



## Seattle, WA Municipal Code

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## Chapter 23.40 - COMPLIANCE WITH REGULATIONS REQUIRED—EXCEPTIONS

### 23.40.002 - Conformity with regulations required

- A. The establishment or change of use of any structures, buildings or premises, or any part thereof, requires approval according to the procedures in [Chapter 23.76](#) except:



1. Establishment of an urban farm or community garden that does not include major cultivation activity and that is permitted outright under the provisions of this [Title 23](#) applicable to the lot;
  2. As permitted in subsections 23.47A.004.E and 23.47A.004.F;
  3. Keeping of animals as permitted under Section [23.42.052](#);
  4. Reinstatement of a use interrupted by a temporary use authorized pursuant to Section [23.42.040](#);
  5. Establishment of a transitional encampment use on property owned or controlled by a religious organization; and
  6. Uses located entirely within public rights-of-way.
- B. No use of any structure or premises shall hereafter be commenced, and no structure or part of a structure shall be erected, moved, reconstructed, extended, enlarged or altered, except in conformity with the regulations specified in this title for the zone and overlay district, if any, in which it is or will be located.
- C. Owners of such structures, building or premises or parts thereof are responsible for any failure of such structures, buildings or premises to conform to the regulations of this title and for compliance with the provisions of this title in or on such structures, buildings or premises. Any other person who created, caused or contributed to a condition in or on such structure, building or premises, either alone or with others, is also responsible under this title for any failure to conform to the regulations of this title. Building and use permits on file shall be *prima facie* evidence of the time a building was built or modified, or a use commenced, and the burden of demonstrating to the contrary shall be upon the owner.
- D. Changes to existing structures that make the structures nonconforming may be permitted if the changes are required by law for reasons of health and safety.

(Ord. [127099](#), § 7, 2024; Ord. [126042](#), § 1, 2020; Ord. [125272](#), § 7, 2017; Ord. [123649](#), § 4, 2011; Ord. [123378](#), § 1, 2010; Ord. [122816](#), § 1, 2008; Ord. [122311](#), § 18, 2006; Ord. [121093](#), § 1, 2003; Ord. [119473](#), § 1, 1999; Ord. [118794](#), § 14, 1997; Ord. [112522](#), § 7(part), 1985; Ord. [110669](#), § 6, 1982; Ord. [110381](#), § 1(part), 1982.)

## 23.40.004 - Reduction of required spaces.

- A. No minimum lot area, yard, setback, modulation, open space, landscaping, access, screening or other element of development existing on or after July 24, 1957, shall be reduced in area, number or dimension below the minimum development standard required by this Land Use Code, nor shall any existing lot area, yard, setback, modulation, open space, landscaping, access, screening or other element of development less than the minimum required by this Land Use Code be further reduced, except as specifically provided in this Code.



- B. Legally established parking spaces or loading areas existing on or after July 24, 1957 that became required as accessory to a principal use on or after July 24, 1957, may not be eliminated unless at least an equal number of spaces serving the use for which they are required and meeting the requirements of this Code are provided.
- C. No minimum lot area, yard, setback, open space, landscaping, access, screening or other element of a development used to meet a development standard for one (1) use or structure may be used to meet the development standards of another use or structure except as specifically provided in this Code.

(Ord. 111390 § 3, 1983; Ord. 110669 § 7, 1982.)

### **23.40.006 - Demolition of housing**

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- A. The structure has not been occupied as rental housing during the prior six months, and the demolition does not aid expansion of an adjacent non-residential use in a neighborhood residential or lowrise zone;
- B. A permit or approval has been issued by the Director according to the procedures set forth in [Chapter 23.76](#) to change the use of the structure or the premises;
- C. A permit or approval has been issued by the Director to relocate the structure containing a dwelling unit to another lot, whether within the City limits or outside the City limits, to be used, on the new lot, as a dwelling unit;
- D. A complete building permit application for construction of a new principal structure on the same lot as the structure to be demolished has been submitted to the Director, the demolition permit application and the building permit application are categorically exempt from review under [Chapter 25.05](#), the issuance of some other approval is not required by this [Title 23](#) or [Title 25](#) as a condition to issuing the demolition permit, and the Director has approved a waste diversion plan pursuant to Section [23.40.007](#);
- E. Demolition of the structure is ordered by the Director for reasons of health and safety under [Chapter 22.206](#) or [22.208](#), or under the provisions of the Seattle Building Code or the Seattle Residential Code;
- F. Demolition of the structure is for light rail transit facility construction; or
- G. The structure is in the MPC-YT zone.

(Ord. [127228](#), § 3, 2025; Ord. [126509](#), § 24, 2022 [zone name change]; Ord. [125399](#), § 3, 2017; Ord. [123963](#), § 13, 2012; Ord. [123939](#), § 1, 2012; Ord. [123649](#), § 5, 2011; Ord. [123189](#), § 1, 2009; Ord. [122901](#), § 1, 2009; Ord. [118414](#), § 5, 1996; Ord. [115058](#), § 3, 1990.)

