

**Reorganization of LUC 20.20.128 into a new Chapter 20.15 LUC:**

*To increase both the readability and usability of LUC 20.20.128, the HOMA LUCA proposes to reorganize LUC 20.20.128 into a new Chapter 20.15 LUC. The reorganization itself will not result in substantive changes to the requirements previously contained in LUC 20.20.128. If HOMA Option A is adopted, the substantive changes included below in red and flagged in the comments will be included in the new Chapter 20.15 LUC. If HOMA Option B is adopted, then these changes will not be included in the new Chapter 20.15 LUC. In each section of proposed Chapter 20.15 LUC, a comment is included with a cross reference to where the section is currently codified in LUC 20.20.128.*

**Chapter 20.15 LUC**  
**Affordable Housing**

**20.15.010 Purpose**

The purpose of this section is to promote the development of affordable housing by establishing requirements, incentives, and fees for new development.

**Commented [A1]:** Reorganization of LUC 20.20.128.A.1.

**20.15.020 Definitions**

- A. For the purposes of this chapter, development consists “entirely of affordable housing” even where the development also contains one or more manager’s units that do not constitute affordable housing so long as the manager’s units are reserved exclusively for occupancy of an on-site manager serving the project and said manager’s household.

**Commented [A2]:** Reorganization of LUC 20.20.128.B.

**20.15.030 Administration**

- A. The Director shall be responsible for administration of this chapter.
- B. Annual Adjustments for Inflation. The Director is both authorized and directed to annually increase or decrease the fees listed below by an adjustment necessary to reflect the then-current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers:
1. The in-lieu fees contained in Table 20.15.150.B;
  2. The in-lieu fee for nonresidential development contained in Chart 20.25Q.070.D.4; and

**Commented [A3]:** Reorganization of LUC 20.20.128.I.5 and LUC 20.20.128.A.5.

3. The in-lieu fee for middle housing development contained in Table 20.15.080.B.2.b.

#### **20.15.040**     **Applicable Procedures**

- A. An application to utilize the provisions of this section shall be processed through the required land use review for the project. If a land use approval is not required for the project, then the application shall be processed through the Building Permit review.
- B. Prior to the issuance of any permit(s) or approval(s), the Director shall review, and must approve, any affordable housing required by operation of this title. The Director may approve the proposed affordable housing only if they are consistent with the affordable housing standards adopted by rule in accordance with LUC 20.15.060.A and with the affordable housing standards listed in LUC 20.15.060.B.

**Commented [A4]:** Reorganization of LUC 20.20.128.C and LUC 20.20.128.I.10.

#### **20.15.050**     **Modification of Certain Requirements**

- A. Modification of Amount of Payment or Performance. Pursuant to LUC 20.20.542, the Director may modify the amount of payment required under LUC 20.15.150 of this section or the amount of performance required under either LUC 20.15.120 or LUC 20.15.130 of this section.
- B. Downtown Land Use Districts (Part 20.25A LUC).
  - 1. Refer to LUC 20.25A.070.C for FAR exemptions and incentives applicable to affordable housing in Downtown land use districts.
- C. BelRed Land Use Districts (Part 20.25D LUC).
  - 1. Refer to LUC 20.25D.080 for FAR exemptions and incentives applicable to affordable housing in BelRed land use districts.
- D. Factoria 1 Land Use District (Part 20.25F1 LUC).
  - 1. Refer to LUC 20.25F1.120 for FAR exemptions and incentives applicable to affordable housing in the F1 land use district.
- E. Community Mixed-Use Design District (Part 20.25I LUC).

**Commented [A5]:** Reorganization of LUC 20.20.128.J.8 and LUC 20.20.128.J.9. Added cross reference to LUC 20.25R.060.

1. Refer to LUC 20.25I.060 for FAR exemptions and incentives applicable to affordable housing the Community Mixed-Use Design District.

F. Eastgate Transit Oriented Development Land Use District (Part 20.25P LUC).

1. Refer to LUC 20.25P.060 for FAR exemptions and incentives applicable to affordable housing in the EG-TOD land use district.

G. Mixed-Use Land Use Districts (Part 20.25R LUC).

1. Refer to LUC 20.25R.050 for FAR exemptions and incentives applicable to affordable housing in Mixed-Use Land Use Districts.
2. Refer to LUC 20.25R.060 for Catalyst Programs in Mixed-Use Land Use Districts. The provisions of the Catalyst Programs may modify the requirements of this chapter for certain development within Mixed-Use Land Use Districts.

**20.15.060 Affordable Housing Standards**

**Commented [A6]:** Reorganization of LUC 20.20.128.A.2, LUC 20.20.128.A.3, and LUC 20.20.128.A.4.

- A. The Director shall adopt by rule affordable housing standards to govern the construction, repair, modification, and operation of affordable housing created or regulated by operation of this title. Such standards shall be consistent with the requirements of this title. When adopting affordable housing standards, the Director shall consider each of the following:

1. Consistency with the City's Comprehensive Plan;
2. Whether consistency with the City's other, non-Land-Use-Code-based affordable housing programs is beneficial to the City;
3. Whether consistency with affordable housing standards adopted by neighboring jurisdictions is beneficial to the City;
4. The impact on the City's affordable housing goals;
5. The impact on the cost of development; and
6. The impact on the quality of life of residents of affordable units.

- B. The following affordable housing standards shall apply to any affordable housing created or regulated by operation of this title. In the event of a conflict between a standard listed below and a standard included elsewhere in this title, the standard included elsewhere shall control.
1. The affordable housing shall be generally distributed throughout the residential portions of a development and, where market-rate dwelling units are provided, intermingled with market-rate dwelling units. The Director shall define by rule the terms “generally distributed” and “intermingled” for the purposes of this subsection.
  2. If all market-rate dwelling units in the development are for rent, then all affordable housing shall also be for rent.
  3. If all market-rate dwelling units in the development are for sale, then all dwelling units of affordable housing shall also be for sale.
  4. If the market-rate dwelling units in the development are a mix of dwelling units that are for rent and for sale, then the dwelling units of affordable housing shall be a proportionate mix of rental and for-sale units.
  5. The affordable housing shall consist of a mix of number of bedrooms that is in the same proportion as the bedroom mix of market-rate dwelling units in the overall development. The Director shall define by rule the term “bedroom” for the purposes of this subsection.
  6. The affordable housing shall be provided in a range of sizes comparable to the size of market-rate dwelling units in the development.
  7. The materials, finishes, design, amenities, and appliances of affordable housing shall have substantially the same functionality as, and be substantially comparable with, those of the other dwelling units in the development.
  8. The affordable housing shall remain affordable for the life of the project, which shall not be less than 50 years.
  9. The affordable housing shall be affordable to eligible households earning up to, and including, 80 percent of the area median income, but may be restricted to eligible

**Commented [A7]:** Currently, the definition of “Affordable Housing” contained in LUC 20.50.010 sets the general rule that Affordable Housing be affordable to 80% AMI. Through the reorganization of LUC 20.20.128 into Chapter 20.15 LUC, staff proposes to move this general rule into this section for clarity.

As stated in LUC 20.15.060.B, in the event that another provision of Title 20 LUC requires a lower AMI, that requirement shall govern over this general rule.

households earning a lower area median income at the owner's discretion or where required by project funding or applicable state or federal laws, regulations, or programs.

- C. Legal Agreement. Whenever affordable housing is created by operation of this title then, prior to issuance of a building permit for the development, the City and the owner of the site shall enter into an agreement, in a form approved by the Director. Once fully executed, the agreement shall be recorded, with the King County Recorder's Office, on the title of the real property on which the development is located.
1. The agreement shall be a covenant running with the land and shall be binding on the assigns, heirs, and successors of the owner of the property.
  2. If affordable housing is later converted from being for rent to for sale, or for sale to for rent, then such dwelling units shall remain affordable to households at the same percentage area median income as required under the Director's original approval; provided, that the Director may approve different percentage area median incomes. Where different percentage area median incomes are approved in relation to a conversion, the Director shall require the owner to execute and record a revised legal agreement reflecting the new percentage area median incomes.
  3. The affordable housing shall remain affordable to households at the same percentage area median income as required under the Director's original approval for the life of the project, which shall not be less than 50 years.
  4. Through the agreement, the Director may agree to subordinate the agreement for the purpose of enabling the owner to obtain financing for development of the property; provided, that such subordination is consistent with the applicable requirements of this title.
  5. The agreement shall address price restrictions, home buyer or tenant qualifications, phasing of construction, monitoring of affordability, and any other topics applicable to the construction, maintenance, and operation of the affordable housing; provided, that the covenant shall be consistent with the applicable requirements of this title.

