposal that
10 converts floor area from a nonresidential use to a residential use.

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

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

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

1 Section 2. 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 _____ day of _____, 2024,
4 and signed by me in open session in authentication of its passage this _____ day of
5 _____, 2024.

6 _____
7 President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2024.

8 _____
9 Bruce A. Harrell, Mayor

10 Filed by me this _____ day of _____, 2024.

11 _____
12 Scheereen Dedman, City Clerk

13 (Seal)