### **23.40.007 - Reuse and Recycling of Building Materials in a Structure Containing a Dwelling Unit**

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- A. Requirements of a Waste Diversion Plan. The Director shall promulgate rules that define the requirements of an acceptable waste diversion plan within the meaning of subsection 23.40.006.D. Among the requirements shall be minimum levels of building materials that must be diverted from landfills. The levels shall be established by the Director on the basis of a review of practices employed in the relevant industries in the region. The levels may vary by disposal method or type of material and shall reflect, in the Director's opinion, the degree of waste diversion reasonably attainable through the use of accepted industry practices. The Director may alter the levels as industry practices evolve.
- B. Demonstration of Compliance. The applicant shall demonstrate compliance with the approved waste diversion plan by submitting a report to the Director documenting, at a minimum, the amount and manner in which building materials were diverted from landfills. The applicant must submit the report no later than 90 days after issuance of the demolition permit, or such later date as may be allowed by the Director for good cause.
- C. Violation. Failure to demonstrate compliance with the waste diversion plan is a violation of the Land Use Code.

(Ord. 123649, § 6, 2011; Ord. 122901, § 2, 2009.)

### 23.40.008 - Demolition of landmarks.

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- A. Except as provided in subsection B, no demolition permit for a landmark shall be issued until the requirements of Section [25.12.835](#) of the Landmarks Preservation Ordinance have been satisfied.
- B. In the event that the Director believes that demolition of a landmark is required for reasons of health and safety under [Chapter 22.206](#) or [22.208](#) of the Housing and Building Maintenance Code or under the provisions of the Seattle Building Code, the Director shall consult with the Landmarks Preservation Board and with the Director of the Department of Neighborhoods about alternatives to demolition. The Director shall not order demolition of a landmark until all alternatives to demolition have been explored, unless the Director is faced with a threat to the public health and safety that is so imminent as to preclude all deliberation.

(Ord. [116540](#), § 2, 1993.)

### 23.40.020 - Variances

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- A. Variances may be sought from the provisions of Subtitle III, Divisions 2, 3, and 4 of this [Title 23](#), except for the establishment of a use that is otherwise not permitted in the zone in which it is proposed, for a structure height in excess of that shown on the Official Land Use Map [4] or in excess of a height limit established in [Chapter 23.75](#), from the provisions of subsection 23.55.014.A, or from the provisions of [Chapter 23.52](#), [Chapter 23.58A](#), [Chapter 23.58B](#), and [Chapter 23.58C](#). Applications for prohibited variances shall not be accepted for filing.



B. Variances shall be authorized according to the procedures set forth in [Chapter 23.76](#),

Procedures for Master Use Permits and Council Land Use Decisions.

C. Variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist:

1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and
  2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and
  3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and
  4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and
  5. The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.
- D. In order to qualify for a variance under the foregoing criteria, an applicant need not demonstrate that, absent the variance, he or she would have no reasonable economic use of the property at issue.
- E. When a variance is authorized, conditions may be attached regarding the location, character and other features of a proposed structure or use as may be deemed necessary to carry out the spirit and purpose of this Land Use Code.

(Ord. [125108](#), § 5, 2016; Ord. [124895](#), § 3, 2015; Ord. [124378](#), § 9, 2013; Ord. 123963, § 14, 2012; Ord. 123770, § 3, 2011; Ord. 123046, § 5, 2009; Ord. [120691](#), § 9, 2001; Ord. 118727 § 1, 1997; Ord. 117570 § 11, 1995; Ord. [117383](#), § 2, 1994; Ord. 113263 § 2, 1986; Ord. 112522 § 7(part), 1985; Ord. 111390 § 4, 1983; Ord. 110669 § 8, 1982; Ord. 110381 § 1(part), 1982.)

**Footnotes:**

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**Editor's note**— The Official Land Use Map is codified at the end of this title.

## 23.40.030 - Undeveloped streets—Modification of certain development standards.

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 For purposes of determining yards, setbacks and whether or not a lot is a corner lot or a through lot, the Director may allow an abutting street to be treated as an alley if the Director finds that the lot abuts on at least one (1) other street suitable for vehicular use or is served by an access easement meeting the standards of Section [23.53.025](#), and that the following criteria are met:

- A. The street in the block where it abuts the lot is wholly undeveloped, is unpaved, or is developed with a roadway less than twenty (20) feet in width; and
- B. The street provides either no access or only secondary access to those lots to which it abuts; and
- C. The development proposed for the lot does not require improvement of the street and no plans to develop the street are on file with the City; and
- D. Existing streetscapes and development patterns are not disrupted.

(Ord. 115326 § 3, 1990.)

#### **23.40.040 - Reasonable accommodation.**

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The Federal Fair Housing Act requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford handicapped people equal opportunity to use and enjoy a dwelling. The Director is therefore authorized to make accommodations in the provisions of this title as applied to dwellings occupied or to be occupied by handicapped persons as defined in the Federal Fair Housing Act, when the Director determines that such accommodations reasonably may be necessary in order to comply with such Act.

(Ord. [117202](#), § 24, 1994.)

#### **23.40.060 - Living Building Pilot Program**

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##### **A. Applications**

1. Enrollment period. The enrollment period for the Living Building Pilot Program expires on the earlier of December 31, 2030, or when applications meeting the requirements of subsection 23.40.060.A.2 have been submitted for 20 Living Building Pilot projects from September 6, 2016.
2. Application requirements. In order to qualify for the Living Building Pilot Program, an applicant shall submit a complete Master Use Permit application pursuant to Section [23.76.010](#) and shall demonstrate how the project will meet the provisions of subsection 23.40.060.B on plans and documents. The applicant shall include a description of how the project serves as a model for testing code improvements to stimulate and encourage Living Buildings in the city.