**20.15.070 Density Bonus – Mixed-Income Multifamily Development**

**Commented [A8]:** Reorganization of LUC 20.20.128.D.1.a, LUC 20.20.128.E.1, LUC 20.20.128.F.1, and LUC 20.20.128.G.

A. Applicability. This section applies to development meeting all of the following requirements:

1. The development is located within the LDR-2, LDR-3, MDR-1, or MDR-2 land use districts;
2. The development consists of attached or detached multifamily dwellings; and
3. The development includes both market rate and affordable housing dwelling units on site.

B. Density Bonus. Development subject to this section may exempt 1 bonus market rate dwelling unit for each equivalent-sized dwelling unit of affordable housing provided, up to 15 percent above the maximum density allowed in the underlying land use district.

C. Modification of Other Applicable Requirements. Development subject to this section may benefit from the following modifications to other applicable requirements:

1. Parking Requirements. If necessary to accommodate the development of affordable housing on site, then the Director may increase the percent of compact parking stalls by up to 75 percent of the total required parking. Tandem parking stalls are permitted to the extent feasible to satisfy required parking ratios.
2. Building Height. Except in the Shoreline Overlay District, the maximum building height in the LDR-2, LDR-3, MDR-1, and MDR-2 land use districts may be increased by up to 12 feet for those portions of the building(s) at least 20 feet from any property line.
3. Open Space. The open and recreation space requirement within a residential planned unit development containing development subject to this section may be reduced to 35 percent of gross land area. All other requirements of LUC 20.30D.160 shall continue to apply.
4. Dimensional Standard Modification. Development subject to this section may replace the applicable dimensional requirements in Chart 20.20.010 for the LDR-2, LDR-3, MDR-1, and MDR-2 land use districts with those in Chart 20.15.070.C. All other applicable dimensional requirements that are included in Chart 20.20.010 but

are not included in Chart 20.15.070.C shall continue to apply, including applicable footnotes.

Land Use District	LDR-2	LDR-3	MDR-1	MDR-2
Dwelling Units per Acre	11.5	17.3	23	34.5
Maximum Impervious Surface (Percent)	70	70	70	70

**20.15.080 Density Bonus – Middle Housing Development**

**Commented [A9]:** Reorganization of LUC 20.20.128.D.1.b, LUC 20.20.128.E.2, and LUC 20.20.128.G.

- A. Applicability. This section applies to middle housing development on a lot in any residential land use district where the maximum density would not otherwise allow six dwelling units as primary structures.
- B. Density Bonus. Middle housing development subject to this section may develop up to six dwelling units as primary structures where the applicant proposing the middle housing development complies with at least one of the following options:
1. Performance Option. At least two of the dwelling units constituting primary structures are affordable to households as follows:
    - a. For dwelling units intended for rent, the dwelling unit shall be affordable to households earning up to, and including, 60 percent of the area median income.
    - b. For dwelling units intended for sale, the dwelling unit shall be affordable to households earning up to, and including, 80 percent of the area median income.
  2. Payment Option. The applicant provides a cash payment of an in-lieu fee to the City as follows:
    - a. In-lieu fees shall be both assessed and collected at building permit issuance.
    - b. The payment amount shall be calculated as a flat fee, in accordance with Table 20.15.080.B.2.b, per market rate dwelling unit that would otherwise be required to be affordable under the Performance Option.

**Table 20.15.080.B.2.b**

<b>Land Use District</b>	<b>In-Lieu Fee</b>
All residential land use districts	\$150,000 per dwelling unit

- c. Compliance Through a Combination of Performance and Payment Options. To earn the density bonus under this section, the applicant may provide one dwelling unit of affordable housing by operation of the Performance Option and provide a cash payment in lieu of a second dwelling unit of affordable housing by operation of the Payment Option.
- C. Modification of Other Applicable Requirements. If the performance option described in subsection B.1 of this section is used, then middle housing development subject to this section may benefit from the following modifications of other applicable requirements:
1. Building Height. Except in the Shoreline Overlay District, the maximum building height for middle housing development in the LDR-2, LDR-3, MDR-1, and MDR-2 land use districts may be increased by up to 12 feet for those portions of the building(s) at least 20 feet from any property line.
  2. Open Space. The open and recreation space requirement within a residential planned unit development containing middle housing may be reduced to 35 percent of gross land area. All other requirements of LUC 20.30D.160 shall continue to apply.

**20.15.090 Density Bonus – Development Consisting Entirely of Affordable Housing**

- A. Applicability. This section applies to residential development consisting entirely of affordable housing in the locations, and with the qualifying ownership, listed in this subsection.
1. Owned or controlled by a religious organization at the time that the land use application is deemed complete and located in any of the following land use districts: LL-1, LL-2, SR-1, SR-2, SR-3, SR-4, or LDR-1.

**Commented [A10]:** Reorganization of LUC 20.20.128.D.1.c, LUC 20.20.128.E.3, LUC 20.20.128.F.2, and LUC 20.20.128.G.

2. Owned or controlled by a religious organization, nonprofit organization, or public agency, except for Bellevue Parks Department, Bellevue Community Development Department, or any public utility entity, and located in all land use districts in which attached or detached multifamily dwellings are permitted, including property with an affordable housing suffix.
- B. Density Bonus. Residential development subject to this section may receive a bonus of 50 percent above the maximum density allowed in the underlying land use district.
- C. Modification of Other Applicable Requirements. Residential development subject to this section may benefit from the following modifications of other applicable requirements:
1. Parking Requirements. If necessary to accommodate the development of affordable housing on site, then the Director may increase the percent of compact parking stalls by up to 75 percent of the total required parking. Tandem parking stalls are permitted to the extent feasible to satisfy required parking ratios.
  2. Building Height. Except in the Shoreline Overlay District, the maximum building height for residential development subject to this section on property with an affordable housing suffix or on property located in the LDR-2, LDR-3, MDR-1, and MDR-2 land use districts may be increased by up to 12 feet for those portions of the building(s) at least 20 feet from any property line.
  3. Open Space. The open and recreation space requirement within a residential planned unit development containing residential development subject to this section may be reduced to 35 percent of gross land area. All other requirements of LUC 20.30D.160 shall continue to apply.
  4. Dimensional Standard Modification. Residential development subject to this section may replace the applicable dimensional requirements in Chart 20.20.010 with those in Chart 20.15.090.C. All other applicable dimensional requirements that are included in Chart 20.20.010 but are not included in Chart 20.15.090.C shall continue to apply, including applicable footnotes.

**Chart 20.15.090.C**

Modified Dimensional Requirements for  
Affordable Housing Development

Land Use District	LL-1	LL-2	SR-1	SR-2	SR-3	SR-4	LDR-1	LDR-2 (AH-1)	LDR-3 (AH-3)	MDR-1 (AH-3)	MDR-2 (AH-4)
Minimum Lot Area (Thousands of Sq. Ft.)	23.3	13.3	9.0	6.7	5.7	4.8	3.1				
Dwelling Units per Acre	1.5	2.7	3.8	5.3	6.0	7.5	11.3	15.0	22.5	30.0	45.0
Maximum Lot Coverage by Structures (percent)	35	35	35	40	40	40	40	40	40	40	40
Maximum Hard Surface Coverage (percent)	75	75	75	75	80	80	90	90	90	90	90
Maximum Impervious Surface (percent)	45	45	45	55	55	55	65	70	70	70	70

#### 20.15.100 Affordable Housing Suffix Rezone

**Commented [A11]:** Reorganization of LUC 20.20.128.D.2 and LUC 20.20.128.H.

- A. Purpose. The purpose of the affordable housing suffix is to allow the development of affordable housing consisting of attached or detached multifamily dwelling subject to the requirements of this section.
- B. Applicability.
1. This section applies to real property meeting all of the following requirements:
    - a. Owned or controlled by a religious organization at the time that the land use application is deemed complete; and
    - b. Located in any of the following land use districts: LL-1, LL-2, SR-1, SR-2, SR-3, SR-4, LDR-1; and
    - c. Located within 500 feet of a land use district where commercial uses or attached or detached multifamily dwellings are permitted; and

- d. The Director determines either that the property is located on an arterial street or located in one of the following locations:
    - i. Within 1/2 mile of a transit stop that receives service at least 4 times per hour for 12 or more hours per day; or
    - ii. Within one-half mile of a light rail or bus rapid transit station or a future light rail or bus rapid transit station scheduled to begin service within two years; or
    - iii. Within 1/4 mile of a transit stop that receives service at least 2 times per hour for 12 or more hours per day.
  - 2. This section also applies to real property that does not meet all of the requirements listed in subsection B.1 of this section so long as the following requirements are satisfied:
    - a. The property is contiguous, and under common ownership, with real property meeting all of the requirements listed in subsection B.1 of this section; and
    - b. The property is not separated from the real property meeting all of the requirements listed in subsection B.1 of this section by public right-of-way.
- C. Rezone Criteria. Owners of property subject to this section may apply for a rezone, under Part 20.30A LUC, to append an affordable housing suffix to the property's existing Land Use District.
- 1. Reference Land Use District. The affordable housing suffix shall be determined based on the eligible property's reference Land Use District. The reference Land Use District shall be the highest density land use district located within 500 feet of the eligible property.
  - 2. Suffix Available for Rezone. Chart 20.15.100.C identifies the affordable housing suffixes associated with reference Land Use Districts. The applicant may request up to the highest affordable housing suffix associated with the eligible property's reference Land Use District.

