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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6785

AN ORDINANCE extending and modifying a temporary and interim official control on sections 20.25A.060 and 20.25A.070 of the Land Use Code (LUC) to increase the residential floor area in exchange for the provision of affordable housing, allow development flexibility when meeting certain affordable housing thresholds, and provide projects with flexibility in utilizing FAR in the Downtown Perimeter Overlay within a single project limit in order to encourage residential development; providing for vesting to this temporary and interim official control; reserving the right to adopt permanent regulations; providing for severability; and establishing an effective date.

WHEREAS, on July 5, 2022, in building upon the 2017 Affordable Housing Strategy, the City Council prioritized a set of “Next Right Work” actions to further increase housing production and affordable housing opportunities within the City and directed staff to begin work to allow a higher Floor Area Ratio (FAR) for certain residential uses to incentivize residential over commercial developments; and

WHEREAS, the purpose of the Next Right Work is to respond to the housing and affordable housing shortage in the City, consistent with Council priorities, applicable Comprehensive Plan policies, the Affordable Housing Strategy, and Economic Development Plan Strategies; and

WHEREAS, under current regulations in Part 20.25A LUC, the City has encouraged affordable housing construction in Downtown Bellevue by allowing projects to exempt and build up to 1.0 FAR above the maximum FAR for the underlying land use district if one square foot of affordable housing is provided for every 2.5 square feet of market rate housing within that exempt area; and

WHEREAS, the current 1.0 FAR exemption for affordable housing in Part 20.25A LUC has not been well utilized by developers in Downtown Bellevue, and it is anticipated that an increase in the amount of exempt square footage and an increased ratio of market rate square footage may result in increased participation in the City’s affordable housing program for Downtown; and

WHEREAS, consistent with the foregoing, Council expressed interest in adopting a temporary and interim official control to evaluate the effectiveness of a revised FAR exemption program in Downtown; and

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WHEREAS, on May 8, 2023, the City Council, after holding a public hearing, adopted Ordinance No. 6736, which imposed an Interim Official Control to increase the FAR exemption and allow development flexibility in exchange for affordable housing and provide flexibility in utilizing FAR in the Downtown Perimeter Overlay in order to encourage residential development; and

WHEREAS, Ordinance No. 6736 imposed the Interim Official Control for an initial period of six months, effective through November 16, 2023; and

WHEREAS, on October 23, 2023, the City Council, after holding a public hearing, adopted Ordinance No. 6760, which extended the Interim Official Control for an additional period of six months, effective through May 17, 2024; and

WHEREAS, the Interim Official Control has been effective in promoting residential development Downtown, consistent with City planning documents and stated goals of the City Council; and

WHEREAS, an additional six-month extension will further the City's housing goals; and

WHEREAS, this Phase 1 Next Right Work proposal for Downtown would, for an additional six (6) month time period, provide a temporary measure to increase the FAR exemption and allow development flexibility in exchange for affordable housing and provide flexibility in utilizing FAR in the Downtown Perimeter Overlay in order to encourage residential development; and

WHEREAS, this extension of the Interim Official Control will provide the City with additional time to test, review, and potentially revise its land use regulations related to affordable housing FAR exemptions, reduced minimum parking ratios for affordable housing, and additional development flexibility provisions beyond the current LUC allowances; and

WHEREAS, this extension of the Interim Official Control will provide a temporary measure to respond to the housing and affordable housing shortage in the City but is not intended to be permanent development regulations for Downtown, or permanently replace the regulations in Part 20.25A LUC; and

WHEREAS, this extension of the Interim Official Control is not intended to adversely affect the City Council's ability to adopt permanent regulations that differ from this Interim Official Control, and is instead designed to be a temporary allowance to encourage affordable housing and residential development in Downtown; and

WHEREAS, the City's permit timeline trends have indicated that the development pipeline is slowing with fewer projects moving to construction; and

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WHEREAS, to maximize progress toward the City's housing goals in a slowing development environment, increasing the period during which certain permits vest to the Interim Official Control would provide additional certainty to developers thereby incentivizing them to move more projects forward under the Interim Official Control; and

WHEREAS, under Section 5 of both Ordinance Nos. 6736 and 6760, any extended vesting period for a Master Development Plan and associated Design Review approval do not apply to Section 2.B.1.a of the Interim Official Control, and vesting to Section 2.B.1.a of the Interim Official Control shall be controlled by LUC 20.40.500 exclusively; and

WHEREAS, allowing an extended vesting period, if granted by the Director in accordance with LUC 20.30V.190.B, to apply to Section 2.B.1.a of the Interim Official Control will provide additional certainty to developers thereby incentivizing them to move more projects forward under this Interim Official Control; and