##### **B.**

Minimum standards. A project shall qualify for the Living Building Pilot Program if it is located outside of Seattle's jurisdiction, is reviewed in accordance with the full design review process provided in Section [23.41.014](#), and meets full Living Building Certification by achieving either all of the imperatives of the International Living Future Institute's (ILFI) Living Building Challenge<sup>SM</sup> 3.1 or 4.0 certification or all of the following:

1. The project meets ILFI Living Building Challenge<sup>SM</sup> Petal certification;
  2. The project shall comply with the requirements of the Target Performance Path in Section C401.3 of the Seattle Energy Code and decrease the building performance factor by at least 25 percent below that defined in the Target Performance Path Section C401.3.1.1;
  3. None of the space heating and water heating in the project shall be provided using on-site combustion of fossil fuel; and
  4. The project uses only nonpotable water to meet the demand for toilet and urinal flushing, irrigation, hose bib, cooling tower (make up water only), and water features, except to the extent other applicable local, state, or federal law requires the use of potable water.
- C. Additional floor area or structure height beyond otherwise applicable maximum
1. A project qualifying for the Living Building Pilot Program may contain:
    - a. Twenty-five percent more gross floor area than the otherwise applicable maximum floor area ratio under the provisions of the zone; or
    - b. In the case of projects not regulated by floor area ratio, including residential development in Downtown or certain Seattle Mixed zones, 25 percent more floor area than the maximum floor area otherwise resulting from the application of development standards. The Director may promulgate rules to define the measurement of floor area according to this subsection 23.40.060.C.1.b.
  2. Projects qualifying for the Living Building Pilot Program that include the renovation of an unreinforced masonry structure by seismic strengthening, in compliance with Appendix Chapter A1 of the Seattle Existing Building Code, may gain:
    - a. Thirty percent more gross floor area than the otherwise applicable maximum floor area ratio under the provisions of the zone; or
    - b. In the case of projects not regulated by floor area ratio, including residential development in Downtown or certain Seattle Mixed zones, 30 percent more floor area than the maximum floor area otherwise resulting from the application of development standards. The Director may promulgate rules to define the measurement of floor area according to this subsection 23.40.060.C.2.b.
  - 3.

A project qualifying for the Living Building Pilot Program may employ additional structure height, above otherwise applicable maximum height as shown in Table A for 23.40.060.

↗ EXPAND
**Table A for 23.40.060****Additional Height**

<b>Height Limit of the Zone</b>	<b>Additional height above the otherwise applicable maximum height limit for residential use</b>	<b>Additional height above the otherwise applicable maximum height limit for non-residential use</b>
Zones with height limits of 85 feet or less	12.5 feet	15 feet
Zones with height limits greater than 85 feet	25 feet	30 feet

4. A rooftop feature of a project qualifying for the Living Building Pilot Program may extend above the additional structure height provided in subsection 23.40.060.C.3 if the extension is consistent with the applicable standards established for that rooftop feature within the zone.
5. Additional floor area or structure height available pursuant to subsections 23.40.060.C.1 through 23.40.060.C.3 shall be in addition to any bonus, extra, or otherwise additional floor area or structure height available according to any other provision of this [Title 23](#), which shall be obtained in compliance with the applicable provisions of this [Title 23](#). Additional floor area or structure height, including additional stories, approved pursuant to subsections 23.40.060.C.1 through 23.40.060.C.3 shall be disregarded in the application of the limit on the number of stories in a structure in a Lowrise zone that achieves extra height pursuant to subsection 23.45.514.F.
6. Additional floor area or structure height included in a project pursuant to subsections 23.40.060.C.1 through 23.40.060.C.3 shall be excluded for purposes of calculating performance or payment amounts pursuant to subsections 23.58B.040.A.1, 23.58B.050.A.1, 23.58C.040.A.1, and 23.58C.050.A.1, and shall also be exempt from satisfying any non-housing-related requirements for obtaining bonus, extra, or otherwise additional floor area or structure height according to [Chapter 23.49](#) or [Chapter 23.58A](#).