**Chart 20.15.100.C**

#### Affordable Housing Suffix Eligibility

Reference Land Use District	Associated Affordable Housing Suffix
LDR-2, PO	(AH-1)
LDR-3, NB	(AH-2)
MDR-1, O, GC	(AH-3)
MDR-2, BR-CR, BR-ORT, BR-RC, CB, DT (Any), EG-TOD, EM-TOD-L, EM-TOD-L, F1, F3, LI, NMU, OLB, OLB 2, NMU, UC, MU-H, MU-M, MUR-M, MU7, MU16	(AH-4)

#### D. Development with Suffix.

1. Increased Density. If the development on a property with an affordable housing suffix consists entirely of affordable housing, then the development may conform to the associated Land Use District identified in Chart 20.15.100.D, including associated dimensional standard modifications identified in Chart 20.15.090.C, instead of the underlying Land Use District.

#### Chart 20.15.100.D

##### Alternate Land Use Districts Associated with Affordable Housing Suffixes

Affordable Housing Suffix	Associated Land Use District
(AH-1)	LDR-2
(AH-2)	LDR-3
(AH-3)	MDR-1
(AH-4)	MDR-2

2. Religious Facilities. The Director may administratively consider, approve, or disapprove the redevelopment of an existing religious facility subject to the criteria set forth in Part 20.30E LUC for an Administrative Conditional Use, provided the following criteria can be met:
  - a. The proposed religious facility is part of a proposal that meets all requirements of this section; and

- b. The gross square footage of the new religious facility is less than or equal to the existing gross square footage of the religious facility it will replace.

#### **20.15.110 Affordable Housing Program – General**

A. Applicability. This section applies to development meeting all of the following criteria:

- 1. The development contains either or both of the following:

- a. 10 or more dwelling units, including any accessory dwelling unit permitted under LUC 20.20.120; or

- b. More than 4,000 square feet of gross floor area.

- 2. The development is either fully or partially located within one of the following land use districts:

- a. A Mixed-Use Land Use District (UC, MU-H, MU-M, or MUR-M).

- b. A Community Mixed-Use Design District (O, OLB, OLB 2, NB, CB, NMU, MU7, MU16, or F3).

- c. The EG-TOD land use district.

- d. The F1 land use district.

B. Exceptions. The following development is exempt from this section, even where it would otherwise meet the criteria listed in subsection A of this section:

- 1. Building additions that increase the gross floor area by less than 50 percent.

C. Multifamily or Mixed-Use Development. Multifamily or mixed-use development subject to the requirements of this section shall comply with at least one of the following:

- 1. The residential performance option under LUC 20.15.120;
- 2. The payment option under LUC 20.15.150;

**Commented [A12]:** Reorganization of LUC 20.20.128.I.1 and LUC 20.20.128.I.11.

**Commented [A13]:** Currently, LUC 20.20.128.I.1 applies when “the multifamily or mixed-use *structure* contains 10 or more dwelling units.” The existing language has the unintended consequence of exempting townhouse development where no single structure contains 10 or more dwelling units.

Through the reorganization of LUC 20.20.128 into Chapter 20.15 LUC, this requirement is proposed to be modified to apply to developments, in the specified land use districts, containing 10 or more dwelling units, regardless of whether they are within the same structure.

**Commented [A14]:** Subsections A.2.b, .c, and .d will only be included if the City Council proceeds with HOMA Option A, which would adopt a mandatory affordable housing program applicable to the listed land use districts.

3. A combination of the residential performance option and the payment option in accordance with LUC 20.15.160; or
  4. The land transfer option under LUC 20.15.170.
- D. Nonresidential Development. Nonresidential development subject to the requirements of this section shall comply with at least one of the following:
1. The nonresidential performance option under LUC 20.15.130;
  2. The payment option under LUC 20.15.150;
  3. A combination of the residential performance option and the payment option in accordance with LUC 20.15.160; or
  4. The land transfer option under LUC 20.15.170.
- E. Acceptance and Deposit of Funds. If development subject to the requirements of this section elects to comply with this section through the payment option under LUC 20.15.150, or a combination of the payment option and a performance option under LUC 20.15.160, then the Director is authorized to accept such payment from the applicant. Funds shall be deposited into a special account and may be used by the City for the purposes authorized by RCW 36.70A.540.

**20.15.120 Affordable Housing Program – Performance Option – Residential**

- A. Applicability. This section applies to multifamily or mixed-use development that desires to comply with the requirements of LUC 20.15.110 through the residential performance option.
- B. Onsite Performance. Multifamily or mixed-use development complying with LUC 20.15.110 through the residential performance option shall provide affordable housing in an amount indicated below:
1. For dwelling units intended for rent, one of the following:
    - a. At least 10 percent of all dwelling units shall be affordable to eligible households earning up to, and including, 80 percent of the area median income; or

**Commented [A15]:** Reorganization of LUC 20.20.128.J.2.

- b. At least 7 percent of all dwelling units shall be affordable to eligible households earning up to, and including, 60 percent of the area median income; or
  - c. At least 5 percent of all dwelling units shall be affordable to eligible households earning up to, and including, 50 percent of the area median income.
2. For dwelling units intended for sale, one of the following:
- a. At least 10 percent of all dwelling units shall be affordable to eligible households earning up to, and including, 100 percent of the area median income; or
  - b. At least 7 percent of all dwelling units shall be affordable to eligible households earning up to, and including, 80 percent of the area median income.
3. If the operation of this section would result in a fractional requirement, and that fraction is 0.5 or greater, then the number of dwelling units of affordable housing required at the applicable area median income shall be equal to the next higher whole number. If that fraction is less than 0.5, then the number of dwelling units of affordable housing required at the applicable area median income shall be rounded down to the next lower whole number.
4. Affordable housing may be provided on site, off site, or through a combination of on-site and off-site performance.
5. To satisfy the requirements of this section, any affordable housing located off site must comply with the requirements of LUC 20.15.140.

**20.15.130 Affordable Housing Program – Performance Option – Nonresidential**

- A. Applicability. This section applies to nonresidential development that desires to comply with the requirements of LUC 20.15.110 through the nonresidential performance option.
- B. On-site Performance. Nonresidential development complying with LUC 20.15.110 through the nonresidential performance option shall provide affordable housing in an amount indicated below:

**Commented [A16]:** Reorganization of LUC 20.20.128.I.3.

1. For dwelling units intended for rent, one of the following:
  - a. For every 1,000 square feet of gross floor area, 1 dwelling unit shall be provided that is affordable to households earning up to, and including, 80 percent of the area median income; or
  - b. For every 3,000 square feet of gross floor area, 1 dwelling unit shall be provided that is affordable to households earning up to, and including, 60 percent of the area median income; or
  - c. For every 5,000 square feet of gross floor area, 1 dwelling unit shall be provided that is affordable to households earning up to, and including, 50 percent of the area median income.
2. For dwelling units intended for sale, one of the following:
  - a. For every 1,000 square feet of gross floor area, 1 dwelling unit shall be provided that is affordable to households earning up to, and including, 100 percent of the area median income; or
  - b. For every 3,000 square feet of gross floor area, 1 dwelling unit shall be provided that is affordable to households earning up to, and including, 80 percent of the area median income.
3. If the operation of this section would result in a fractional requirement, and that fraction is 0.5 or greater, then the number of dwelling units of affordable housing required at the applicable area median income shall be equal to the next higher whole number. If that fraction is less than 0.5, then the number of dwelling units of affordable housing required at the applicable area median income shall be rounded down to the next lower whole number.
4. Affordable housing may be provided on site, off site, or through a combination of on-site and off-site performance.
5. To satisfy the requirements of this section, any affordable housing located off site must comply with the requirements of LUC 20.15.140.