7. For a development containing residential and non-residential uses, the additional gross floor area or structure height included in a project pursuant to subsections 23.40.060.C.1 through 23.40.060.C.3 is that which corresponds to the use that occupies the most gross floor area in the development.
8. As an allowance for mechanical equipment fully contained within a structure related to participation in the pilot:
  - a. One-half percent shall be deducted in computing gross floor area subject to floor area limits in addition to any allowance for mechanical equipment included in the applicable zone; and
  - b. Four percent shall be deducted for all mechanical equipment in computing gross floor area subject to floor area limits in zones that do not include an allowance for mechanical equipment; and
  - c. Calculation of the allowance excludes gross floor area exempt for floor area limits pursuant to the applicable zone(s).
- D. Reserved.
- E. For a project qualifying for the Living Building Pilot Program, the provisions of the remainder of this [Title 23](#) apply unless specifically modified by the provisions of this Section [23.40.060](#). In the event of a conflict, the provisions of this Section [23.40.060](#) prevail.
- F. Compliance with minimum standards
  1. The approved project plans and any other documents, together with any subsequent changes or amendments to those project plans and documents, shall demonstrate to the satisfaction of the Director that the completed building as designed will meet all of the minimum standards in subsection 23.40.060.B.
  2. The project shall be constructed and completed in accordance with the approved project plans and documents.
  3. No later than two years after issuance of a final Certificate of Occupancy for the project, or such later date as may be allowed by the Director for good cause or a phased project, the owner shall submit to the Director a report demonstrating how the project complies with the standards contained in subsection 23.40.060.B. Compliance must be demonstrated through an independent report from a third party. The report must be produced by ILFI or another independent entity approved by the Director.
  4. If the Director determines that the report submitted provides satisfactory evidence that the project has complied with the standards contained in subsection 23.40.060.B, the Director shall send the owner a written statement that the project has complied with the standards of the Living Building Pilot Program. If the Director determines that the project does not comply with the standards in subsection 23.40.060.B, the Director shall notify the

er of the aspects in which the project does not comply. Nothing in the written statement or participation in the Living Building Pilot Program shall constitute or imply certification of the project by ILFI as a Living Building under the Living Building Challenge<sup>SM</sup>. Components of the project that are included in order to comply with the minimum standards of the Living Building Pilot Program shall remain for the life of the project.

5. Within 90 days after the Director notifies the owner of the aspects in which the project does not comply, or such longer period as the Director may allow for good cause, the owner may submit a supplemental report demonstrating that the project complies with the standards in subsection 23.40.060.B.
6. If the owner fails to timely submit the report required by subsection 23.40.060.F.1 or to demonstrate compliance with the standards contained in subsection 23.40.060.B, or if the owner fails to submit a supplemental report within the time allowed pursuant to subsection 23.40.060.F.3, the Director shall determine that the project has failed to demonstrate compliance with the standards contained in subsection 23.40.060.B, and the owner shall be subject to the penalty in subsection 23.40.060.G.

#### G. Penalties for the Living Building Pilot Program

1. Failure to submit the report required by subsection 23.40.060.F.1 by the date required is subject to a penalty of \$500 per day from the date the report was due to the date it is received by the Department.
2. Failure to demonstrate compliance with the provisions contained in subsection 23.40.060.B is subject to a maximum penalty of five percent of the construction value set forth in the building permit for the structure based on the extent of noncompliance with the standards contained in subsection 23.40.060.B. A minimum penalty of one and one-half percent will be applied if any of the provisions contained in subsection 23.40.060.B are not achieved in their entirety. Additional penalties for minimum energy and water criteria, at one and one-half percent and one percent respectively, will be based on the extent of noncompliance compared to the baselines provided in this Section [23.40.060](#) and calculated according to the methodology in subsections 23.40.060.G.2.a and 23.40.060.G.2.b for each component. An additional penalty of one percent will be applied for not achieving Petal Certification. Penalties shall be calculated according to Tables B and C for [23.40.060](#) and this subsection 23.40.060.G:
  - a. Energy: Percentage of noncompliance =  $100 \times [(Pilot\ Program\ Target) - (Metered\ Energy\ Use\ Intensity)] / [(SEC\ target) - (Pilot\ Program\ Target)]$ ;

where "SEC target" means Energy Use Intensity (EUI) targets in the Target Performance Path of Seattle Energy Code Section C401.3, and "Pilot Program target" means the SEC target  $\times 0.75$ .



b. Water: Percentage of noncompliance =  $100 \times [1 - ((\text{total gallons/year of non-potable water used}) / (\text{total gallons/year of water needed for non-potable uses}))]$

EXPAND

Table B for 23.40.060

Percentage of Noncompliance for Energy	Penalty (percentage of construction value)
Greater than zero up to 10	0.15
Greater than 10 up to 20	0.30
Greater than 20 up to 30	0.45
Greater than 30 up to 40	0.60
Greater than 40 up to 50	0.75
Greater than 50 up to 60	0.90
Greater than 60 up to 70	1.05
Greater than 70 up to 80	<u>1.20</u>
Greater than 80 up to 90	1.35
Greater than 90	1.50

EXPAND

Table C for 23.40.060

Percentage of Noncompliance for Water	Penalty (percentage of construction value)
Greater than zero up to 10	0.1
Greater than 10 up to 20	0.2



Table C of 23.40.060

Percentage of Noncompliance for Water	Penalty (percentage of construction value)
Greater than 20 up to 30	0.3
Greater than 30 up to 40	0.4
Greater than 40 up to 50	0.5
Greater than 50 up to 60	0.6
Greater than 60 up to 70	0.7
Greater than 70 up to 80	0.8
Greater than 80 up to 90	0.9
Greater than 90	1.0

3. A project shall be established in the SDCI Construction and Inspections Fund to receive revenue from penalties under this subsection 23.40.060.G. Revenue from penalties under this subsection 23.40.060.G shall be restricted to use only for programs that aim to improve energy efficiency, water efficiency, and reduce greenhouse gas emissions of Seattle buildings. The SDCI Director shall recommend allocations of these penalty revenues to the Mayor and City Council.

(Ord. [126685](#), § 3, 2022; Ord. [126157](#), § 8, 2020; Ord. [125612](#), § 1, 2018; Ord. [125163](#), § 1, 2016; Ord. [125053](#), § 1, 2016; Ord. [124843](#), § 8, 2015; Ord. 124535, § 1, 2014; Ord. 123942, § 1, 2012; Ord. 123206, § 3, 2009.)

## 23.40.070 - 2030 Challenge High Performance Existing Building Pilot Program

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### A. Applications

- Enrollment period. The enrollment period for the 2030 Challenge High Performance Existing Building Pilot Program expires on the earlier of December 31, 2025, or when applications meeting the requirements of subsection 23.40.060.A.2 have been submitted for 20 pilot projects from the effective date of the ordinance introduced as Council Bill

119252.



2. Application requirements. In order to qualify for the 2030 Challenge High Performance Existing Building Pilot Program, an applicant shall submit a complete Master Use Permit application pursuant to Section [23.76.010](#) and a plan demonstrating how the project will meet the provisions of subsection 23.40.070.B.
- B. Minimum standards. A project shall qualify for the 2030 Challenge High Performance Existing Building Pilot Program if:
1. It is located within an urban center excluding lots within the shoreline jurisdiction, and lots within the International Special Review District.
  2. It is reviewed in accordance with the full design review process provided in Section [23.41.014](#), except for development subject to special district review under [Chapter 23.66](#) or historic review under [Chapters 25.12](#) through [25.30](#), in which case the applicable review board shall conduct the design review with the authority to recommend design departures as provided to the Design Review Board pursuant to Section [23.41.012](#).
  3. It includes renovation of an existing structure that complies with the provisions for substantial alterations in the Seattle Energy Code and the Seattle Existing Building Code.
  4. It retains either the opaque portions of all exterior walls, or the superstructure of existing structures. The Director may allow openings in the exterior walls to be relocated or resized. For the purposes of this subsection 23.40.070.B, "superstructure" shall mean the foundation, structural frame, floor framing, and slabs of the structure.
  5. Additions comply with the requirements of Table A for 23.40.070.

↗ EXPAND

**Table A for 23.40.070**

Height limit of the zone	Minimum height of existing buildings	Maximum increase in area of existing building footprint
Zones with height limits of 85 feet or less	47 percent of the maximum height limit of the zone	20 percent of the area of the footprint of existing buildings
Zones with height limits greater than 85 feet	60 percent of the maximum height limit of the zone	

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6. It meets all of the following:



- a. Total annual building energy use that is 25 percent less than a baseline defined as the Energy Use Intensity (EUI) targets in the Target Performance Path of Seattle Energy Code Section C401.3;
- b. None of the space heating and water heating in the project shall be provided using on-site combustion of fossil fuel;
- c. Combined annual stormwater runoff and potable water use is 50 percent lower than the 2030 Challenge High Performance Existing Building Pilot Program baselines, which are as follows:
- 1) The stormwater baseline is the annual average rainfall on a development site in gallons to be calculated as follows: total site area in square feet x 2.1 feet (Seattle's average annual runoff depth) x 7.48 (conversion of cubic feet to gallons) = stormwater baseline;
  - 2) The annual potable water baselines are shown in Table B for 23.40.070.

↗ EXPAND
**Table B for 23.40.070****Potable Water Baselines**

<b>Uses<sup>1,2</sup></b>	<b>Potable Water Baseline Usage (gallons/square feet/year)</b>
Restaurant	125.99
Lodging uses	50.07
Multifamily residential use	41.14
Manufacturing uses	32.53
Nursing or assisted living facilities	30.11
Hospital	26.12
Sales and services, general	24.77
Medical services	21.00
Offices	<u>14.21</u>



Table D for 23.40.070

Potable Water Baseline

Uses <sup>1, 2</sup>	Potable Water Baseline Usage (gallons/square feet/year)
Warehouses	13.00
Entertainment uses	12.88
Sales and services, automotive	<a href="#">11.74</a>
Religious facilities	<a href="#">11.31</a>
Schools elementary or secondary	11.09
College or university	11.00

#### Footnotes to Table B for 23.40.070

<sup>1</sup> If a use is not listed, the Director may determine that a proposed use is substantially similar to other uses listed.

<sup>2</sup> Baselines for a development are prorated by use based on the proportion of gross floor area occupied within the development.

- d. The project exceeds 2014 mode share baselines such that the project meets mode share percentages pursuant to the Comprehensive Plan as shown in Tables C and D for [23.40.070](#) for trips made by travel modes other than driving alone for all work trips and non-work trips, respectively.