**20.15.140 Affordable Housing Program – Performance Option – Compliance through Offsite Performance**

**Commented [A17]:** Reorganization of LUC 20.20.128.I.7.

- A. Applicability. This section applies to development that desires to comply with the requirements of LUC 20.15.110 through a performance option and desires to provide affordable housing off-site.
- B. Off-site Performance. To satisfy the requirements of either LUC 20.15.120 or LUC 20.15.130, affordable housing located off site must be located both within the City limits and within one of the following tiers of locations. Any affordable housing must also meet all requirements applicable to that location tier.
  - 1. Tier 1 – Proximity to Light Rail or Bus Rapid Transit.
    - a. The affordable housing may be located within one-half mile of an existing or future station on a light rail system funded or expanded under the provisions of Chapter 81.104 RCW.
    - b. The affordable housing may be located within one-half mile of an existing or future station on a bus rapid transit line.
  - 2. Tier 2 – Proximity to Transit or Nonmotorized Facility.
    - a. The affordable housing may be located within 1/2 mile of an existing or future transit stop that receives service at least 4 times per hour for 12 or more hours per day; provided, that the unit is affordable to households earning up to, and including, 60 percent of the area median income for rental units and 100 percent of the area median income for ownership units.
    - b. The affordable housing may be located within 1/2 mile of an existing or future transit stop that receives service at least 2 times per hour for 12 or more hours per day; provided, that the unit is affordable to households earning up to, and including, 50 percent of the area median income for rental units and 100 percent of the area median income for ownership units.
    - c. The affordable housing may be located on any lot that adjoins an access corridor containing a bike lane or a separated nonmotorized facility other than a sidewalk. However, the unit must be affordable to households earning up to, and

including, 50 percent of the area median income for rental units and 100 percent of the area median income for ownership units.

3. Requirements Applicable to Both Tier 1 and Tier 2 Locations.

- a. If a physical impediment exists that would require pedestrians to walk more than one-half mile to the station or stop from the location of the affordable housing, then the Director may determine that the location does not meet the requirements of the applicable tier.
- b. If an applicant selects a Tier 2 location, the amount of affordable housing required to be produced under LUC 20.15.120 or LUC 20.15.130 is not modified. Instead, the amount of affordable dwelling required by operation of LUC 20.15.120 or LUC 20.15.130 will apply, but, where required by operation of subsection B.2 of this section, the affordable housing must be affordable to a lower area median income bracket than what would otherwise be required under LUC 20.15.120 or LUC 20.15.130.
- c. A certificate of occupancy for any market-rate dwelling unit or nonresidential gross floor area in the development shall not be issued until a certificate of occupancy has been issued for all affordable housing located off site, except if the applicant provides an assurance device in accordance with the following requirements:
  - i. The applicant may provide an assurance device, in a form acceptable to the Director pursuant to LUC 20.40.490.C, in an amount equal to the in-lieu fee that would otherwise be assessed for the development by normal operation of this section if no off-site affordable housing were constructed.
  - ii. The assurance device shall require that the off-site affordable housing are fully constructed and receive a final certificate of occupancy no later than 365 calendar days after the final certificate of occupancy is issued for market-rate dwelling units or for any nonresidential gross floor area in the development.
  - iii. If a certificate of occupancy is not issued for all off-site affordable housing within this time frame, and no extension has been granted by the Director,

then the Director shall collect the proceeds of the assurance device and deposit and use the funds in accordance LUC 20.15.110.E.

- iv. The Director may grant an extension, not to exceed a total of 180 additional calendar days, if: a written request for the extension is filed at least 30 calendar days before the expiration of the 365-calendar-day time limit; and the Director determines that unforeseen circumstances or conditions which are not the result of the voluntary actions of the applicant necessitate the extension; and the Director determines that the applicant has demonstrated reasonable diligence in attempting to meet the 365-calendar-day time limit.
- v. If a certificate of occupancy is issued for all off-site affordable housing within the required timeframe, the Director shall release the assurance device.

**20.15.150 Affordable Housing Program – Payment Option**

**Commented [A18]:** Reorganization of LUC 20.20.128.I.4.

- A. Applicability. This section applies to development that desires to comply with the requirements of LUC 20.15.110 through the payment option.
- B. Payment Option. Development complying with LUC 20.15.110 through the payment option shall provide a cash payment to the City in lieu of on-site or off-site performance as follows:
  - 1. Assessment and Vesting of Fees.
    - a. In-lieu fees shall be assessed at the time a complete design review application is submitted for the applicable phase and shall be collected at the time of building permit issuance for the applicable phase.
    - b. Once assessed, the applicable phase shall vest to the in-lieu fee for a period of three years beginning at the time that the complete design review application was submitted.
    - c. The Director may grant an extension, not to exceed one year, to the vesting period of the in-lieu fee for good cause.

- d. If a complete building permit application is not submitted within the vesting period described in this subsection, as may be extended by the Director, then the in-lieu fee shall be reassessed at the then applicable rate.
2. Calculation of Payment Amount.
- a. The payment amount shall be calculated by multiplying the applicable per-square-foot fee specified in Table 20.15.150.B by the total square footage of new nonexempt gross floor area.
- c. For the purposes of this section, nonexempt gross floor area refers to the portion of gross floor area that is included in the applicable Floor Area Ratio (FAR) calculation. Gross floor area that is excluded from the applicable FAR calculation includes parking, mechanical floors or areas, and other exempt floor area authorized under Part 20.25R LUC (Mixed Use Districts), including Active Uses (up to 1.0 FAR pursuant to LUC 20.25R.050.C.1), affordable commercial space, and affordable housing.
- d. The applicable fees for development that is entirely nonresidential are listed in the second column of Table 20.15.150.B titled “Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area.”
- e. The applicable fees for development that is either mixed-use or entirely residential are listed in the third column of Table 20.15.150.B titled “Residential and Mixed-Use Fee Per Square Foot of New Nonexempt Gross Floor Area.”
- i. Development that is mixed-use shall not be subject to separate in-lieu fee rates for the residential and nonresidential portions of such development.
- ii. For the purposes of this subsection, phased development shall still be considered to be mixed-use even if one or more phases consist of buildings that are entirely nonresidential so long as some proportion of the first phase to be constructed is residential.

**Table 20.15.150.B**

Land Use District	Nonresidential Fee Per Square Foot of New	Residential and Mixed-Use Fee Per Square Foot of
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**Commented [A19]:** The bottom two rows will only be included if the City Council proceeds with HOMA Option A, which would adopt a mandatory affordable housing program applicable to the listed land use districts.

	<b>Nonexempt Gross Floor Area</b>	<b>New Nonexempt Gross Floor Area</b>
UC, MU-H, MU-M, MUR-M	\$16.50	\$13.00
OLB 2, NMU, MU7, MU16, F1, F3, EG-TOD	\$16.50	\$13.00
O, OLB, NB, CB	\$16.50	\$10.00

**20.15.160 Affordable Housing Program – Compliance through a Combination of Performance and Payment Options**

**Commented [A20]:** Reorganization of LUC 20.20.128.I.6.

- A. Applicability. This section applies to development that desires to comply with the requirements of LUC 20.15.110 through a combination of performance and payment options.
- B. Compliance through Combination of Performance and Payment Options. Development complying with LUC 20.15.110 through a combination of the payment option under LUC 20.15.150 and the otherwise applicable performance option under either LUC 20.15.120 or LUC 20.15.130 shall use the following procedure:
1. First, the total in-lieu fee for the development shall be calculated as if compliance would be achieved solely by operation of LUC 20.15.150.
  2. Then, the total number of dwelling units of affordable housing required to be created for the development shall be calculated as if compliance would be achieved solely by operation of LUC 20.15.120 or LUC 20.15.130, as would otherwise be applicable to the development.
  3. Then, the actual number of dwelling units of affordable housing proposed to be created for the development shall be divided by the result calculated in subsection B.2 of this section.
  4. Then, the result calculated in subsection B.3 of this section shall be subtracted from the number one.