↗ EXPAND

#### Table C for 23.40.070

##### Work Trips by modes other than driving alone

Urban Center	2014 Mode Share Baselines	Mode Share for Work Trips
Downtown	77 percent	85 percent
First Hill/Capitol Hill	58 percent	70 percent



**seattle.gov**

Table C for 23.40.070

Work Trips by modes other than driving alone

Urban Center	2014 Mode Share Baselines	Mode Share for Work Trips
Uptown	48 percent	60 percent
South Lake Union	67 percent	80 percent
University District	73 percent	85 percent
Northgate	30 percent	50 percent

EXPAND

Table D for 23.40.070

Non-work trips other than driving alone

Urban Center	2014 Mode Share Baselines	Mode Share for Non-Work Trips
Downtown	88 percent	90 percent
First Hill/Capitol Hill	80 percent	85 percent
Uptown	82 percent	85 percent
South Lake Union	76 percent	85 percent
University District	79 percent	90 percent
Northgate	46 percent	55 percent

C. Extra floor area and/or structure height beyond otherwise applicable maximums

1. Projects qualifying for the 2030 Challenge High Performance Existing Building Pilot Program are allowed:

- a. Twenty-five percent more gross floor area than the otherwise applicable maximum floor area ratio under the provisions of the zone; or



- b. In the case of projects not regulated by floor area ratio, including residential development in Downtown or certain Seattle Mixed zones, 25 percent more floor area than the maximum floor area otherwise resulting from the application of development standards. The Director may promulgate rules to define the measurement of floor area according to this subsection 23.40.070.C.1.b.
2. Projects qualifying for the 2030 Challenge High Performance Existing Building Pilot Program that include the renovation of an unreinforced masonry structure by seismic strengthening, in compliance with Appendix Chapter A1 of the Seattle Existing Building Code, may gain:
- Thirty percent more gross floor area than the otherwise applicable maximum floor area ratio under the provisions of the zone; or
  - In the case of projects not regulated by floor area ratio, including residential development in Downtown or certain Seattle Mixed zones, 30 percent more floor area than the maximum floor area otherwise resulting from the application of development standards. The Director may promulgate rules to define the measurement of floor area according to this subsection 23.40.070.C.2.b.
3. A project qualifying for the 2030 Challenge High Performance Existing Building Pilot Program may employ additional structure height as shown in Table E for 23.40.070.

[↗ EXPAND](#)

**Table E for 23.40.070**

**Additional height**

Height Limit of the Zone	Additional height above the otherwise applicable maximum height limit for residential use	Additional height above the otherwise applicable maximum height limit for non-residential use
Zones with height limits of 85 feet or less	12.5 feet	15 feet
Zones with height limits greater than 85 feet	25 feet	30 feet

The rooftop feature of a project qualifying for the 2030 Challenge High Performance Existing Building Pilot Program may extend above the additional structure height provided in subsection 23.40.070.C.3 if the extension is consistent with the applicable standards established for that rooftop feature within the zone. In such cases, the additional structure height shall be deemed the height limit above which rooftop features are permitted.

5. Additional floor area or structure height available pursuant to subsections 23.40.070.C.1 through 23.40.070.C.3 shall be in addition to any bonus, extra, or otherwise additional floor area or structure height available according to any other provision of this [Title 23](#), which shall be obtained in compliance with the applicable provisions of this [Title 23](#). Additional floor area or structure height, including additional stories, approved pursuant to subsections 23.40.070.C.1 through 23.40.070.C.3 shall be disregarded in the application of the limit on the number of stories in a structure in a Lowrise zone that achieves extra height pursuant to subsection 23.45.514.F.
  6. Additional floor area or structure height included in a project pursuant to subsections 23.40.070.C.1 through 23.40.070.C.3 shall be excluded for the purposes of calculating performance or payment amounts pursuant to subsections 23.58B.040.A.1, 23.58B.050.A.1, 23.58C.040.A.1, and 23.58C.050.A.1, and shall also be exempt from satisfying any non-housing-related requirements for obtaining bonus, extra, or otherwise additional floor area or structure height according to [Chapter 23.49](#) or [Chapter 23.58A](#).
  7. For a development containing residential and non-residential uses, the additional floor area or structure height included in a project pursuant to subsections 23.40.060.C.1 through 23.40.060.C.3 is that which corresponds to the use that occupies the most gross floor area in the development.
  8. As an allowance for mechanical equipment fully contained within a structure related to participation in the pilot:
    - a. One-half percent shall be deducted in computing gross floor area subject to floor area limits in addition to any allowance for mechanical equipment included in the applicable zone; and
    - b. Four percent shall be deducted for all mechanical equipment in computing gross floor area subject to floor area limits in zones that do not include an allowance for mechanical equipment; and
    - c. Calculation of the allowance excludes gross floor area exempt for floor area limits pursuant to the applicable zone(s).
- D. For a project qualifying for the 2030 Challenge High Performance Existing Building Pilot Program, the provisions of the remainder of this [Title 23](#) apply unless specifically modified by the provisions of this Section [23.40.070](#). In the event of a conflict, the provisions of this Section



## F. Compliance with minimum standards

1. The approved project plans and any other documents, together with any subsequent changes or amendments to those project plans and documents, shall demonstrate to the satisfaction of the Director that the completed building as designed will meet all of the minimum standards in subsection 23.40.070.B.
  2. The project shall be constructed and completed in accordance with the approved project plans and documents.
  3. No later than two years after issuance of a final Certificate of Occupancy for the project, or such later date as may be allowed by the Director for good cause or a phased project, the owner shall submit to the Director a report demonstrating how the project complies with the standards contained in subsection 23.40.070.B. Compliance must be demonstrated through an independent report produced by an independent entity approved by the Director.
  4. If the Director determines that the report submitted provides satisfactory evidence that the project has complied with the standards contained in subsection 23.40.070.B, the Director shall send the owner a written statement that the project has complied with the standards of the 2030 Challenge High Performance Existing Building Pilot Program. If the Director determines that the project does not comply with the standards in subsection 23.40.070.B, the Director shall notify the owner of the aspects in which the project does not comply. Components of the project that are included in order to comply with the minimum standards of the 2030 Challenge High Performance Existing Building Pilot Program shall remain for the life of the project.
  5. Within 90 days after the Director notifies the owner of the aspects in which the project does not comply with the standards in subsection 23.40.070.B, or such longer period as the Director may allow for good cause, the owner will have the opportunity to take corrective action and submit a supplemental report demonstrating that the project complies with the standards in subsection 23.40.070.B.
  6. If the owner fails to timely submit the report required by subsection 23.40.070.E.1 or to timely demonstrate compliance with the standards contained in subsection 23.40.070.B, or if the owner fails to submit a supplemental report within the time allowed pursuant to subsection 23.40.070.E.3, the Director shall determine that the project has failed to demonstrate compliance with the standards contained in subsection 23.40.070.B, and the owner shall be subject to the applicable penalty in subsection 23.40.070.F.
- ## F. Penalties for the 2030 Challenge High Performance Existing Building Pilot Program
- 
- 1.

 Failure to submit the report required by subsection 23.40.070.E.1 by the date required is subject to a penalty of \$500 per day from the date the report was due to the date it is received by the Department.

2. Failure to demonstrate compliance with the provisions contained in subsection 23.40.070.B is subject to a minimum penalty of one and one-half percent up to a maximum penalty of five percent of the construction value set forth in the building permit for the structure based on the extent of noncompliance with the standards contained in subsection 23.40.070.B. A minimum penalty of one and one-half percent will be applied if any of the provisions contained in 23.40.070.B are not achieved in their entirety.

Additional penalties will be based on the extent of noncompliance compared to the baselines provided in 23.40.070.B.6 and calculated according to the methodology below in subsections 23.40.070.F.2.a through 23.40.070.F.2.c for each component. Penalties shall be calculated according to Tables F through H for 23.40.070:

- a. Energy: Percentage of noncompliance =  $100 \times [[(\text{Metered Energy Use Intensity}) - (\text{2030 Target})] / [(\text{SEC target}) - (\text{2030 Pilot Target})]]$ ;
- b. Water: Percentage of noncompliance =  $100 \times [[(\text{2030 Pilot Target}) - (\text{water managed \%})] / (\text{2030 Pilot Target})]$ ;
- c. Transportation: Percentage of noncompliance =  $100 \times [[(\text{Mode share result}) - (\text{2030 Pilot Target})] / [(\text{2014 baseline}) - (\text{2030 Pilot Target})]]$ ;

where "2030 Pilot Target" means the 2030 Challenge High Performance Existing Building Pilot Program Target.

 EXPAND

**Table F for 23.40.070**

Percentage of Noncompliance for Energy	Penalty (percentage of construction value)
Greater than zero up to 10	0.15
Greater than 10 up to 20	0.30
Greater than 20 up to 30	0.45
Greater than 30 up to 40	0.60
Greater than 40 up to 50	0.75



Table G for 23.40.070

Percentage of Noncompliance for Energy	Penalty (percentage of construction value)
Greater than 50 up to 60	0.90
Greater than 60 up to 70	1.05
Greater than 70 up to 80	<u>1.20</u>
Greater than 80 up to 90	1.35
Greater than 90	1.50

↗ EXPAND

Table G for 23.40.070

Percentage of Noncompliance for Water	Penalty (percentage of construction value)
Greater than zero up to 10	0.1
Greater than 10 up to 20	0.2
Greater than 20 up to 30	0.3
Greater than 30 up to 40	0.4
Greater than 40 up to 50	0.5
Greater than 50 up to 60	0.6
Greater than 60 up to 70	0.7
Greater than 70 up to 80	0.8
Greater than 80 up to 90	0.9

**Table G for 23.40.070**

<b>Percentage of Noncompliance for Water</b>	<b>Penalty (percentage of construction value)</b>
Greater than 90	1.0

↗ EXPAND
**Table H for 23.40.070**

<b>Percentage of Noncompliance for Transportation</b>	<b>Penalty (percentage of construction value)</b>
Greater than zero up to 10	0.1
Greater than 10 up to 20	0.2
Greater than 20 up to 30	0.3
Greater than 30 up to 40	0.4
Greater than 40 up to 50	0.5
Greater than 50 up to 60	0.6
Greater than 60 up to 70	0.7
Greater than 70 up to 80	0.8
Greater than 80 up to 90	0.9
Greater than 90	1.0

3. A project shall be established in the SDCI Construction and Inspections Fund to receive revenue from penalties under this subsection 23.40.070.F. Revenue from penalties under this subsection 23.40.070.F shall be restricted to use only for programs that aim to

improve energy efficiency and water efficiency, and reduce greenhouse gas emissions, of Seattle buildings. The SDC Director shall recommend allocations of these penalty revenues to the Mayor and City Council.

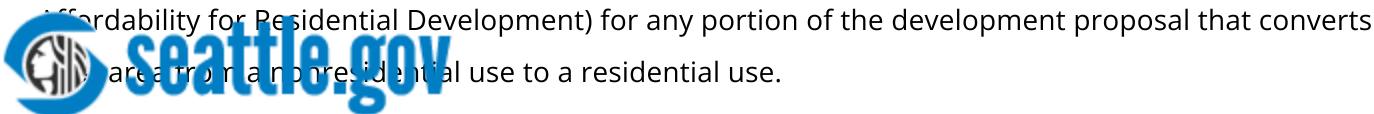
(Ord. [125612](#), § 2, 2018.)