5. Then, the result calculated in subsection B.4 of this section shall be multiplied with the result calculated in subsection B.1 of this section.
  6. The result calculated in subsection B.5 of this section constitutes the actual in-lieu fee that shall be required to be paid; provided, that the actual number of dwelling units of affordable housing proposed to be created for the development is constructed, maintained, and operated in accordance with the requirements of this title.
- C. Example. The following is an example demonstrating application of the procedure described in subsection I.6.a of this section to a hypothetical mixed-use development:

<b>In-Lieu Fee Amount Required (Required Fee):</b>	\$1,500,000
<b>Affordable Housing Required (Required AH):</b>	100
<b>Actual Number of Dwelling Units of Affordable Housing Proposed (Proposed AH):</b>	10
<b>Actual In-Lieu Fee Amount Required to be Paid:</b>	\$1,350,000
<p>Required Fee x [1 – (Proposed AH/Required AH)]</p> <p>\$1,500,000 x [1-(10/100)] = \$1,350,000</p> <p>Compliance is achieved.</p>	

#### **20.15.170 Affordable Housing Program – Land Transfer Option**

- A. Applicability. This section applies to development that desires to comply with the requirements of LUC 20.15.110 through the land transfer option.
- B. Land Transfer Option. As one means of complying with LUC 20.15.110, the City may, but is not required to, accept legal title to real property from an applicant for purposes relating to the construction, operation, maintenance, or acquisition of affordable housing. A proposed transfer of real property under this subsection shall be reviewed using the following procedure:

**Commented [A21]:** Reorganization of LUC 20.20.128.J.5.

1. Eligibility. The City will not consider a land transfer under this subsection unless the real property proposed to be transferred is located as follows:
  - a. If the development subject to LUC 20.15.110 is located within a Mixed-Use Land Use District subject to Part 20.25R LUC, then the real property proposed to be transferred must be located within a Mixed-Use Land Use District subject to Part 20.25R LUC.
  - b. If the development subject to LUC 20.15.110 is located within the OLB2, NMU, MU7, MU16, F1, F3, EG-TOD, O, OLB, NB, or CB land use districts, then the real property proposed to be transferred must be located within two miles of the development subject to LUC 20.15.110.
2. Proposal Required. An applicant desiring to comply with the requirements of LUC 20.15.110 through the Land Transfer Option shall submit, in conjunction with a complete application for the required Master Development Plan or Design Review, a proposal containing the following information:
  - a. A feasibility analysis containing the following information:
    - i. Analysis demonstrating that, under applicable development regulations, site conditions on the real property proposed to be transferred would allow the construction of an amount of affordable housing equal to, or greater than, the number that would be required to be constructed under either LUC 20.15.120 or LUC 20.15.130, as would otherwise be applicable to the applicant's development;
    - ii. Analysis demonstrating that no legal agreements relating to, or legal interests in, the real property proposed to be transferred exist that would preclude the construction of an amount of affordable housing equal to, or greater than, the number that would be required to be constructed under either LUC 20.15.120 or LUC 20.15.130 of this section, as would otherwise be applicable to the applicant's development;
    - iii. Analysis demonstrating the maximum amount of affordable housing that could be constructed on the real property proposed to be transferred under applicable development regulations;

- iv. Analysis demonstrating that adequate utility infrastructure exists to support the construction and operation of the amount of affordable housing identified in subsections B.2.a.i and B.2.a.iii of this section or, in the absence of adequate utility infrastructure, what utility infrastructure would be required to be constructed under applicable development regulations; and
    - v. The appraised value of the real property proposed to be transferred, as determined by an appraiser licensed under the laws of Washington State.
  - b. A survey of the real property proposed to be transferred, prepared by a surveyor licensed in the State of Washington, that depicts elevation, existing site conditions, all recorded easements, critical areas, critical area buffers, and critical area structure setbacks. The survey shall also include the legal description of the real property proposed to be transferred. The Director may further define what is required to be depicted on the survey by rule.
3. Review Process.
- a. The City Manager, or designee, shall review the proposal. Where the following criteria are satisfied, the City Manager may, but is not required to, accept the transfer of real property and execute all documents necessary to effectuate the transfer:
    - i. Under applicable development regulations, site conditions on the real property proposed to be transferred would allow the construction of an amount of affordable housing equal to, or greater than, the number that would be required to be constructed under either LUC 20.15.120 or LUC 20.15.130, as would otherwise be applicable to the applicant's development;
    - ii. No legal agreements relating to, or legal interests in, the real property proposed to be transferred exist that would preclude the construction of a number of affordable dwelling units equal to, or greater than, the number that would be required to be constructed under LUC 20.15.120 or LUC 20.15.130, as would otherwise be applicable to the applicant's development; and
    - iii. The appraised value of the real property proposed to be transferred, as determined by an appraiser licensed under the laws of Washington State, is

equal to, or greater than, the in-lieu fee that would be required under LUC 20.15.150.

- b. Recording Required. If the City Manager, or designee, accepts the transfer of real property, then the applicant shall record with the King County Recorder's Office all agreements and deeds necessary to effectuate the transfer and shall provide copies of the recorded documents to the Director.
- c. If the City Manager, or designee, declines the proposed transfer, then the applicant cannot satisfy the requirements of LUC 20.15.110 through the Land Transfer Option and must instead comply with the requirements of LUC 20.15.110 through another option listed in LUC 20.15.110.

#### **Conformance Edits**

*The proposed amendments below are necessary to change cross-references to LUC 20.20.128 to the corresponding sections contained in the new Chapter 20.15 LUC. In addition, some amendments are necessary to conform to other proposed amendments contained in HOMA.*

#### **20.20.128 Affordable Housing**

*This section is repealed in its entirety and replaced with Chapter 20.15 LUC.*

#### **20.20.538 Middle housing.**

...

#### **C. Standards.**

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(1) See Chart 20.20.010 for standards related to minimum lot area, minimum street frontage width, lot width, and lot depth.

(2) If a lot is located within one-quarter mile walking distance of a major transit stop, then up to six dwelling units are permitted on that lot.

(3) If development on a lot meets the requirements of ~~LUC 20.20.128.E.2~~[LUC 20.15.080](#) relating to housing affordability, then up to six dwelling units are permitted on that lot.

...

**20.20.542      Modification of certain development regulations.**

...

**B. Applicability.**

This section only applies to the requirements of this title identified, described, and listed below:

1. The amount of performance required under LUC 20.15.120~~LUC 20.20.128.1.2~~;
2. The amount of performance required under LUC 20.15.130~~LUC 20.20.128.1.3~~; and
3. The amount of payment required under LUC 20.15.150~~LUC 20.20.128.1.4~~.

**20.20.900      Tree retention and replacement.**

...

**E. Minimum Tree Density.**

...

**5. Dimensional Standard Modification for Tree Retention.**

...

- b. Front and Rear Yards. Subject to street intersection sight obstruction requirements, BCC 14.60.240, development may extend into up to 50 percent of the required front yard or 5 feet into the rear yard in the following circumstances:
  - i. The maximum density of development allowed on the site cannot be achieved without extending into the TPZ of existing significant or Landmark Trees required to achieve the minimum tree density; or

ii. The modification will enable the applicant to retain a grove, additional Landmark Trees, or both a Grove and additional Landmark Trees beyond the required minimum tree density; or

iii. The proposal is for affordable housing development provided under ~~LUC 20-20-128~~Chapter 20.15 LUC and will exceed the required minimum tree density.

c. Building Height. Except in transition areas and for proposals of 1 dwelling unit per lot, the maximum building height may be increased by up to 12 feet for those portions of the building(s) at least 20 feet from any property line in the following circumstances:

i. The maximum density of development allowed on the site cannot be achieved without extending into the TPZ of existing Significant Trees or of existing Landmark Trees required to achieve the minimum tree density; or

ii. The modification will enable the applicant to retain a Grove, additional Landmark Trees, or both a Grove and additional Landmark Trees beyond the required minimum tree density; or

iii. The proposal is for affordable housing development provided under ~~LUC 20-20-128~~Chapter 20.15 LUC and will exceed the required minimum tree density.

...

#### **20.25A.010 General**

A. Applicability of Part 20.25A LUC.

...

3. Land Use Code Sections Not Applicable in Downtown. The following sections of the Land Use Code, BCC Title 20, now or as hereafter amended, do not apply in Downtown. Unless specifically listed below, all other sections apply.