## 23.40.080 - Conversion to residential use in an existing structure

- A. For the purposes of this Section [23.40.080](#), "conversion to residential use in an existing structure" means a development that meets all the following criteria:
  1. It does not expand a structure horizontally beyond the boundaries of the existing or approved exterior walls except for addition of incidental features that are necessary to accommodate residential use such as: ramps for ADA access, replacement windows or sheathing, addition of material enabling increased insulation, structural features to increase safety, additions for the purpose of complying with construction and energy codes and building performance standards for the conversion to residential use, circulation features for fire and life safety, mechanical equipment, plumbing and duct work, or awnings and bays. The horizontal expansion for incidental features shall not increase the floor area of the structure by more than 5 percent.
  2. It does not expand the structure vertically beyond the existing or approved roof elevation, except by up to 15 feet to accommodate configuration or expansion of top floor residential use or rooftop features in residential use. Stair and elevator penthouses, mechanical equipment, and rooftop features allowances otherwise provided by the underlying zone may be placed on top of the 15-foot accommodation for configuration of top floor residential use without disqualifying the development from meeting this criterion.
  3. The building in which the conversion would occur received either a temporary or permanent certificate of occupancy prior to March 1, 2024, or if no temporary or permanent certificate of occupancy is available is determined by the Director to have been legally occupied or is in a building approved for future development for which an unexpired Master Use Permit was issued, prior to March 1, 2024.
  4. It is a conversion of floor area from nonresidential uses to residential uses that increases the number of dwelling units or congregate residence sleeping rooms in the structure.
  5. It does not increase the square footage of nonresidential uses in the structure.
  6. It is located in a commercial zone, a Downtown zone, a Seattle Mixed (SM) zone, the Highrise (HR) zone, or the Midrise (MR) zone.
- B.

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

- C. A conversion to residential use in an existing structure meeting the criteria of subsection 23.40.080.A shall be exempt from all development standards and land use regulations of [Chapter 23.45](#) (Multifamily), [Chapter 23.47A](#) (Commercial), [Chapter 23.48](#) (Seattle Mixed), [Chapter 23.49](#) (Downtown Zoning), [Chapter 23.52](#) (Transportation Concurrency, and Transportation Impact Mitigation), [Chapter 23.53](#) (Requirements for Streets, Alleys, and Easements), [Chapter 23.54](#) (Quantity and Design Standards for Access, Off-Street Parking, and Solid Waste Storage), and [Chapter 23.58A](#) (Incentive Provisions), except that the following categories of development standards and regulations within any of those chapters shall continue to apply:
  - 1. Permitted and prohibited use regulations pertaining to nonresidential uses;
  - 2. Administrative conditional use regulations;
  - 3. Light and glare standards;
  - 4. Noise standards;
  - 5. Institutions;
  - 6. Home occupations;
  - 7. Transitional encampment accessory uses;
  - 8. Landmark Districts and designated landmark structures; and
  - 9. Subsections 23.54.040.F, 23.54.040.G, 23.54.040.H, 23.54.040.I, and 23.54.040.J, solid waste and recyclable material storage and access.
- D. A development proposal for conversion to residential use in an existing structure meeting the criteria of subsection 23.40.080.A in a building with features that are legally nonconforming to applicable development regulations for nonresidential use shall retain a comparable legal nonconforming status upon conversion to residential use. The Director may approve as a Type I decision any additional features of an existing building nonconforming to applicable development regulations which in the judgment of the Director cannot reasonably be rendered conforming in connection with conversion to residential use.
- E. A conversion to residential use in an existing structure meeting the criteria of subsection 23.40.080.A shall be exempt from design review if the structure is already constructed or construction has commenced on the structural frame for the structure.
- F. A conversion to residential use in an existing structure meeting the criteria of subsection 23.40.080.A.1-5 and located in a commercial zone, Downtown zone, or a Seattle (SM) Mixed zone shall be exempt from requirements under [Chapter 23.58C](#) (Mandatory Housing



Affordability for Residential Development) for any portion of the development proposal that converts area from a nonresidential use to a residential use.

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

1. Any design review modification to the issued and unexpired Master Use Permit necessary to add residential use shall be reviewed, and may be approved by the Director as a Type I decision; and
  2. Notwithstanding the provisions of subsection 23.58C.025.B, any portion of the development proposal that converts floor area from a nonresidential use to a residential use shall be subject to the requirements of [Chapter 23.58C](#) that were in effect on the vested date of the unexpired Master Use Permit.
- H. An applicant for a conversion to residential use in an existing structure meeting the criteria of subsection 23.40.080.A that vested to this [Chapter 23.40](#) prior to August 12, 2024, may elect to modify the vesting date of the development pursuant to subsection 23.76.026.F to a date subsequent to August 12, 2024.

(Ord. [127228](#), § 4, 2025; Ord. [127054](#), § 1, 2024.)

< [Division 2 - Authorized Uses and Development Standards](#)

[Chapter 23.41 - DESIGN REVIEW](#) >