...

~~g. LUC 20-20-128;~~

~~gh.~~ LUC 20.20.135 and 20.20.140;

~~hi.~~ LUC 20.20.190 and 20.20.192;

~~ij.~~ LUC 20.20.250;

~~jk.~~ LUC 20.20.400;

~~kl.~~ LUC 20.20.540;

~~lm.~~ LUC 20.20.525;

~~n.~~ LUC 20.20.560;

~~mo.~~ LUC 20.20.700 and 20.20.720;

~~np.~~ LUC 20.20.750 through 20.20.800; and

~~oq.~~ LUC ~~20.20.890 and~~ 20.20.900.

...

#### **20.25D.010 General.**

##### **A. Applicability.**

...

2. The following general development requirements of Chapter 20.20 LUC do not apply in the BelRed land use districts:

~~k.~~ LUC 20.20.120;

~~kl.~~ LUC 20.20.135;

~~lm.~~ LUC 20.20.190;

~~mn.~~ LUC 20.20.250;

~~no.~~ LUC 20.20.400;

~~op.~~ LUC 20.20.520;

~~pq.~~ LUC 20.20.561~~0~~;

~~qf.~~ LUC 20.20.720;

~~rs.~~ LUC 20.20.760;

~~st.~~ LUC 20.20.800; ~~and~~

~~tr.~~ ~~LUC 20.20.890~~; ~~and~~

~~tv.~~ LUC 20.30V.170.

...

#### **20.25Q.010 General.**

##### **A. Applicability.**

...

3. Land Use Code Sections Not Applicable in EM-TOD Districts. The following general sections of the Land Use Code, Title 20 Bellevue City Code, now or as hereafter amended, do not apply in EM-TOD Districts. Unless specifically listed below, all other sections apply.

...

~~f.~~ ~~LUC 20.20.128~~;

~~fg.~~ LUC 20.20.135 and 20.20.140;

~~gh.~~ LUC 20.20.190 and 20.20.192;

~~hi.~~ LUC 20.20.250;

~~ij.~~ LUC 20.20.400;

~~jk.~~ LUC 20.20.525;

~~t.~~ ~~LUC 20.20.560~~;

~~km.~~ LUC 20.20.700 and 20.20.720;

~~ln.~~ LUC 20.20.750 through 20.20.800; and

~~m.~~ LUC ~~20.20.890 and~~ 20.20.900.

...

#### **20.25R.050 Amenity Incentive System**

...

2. Bonus Points. The following amenities qualify for bonus points as described below:

a. Affordable Housing.

i. New affordable housing: four bonus points for every one gross square foot of affordable housing subject to the following conditions:

(1). Bonus points may be earned under this subsection D.2.a.i only for affordable housing provided in excess of the amount required by ~~LUC 20.20.128.1~~ LUC 20.15.110.

(2) To earn bonus points under this subsection D.2.a.i, affordable housing shall meet all applicable requirements of ~~LUC 20.20.128~~ Chapter 20.15 LUC.

(3) Affordable housing created exclusively by operation of Chapter 4.52 BCC is ineligible to earn bonus points under this subsection D.2.a.

(4) To earn bonus points under this subsection D.2.a.i, affordable housing may be located on site, off site, or through a combination of on-site and off-site performance.

(5) To earn bonus points under this subsection D.2.a.i, affordable housing located off site must be located both within the city limits and within a Tier 1 location as described in ~~LUC 20.20.128.1.7~~ LUC 20.15.140.

ii. Deeper Affordability. Bonus points may be earned by providing dwelling units at deeper levels of affordability as follows:

- (1) Six bonus points for every 1 gross square foot of dwelling units that are affordable to households earning up to, and including, 60 percent of the Area Median Income.
- (2) Eight bonus points for every 1 gross square foot of dwelling units that are affordable to households earning up to, and including, 50 percent of the Area Median Income.
- (3) Bonus points may be earned under this subsection D.2.a.ii only for affordable housing provided in excess of the amount required by ~~LUC 20.20.128.1~~[LUC 20.15.110](#).
- (4) Affordable housing earning bonus points under subsection D.2.a.ii(1) or D.2.a.ii(2) of this section are ineligible to receive bonus points under subsection D.2.a.i of this section.
- (5) To earn bonus points under this subsection D.2.a.ii, affordable housing shall meet all applicable requirements of ~~LUC 20.20.128~~[Chapter 20.15 LUC](#).
- (6) Affordable housing created exclusively by operation of Chapter 4.52 BCC are ineligible to earn bonus points under this subsection D.2.a.ii
- (7) To earn bonus points under this subsection D.2.a.ii, affordable housing may be located on site, off site, or through a combination of on-site and off-site performance.
- (8) To earn bonus points under this subsection D.2.a.ii, affordable housing located off site must be located both within the city limits and within a Tier 1 location as described in ~~LUC 20.20.128.1.7~~[20.15.140](#).

iii. Land transfer: 0.5 bonus points for every one square foot of real property provided pursuant to ~~LUC 20.20.128.1.5~~[LUC 20.15.170](#).

iv. Pioneer Provision. To encourage the development of affordable housing in Mixed-Use Land Use Districts, established under LUC 20.10.020 and described in LUC 20.10.398, the first 200 dwelling units of affordable housing shall receive 8 points for every 1 gross square foot of affordable housing subject to the following conditions:

- (1) Bonus points are only earned under this subsection D.2.a.iv when a building permit is issued for development that includes affordable housing on site.
- (2) For phased development, bonus points are only earned for affordable housing included in the phase for which the building permit has been issued.
- (3) If, at the time of issuance of a building permit, 200 dwelling units of affordable housing have already earned bonus points for other development utilizing this pioneer provision, then no bonus points shall be awarded under this subsection D.2.a.iv.
- (4) After the 200th dwelling unit of affordable housing has earned bonus points under this subsection D.2.a.iv, all subsequent affordable housing, either within the same development or within another development, is ineligible to earn bonus points under this subsection D.2.a.iv, but may earn bonus points as otherwise provided by this subsection.
- (5) Affordable housing earning bonus points under this subsection D.2.a.iv is ineligible to earn bonus points under subsection D.2.a.i.
- (6) Bonus points earned by providing deeper affordability under subsection D.2.a.ii may be stacked with bonus points earned under this subsection D.2.a.iv.
- (7) Affordable housing created exclusively by operation of Chapter 4.52 BCC is ineligible to earn bonus points under this subsection D.2.a.iv.
- (8) To earn bonus points under this subsection D.2.a.iv, affordable housing shall meet all applicable requirements of ~~LUC 20.20.128~~[Chapter 20.15 LUC](#).

- (9) This pioneer provision does not apply to development consisting entirely of affordable housing. For the purposes of this subsection, development consists entirely of affordable housing even where the development also contains one or more manager's units; provided, that the manager's units are reserved exclusively for occupancy of an on-site manager serving the project and said manager's household.

## **20.25R.060 Catalyst Programs for Mixed-Use Land Use Districts**

### **A. Residential Catalyst Program.**

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#### **2. Applicability**

- a. Until the Residential Catalyst Program expires, the provisions of the program shall apply to proposed multifamily or mixed-use development, either fully or partially located within a Mixed-Use Land Use District established under LUC 20.10.020 and described in LUC 20.10.398, that is subject to the requirements of ~~LUC 20.20.128~~[LUC 20.15.110](#).
- b. When the Residential Catalyst Program expires, the provisions of the program shall no longer apply to any development. Upon expiration of the Residential Catalyst Program, any proposed multifamily or mixed-use development, either fully or partially located within a Mixed-Use Land Use District, as established under LUC 20.10.020 and described in LUC 20.10.398, shall comply with the requirements of ~~LUC 20.20.128~~[LUC 20.15.110](#) as normal. Nothing in this subsection affects any vested rights established under LUC 20.40.500 or state law.

...

#### **4. First Phase.**

...

- c. If an applicant submits a land use application while the First Phase is in effect and establishes vested rights under LUC 20.40.500, then the applicant must submit a complete building permit application for the development within 2 years (i.e., 730 calendar days) of the date that vested rights were first established under LUC 20.40.500 for the development. If the applicant fails to do so, then the First Phase of the Residential Catalyst Program shall not apply to the development and ~~LUC 20.20.128~~Chapter 20.15 LUC shall apply as normal to the development.
- d. Until the First Phase expires, ~~LUC 20.20.128~~Chapter 20.15 LUC shall be modified as follows. Any subsection of ~~LUC 20.20.128~~Chapter 20.15 LUC not explicitly modified below shall remain in effect during the First Phase and, where applicable, shall apply as normal.
  - i. For the duration of the First Phase, the Residential and Mixed-Use Fee Per Square Foot of New Nonexempt Gross Floor Area contained in ~~Table 20.15.150.B~~Table 20.20.128.I.4 for the UC, MU-H, MU-M, and MUR-M land use districts shall not be adjusted as provided in ~~LUC 20.20.128.A.5~~LUC 20.15.030.
  - ii. ~~LUC 20.20.128.I.4.a~~LUC 20.15.150.B.1 shall not apply to residential or mixed-use development in the UC, MU-H, MU-M, and MUR-M land use districts. Instead, in-lieu fees shall be assessed on the date that vested rights are first established for the residential or mixed-use development under LUC 20.40.500; provided, that if the development consists of multiple phases, then for each phase the in-lieu fee shall be assessed at the time the associated Design Review for that phase vests under LUC 20.40.500. In-lieu fees shall then be collected prior to building permit issuance.
  - iii. ~~LUC 20.20.128.I.2.a~~LUC 20.15.120.B.1.a shall not apply. Instead, for dwelling units intended for rent, at least 5 percent of all dwelling units shall be affordable to households earning up to, and including, 80 percent of the area median income.
  - iv. ~~LUC 20.20.128.I.2.b~~LUC 20.15.120.B.2.a shall not apply. Instead, for dwelling units intended for sale, at least 5 percent of all dwelling units shall be affordable to households earning up to, and including, 100 percent of the area median income.

- v. The Residential and Mixed-Use Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B for the UC, MU-H, MU-M, and MUR-M land use districts](#) ~~Table 20.20.128.I.4~~ shall be reduced by 25 percent.

5. Second Phase.

...

- c. If an applicant submits a land use application while the Second Phase is in effect and establishes vested rights under LUC 20.40.500, then the applicant must submit a complete building permit application for the development within 2 years (i.e., 730 calendar days) of the date that vested rights were first established under LUC 20.40.500 for the development. If the applicant fails to do so, then the Second Phase of the Residential Catalyst Program shall not apply to the development and ~~LUC 20.20.128~~Chapter 20.15 LUC shall apply as normal to the development.
- d. Until the Second Phase expires, ~~LUC 20.20.128~~Chapter 20.15 LUC shall be modified as follows. Any subsection of ~~LUC 20.20.128~~Chapter 20.15 LUC not explicitly modified below shall remain in effect during the Second Phase and, where applicable, shall apply as normal.
  - i. For the duration of the Second Phase, the Residential and Mixed-Use Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B](#) ~~Table 20.20.128.I.4~~ for the UC, MU-H, MU-M, and MUR-M land use districts shall not be adjusted as provided in [LUC 20.15.030](#) ~~LUC 20.20.128.A.5~~.
  - ii. [LUC 20.15.150.B.1](#) ~~LUC 20.20.128.I.4.a~~ shall not apply to residential or mixed-use development in the UC, MU-H, MU-M, and MUR-M land use districts. Instead, in-lieu fees shall be assessed on the date that vested rights are first established for the residential or mixed-use development under LUC 20.40.500; provided, that if the development consists of multiple phases, then for each phase the in-lieu fee shall be assessed at the time the associated Design Review for that phase vests under LUC 20.40.500. In-lieu fees shall then be collected prior to building permit issuance.

6. Calculation of Dwelling Unit Thresholds. The Director shall calculate the 250, 500, and 1,000 dwelling unit thresholds described in subsections A.4.b and A.5.b of this section, and by extension determine which phase of the Residential Catalyst Program is applicable to a development, in accordance with the following:

- a. All proposed dwelling units contained in new multifamily or mixed-used development subject to ~~LUC 20.20.128~~[LUC 20.15.110](#) shall be counted toward the threshold, regardless of affordability; provided, that all dwelling units contained in development consisting entirely of affordable housing shall not be counted toward the thresholds. For the purposes of this subsection, development consists entirely of affordable housing even where the development also contains one or more manager's units; provided, that each manager's unit is reserved exclusively for occupancy of an on-site manager serving the project and said manager's household.

...

**B. Commercial Catalyst Program.**

...

**2. Applicability.**

- a. Until the Commercial Catalyst Program expires, the provisions of the program shall apply to proposed nonresidential development, either fully or partially located within a Mixed-Use Land Use District established under LUC 20.10.020 and described in LUC 20.10.398, that is subject to the requirements of ~~LUC 20.20.128~~[LUC 20.15.110](#).
- b. When the Commercial Catalyst Program expires, the provisions of the program shall no longer apply to any development. Upon expiration of the Commercial Catalyst Program, any proposed nonresidential development, either fully or partially located within a Mixed-Use Land Use District, as established under LUC 20.10.020 and described in LUC 20.10.398, shall comply with the requirements of ~~LUC 20.20.128~~[LUC 20.15.110](#) as normal. Nothing in this subsection affects any vested rights established under LUC 20.40.500 or state law.

...

#### 4. First Phase.

...

- c. If an applicant submits a land use application while the First Phase is in effect and establishes vested rights under LUC 20.40.500, then the applicant must submit a complete building permit application for the development within 2 years (i.e., 730 calendar days) of the date that vested rights were first established under LUC 20.40.500 for the development. If the applicant fails to do so, then the First Phase of the Commercial Catalyst Program shall not apply to the development and ~~LUC 20.20.128~~Chapter 20.15 LUC shall apply as normal to the development.
- d. Until the First Phase expires, ~~LUC 20.20.128~~Chapter 20.15 LUC shall be modified as follows. Any subsection of ~~LUC 20.20.128~~Chapter 20.15 LUC not explicitly modified below shall remain in effect during the First Phase and, where applicable, shall apply as normal.
  - i. For the duration of the First Phase, the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained ~~Table 20.15.150.B in Table 20.20.128.I.4 for the UC, MU-H, MU-M, and MUR-M land use districts~~ shall not be adjusted as provided in ~~LUC 20.15.030~~~~LUC 20.20.128.A.5~~.
  - ii. ~~LUC 20.20.128.I.4.a~~ LUC 20.15.150.B.1 shall not apply to nonresidential development ~~in the UC, MU-H, MU-M, and MUR-M land use districts~~. Instead, in-lieu fees shall be assessed on the date that vested rights are first established for the nonresidential development under LUC 20.40.500; provided, that if the development consists of multiple phases, then for each phase the in-lieu fee shall be assessed at the time the associated Design Review for that phase vests under LUC 20.40.500. In-lieu fees shall then be collected prior to building permit issuance.
  - iii. Except as provided in subsection B.4.d.iv of this section, the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in ~~Table 20.15.150.B~~ ~~Table 20.20.128.I.4 for the UC, MU-H, MU-M, and MUR-M land~~

[use districts](#) shall be reduced by 25 percent for all nonresidential development.

- iv. If vested rights are first established under LUC 20.40.500 for nonresidential development containing life science uses or medical office uses prior to 12:00 a.m. on June 1, 2028, then the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B Table 20.20.128.I.4](#) shall be reduced by 50 percent for such development. This reduction does not stack with the 25 percent reduction described in subsection B.4.d.iii of this section.

5. Second Phase.

...

- c. If an applicant submits a land use application while the Second Phase is in effect and establishes vested rights under LUC 20.40.500, then the applicant must submit a complete building permit application for the development within 2 years (i.e., 730 calendar days) of the date that vested rights were first established under LUC 20.40.500 for the development. If the applicant fails to do so, then the Second Phase of the Commercial Catalyst Program shall not apply to the development and [LUC 20.20.128 Chapter 20.15 LUC](#) shall apply as normal to the development.
- d. Until the Second Phase expires, [LUC 20.20.128 Chapter 20.15 LUC](#) shall be modified as follows. Any subsection of [LUC 20.20.128 Chapter 20.15 LUC](#) not explicitly modified below shall remain in effect during the Second Phase and, where applicable, shall apply as normal.
  - i. For the duration of the Second Phase, the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B Table 20.20.128.I.4 for the UC, MU-H, MU-M, and MUR-M land use districts](#) shall not be adjusted as provided in LUC 20.20.128.A.5.
  - ii. [LUC 20.15.150.B.1 LUC 20.20.128.I.4.a](#) shall not apply to nonresidential development. Instead, in-lieu fees shall be assessed on the date that vested rights are first established for the nonresidential development under LUC 20.40.500; provided, that if the development consists of multiple phases,

then for each phase the in-lieu fee shall be assessed at the time the associated Design Review for that phase vests under LUC 20.40.500. In-lieu fees shall then be collected prior to building permit issuance.

- iii. If vested rights are first established under LUC 20.40.500 for nonresidential development containing life science uses or medical office uses prior to 12:00 a.m. on June 1, 2028, then the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B Table 20-20-128-I.4 for the UC, MU-H, MU-M, and MUR-M land use districts](#) shall be reduced by 50 percent for such development.

#### 6. Third Phase.

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- e. If an applicant submits a land use application while the Third Phase is in effect and establishes vested rights under LUC 20.40.500, then the applicant must submit a complete building permit application for the development within 2 years (i.e., 730 calendar days) of the date that vested rights were first established under LUC 20.40.500 for the development. If the applicant fails to do so, then the Third Phase of the Commercial Catalyst Program shall not apply to the development and ~~LUC 20-20-128~~[Chapter 20.15 LUC](#) shall apply as normal to the development.
- f. Until the Third Phase expires, ~~LUC 20-20-128~~[Chapter 20.15 LUC](#) shall be modified as follows. Any subsection of ~~LUC 20-20-128~~[Chapter 20.15 LUC](#) not explicitly modified below shall remain in effect during the Third Phase and, where applicable, shall apply as normal.
  - i. For the duration of the Third Phase, the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B for the UC, MU-H, MU-M, and MUR-M land use districts](#) ~~Table 20-20-128-I.4~~ shall not be adjusted as provided in ~~LUC 20.15.030~~[LUC 20-20-128-A.5](#).
  - ii. [LUC 20.15.150.B.1](#) ~~LUC 20-20-128-I.4.a~~ shall not apply to nonresidential development containing life science uses or medical office uses. Instead, the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in [Table 20.15.150.B for the MU-H, MU-M, and MUR-M land use](#)

~~districts Table 20.20.128.I.4~~ shall be assessed on the date that vested rights are first established for the development containing life science uses or medical office uses under LUC 20.40.500; provided, that if the development consists of multiple phases, then for each phase the in-lieu fee shall be assessed at the time the associated Design Review for that phase vests under LUC 20.40.500. In-lieu fees shall then be collected prior to building permit issuance.

- iii. If vested rights are first established under LUC 20.40.500 for nonresidential development containing life science uses or medical office uses prior to 12:00 a.m. on June 1, 2028, then the Nonresidential Fee Per Square Foot of New Nonexempt Gross Floor Area contained in ~~in Table 20.15.150.B for the MU-H, MU-M, and MUR-M land use districts Table 20.20.128.I.4~~ shall be reduced by 50 percent for such development.

...

- 8. Assurance Device for Nonresidential Development Containing Life Science Uses or Medical Office Uses.
  - a. To benefit from any phase of the Commercial Catalyst Program, an applicant proposing nonresidential development containing life science uses or medical office uses must submit, in conjunction with the land use application securing a benefit under any phase of the Commercial Catalyst Program, an assurance device in a form acceptable to the Director under LUC 20.40.490.C.
  - b. The amount of the assurance device shall be equal to ten percent of the following amount: the full in-lieu fee amount that would be assessed for the development by the normal operation of ~~LUC 20.20.128~~Chapter 20.15 LUC as may be modified by operation of the applicable phase of the Commercial Catalyst Program.
  - c. To apply for release of the assurance device, the applicant shall provide documentation to the City, in a form acceptable to the Director, that 90 percent of the development has been leased, transferred, or otherwise conveyed to life science uses or medical office uses. The Director shall release the assurance device only upon certification that 90 percent of the development has been leased, transferred, or otherwise conveyed to life science uses or medical office uses.

d. The assurance device shall require that 90 percent of the development has been leased, transferred, or otherwise conveyed to life science uses or medical office uses within 2 years (i.e., 730 calendar days) of the date that the first certificate of occupancy is issued for the development. If 90 percent of the development has not been so leased, transferred, or otherwise conveyed within that time period, then the City shall obtain the proceeds of the device and shall deposit and use the proceeds as provided in ~~LUC 20.20.128.1.11~~[LUC 20.15.110](#).

9. Legal Agreement for Nonresidential Development Containing Life Science Uses or Medical Office Uses.

a. To benefit from any phase of the Commercial Catalyst Program, an applicant proposing nonresidential development containing life science or medical office uses must fully execute and submit, in conjunction with the land use application securing a benefit under any phase of the Commercial Catalyst Program, a legal agreement.

b. The legal agreement shall be in a form acceptable to the Director. Once fully executed, the applicant shall record the agreement with the King County Recorder's Office on the title of the real property on which the development is located. The agreement shall include, but is not limited to, the following terms and conditions:

i. The agreement shall be a covenant running with the land and shall be binding on the assigns, heirs, and successors of the owner of the property.

ii. If 90 percent of the development has not been leased, transferred, or otherwise conveyed to life science uses or medical office uses within 2 years (i.e., 730 calendar days) of the date that the first certificate of occupancy is issued for the development, then the agreement shall require the owner of the property to make a cash payment to the City totaling 90 percent of the following amount: the full in-lieu fee amount that would be assessed for the development by the normal operation of ~~LUC 20.20.128~~[Chapter 20.15 LUC](#) as may be modified by operation of the applicable phase of the Commercial Catalyst Program. Upon receipt of the payment, the City shall deposit and use the proceeds as provided in ~~LUC 20.20.128.1.11~~[LUC 20.15.110](#).

**20.30B.175 Modification or addition to an approved project or decision.**

...

**B. General.**

Except as provided in subsections C and D of this section or as provided in ~~LUC 20.20.128.H.4.b~~ [LUC 20.15.100.D.2](#), an amendment of a previously approved project or decision is treated as a new application.

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**20.50.010 A definitions.**

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**Affordable.** ~~In the context of Affordable Housing, “affordable” means that housing expenses are no greater than 30 percent of the applicable percentage of area median income specified in this title for the affordable housing, as adjusted for household size.~~

**Affordable Housing.** ~~Housing Dwelling units that are affordable, reserved for occupancy by eligible households as a primary residence, used as the primary residence of and that meet the affordable housing standards listed or referenced in LUC 20.15.060. an affordable housing-qualified household. Unless otherwise specified, the price of affordable units is based on that amount a household can afford to pay for housing, when household income is less than 80 percent of the median annual income, adjusted for household size, as determined by the United States Department of Housing and Urban Development for the Seattle Metropolitan Statistical Area, and when the household pays no more than 30 percent of household income for housing expenses. Households with income up to and including 80 percent of the median annual income, adjusted for household size, may purchase or rent these affordable units.~~

**Affordable housing suffix.** ~~A suffix consisting of AH and a number, enclosed in parentheses and appended to the Land Use District classification applied to a property. These suffixes correspond to alternate Land Use Districts where attached or detached multifamily dwellings are permitted which are applicable to affordable housing development when consistent with the requirements of LUC 20.15.100.~~

...

**Area Median Income.** The median income for the Seattle-Bellevue, WA Housing and Urban Development Metro Fair Market Rent Area ("Seattle-Bellevue HMFA") as most recently published by the United States Department of Housing and Urban Development ("HUD"). In the event that HUD no longer publishes median family income figures for Seattle-Bellevue HMFA or King County, the director may estimate the applicable median income, in such manner as the director shall determine by rule.

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**20.50.018 E definitions.**

...

**Eligible households.** Households that are eligible to rent or own affordable housing under all applicable requirements governing the occupancy of the affordable housing.

...

**20.50.024 H definitions.**

**Household Income.** Household income shall include all income from all household members over the age of 18 residing in the household. Household income consists of all income that would be included as income for federal income tax purposes (e.g., wages, interest income, etc.) for household members over the age of 18. Income of dependents who reside within a household for less than three months of the year will not be counted toward household income. Income from all household members over the age of eighteen (18) residing in the household. Income of dependents who reside within a household for less than four (4) months of the year will not be counted toward Household Income.

**20.50.044 R definitions.**

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**Reference land use district.** The land use district located within 500 feet of a property eligible for an affordable housing suffix rezone used to determine the density available for

the rezone. The reference land use district is identified using the criteria provided in LUC 20.15.100.

...

**Religious organization.** The federally protected practice of a recognized religious assembly, school, or institution that owns or controls real property as defined in RCW 35A.63.300, now or as hereafter amended.

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