WHEREAS, following expiration of this extended Interim Official Control, any affected regulations in Part 20.25A LUC will again control, unless the Phase 2 Next Right Work permanent Land Use Code Amendment (LUCA), which may amend and replace those underlying Part 20.25A LUC regulations, has been developed and adopted by the City; and

WHEREAS, Comprehensive Plan Policies LU-15, HO-7, HO-11, HO-12, HO-24, and S-DT-24.1 encourage housing opportunities throughout the City and support a broad range of housing choices for different household types and income levels; and

WHEREAS, Comprehensive Plan Policies LU-20 and LU-22 recommend supporting and maintaining Downtown's vitality and encouraging its development as a regional growth center; and

WHEREAS, Comprehensive Plan Policies LU-28.4, HO-23, S-DT-9, S-DT-24 and Affordable Housing Strategy C-4 recommend the City consider utilizing incentive systems and other tools to promote the provision of public amenities, residential development, and affordable housing; and

WHEREAS, the Growth Management Act, at chapter 36.70A RCW (GMA), allows the City to establish and adopt interim regulations when a public hearing on the interim regulations is held within sixty days of adoption and as long as such regulations are effective for no more than six months, unless further extended; and

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WHEREAS, the Environmental Coordinator of the City of Bellevue issued a Determination of Non-significance under the State Environmental Policy Act for the Interim Official Control on April 20, 2023, in compliance with WAC 197-11-340; and

WHEREAS, Council considered this extension and modification of the Interim Official Control after providing public notice and holding a public hearing on this Ordinance extending and modifying the Interim Official Control on April 23, 2024; and

WHEREAS, the sole proposed modification to the Interim Official Control is to allow the extended vesting period for an MDP and associated Design Review approval to apply to Section 2.B.1.a of the Interim Official Control, as extended by this Ordinance; and

WHEREAS, the sole proposed modification to the Interim Official Control will only result in a, potentially, longer period of vesting for certain project permit applications and changes no other substantive provision of this Interim Official Control; and

WHEREAS, the sole proposed modification to this Interim Official Control is simply a text amendment to the Interim Official Control that results in no substantive changes respecting use or modification of the environment and therefore this Ordinance is exempt from SEPA pursuant to WAC 197-11-800(19); and

WHEREAS, Council adopts the foregoing as its findings of fact justifying adoption of this Ordinance to extend and modify the Interim Official Control Ordinance originally adopted under Ordinance No. 6736 and initially extended under Ordinance No. 6760; now, therefore

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. General Provisions. The temporary and interim official control originally adopted by Ordinance No. 6736 and initially extended by Ordinance No. 6760 is hereby extended, as modified by this Ordinance, and imposed on LUC 20.25A.060 and LUC 20.25A.070 to increase the residential floor area in exchange for the provision of affordable housing and to allow development flexibility when meeting certain affordable housing thresholds. This temporary and interim official control is imposed within all DT-MU Land Use Districts, except within the Downtown-Old Bellevue (DT-OB) Land Use District, and is imposed within Perimeter Overlays A-2, A-3, B-1, B-2, and B-3 to provide projects with flexibility in utilizing FAR in the Downtown Perimeter Overlay within a single project limit in order to encourage residential development.

Section 2. Imposition of Interim Official Control to Incentivize Affordable Housing. A temporary and interim official control is hereby imposed to read as follows:

- A. Applicability. The following applies to all Downtown Land Use Districts, except within the DT-OB Land Use District and within Perimeter Overlay A-1.

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- B. Affordable Housing Development Flexibility. To qualify for the provisions of this Section, affordable housing must meet the definition of Affordable Housing in LUC 20.50.010. Floor area may be exempted to support the provision of affordable housing, minimum parking may be reduced, and additional development flexibility allowed, as provided below.
1. Floor area dedicated to supporting the creation of on-site affordable housing shall not be counted for the purposes of calculating the FAR of a project; provided, that:
 - a. For every 1.0 square foot of affordable housing provided, 4 square feet is allowed for market rate housing not to exceed a maximum of 50 percent of the base FAR for residential development in the land use district the building is located; and
 - b. The bedroom mix and exterior finishes shall be comparable to the market rate units, but interior design, unit size, amenities and interior finishes may vary.
 2. Reduced Minimum Parking for Affordable Units. Affordable residential units located in projects meeting the requirements of this interim official control shall have no minimum parking requirement.
 3. Additional Development Flexibility. Projects that provide 0.5 FAR or greater of the exempt floor area earned through the provisions of this interim official control may:
 - a. Increase the maximum lot coverage by five percent in Perimeter Overlays A-2, A-3, B-1, and B-2;
 - b. Increase the maximum residential building height and maximum building height with mechanical screening in Perimeter Overlays A-2, A-3, B-1, and B-3 by 25 feet, respectively; and
 - c. For buildings less than 100 feet in height, decrease the required upper-level setbacks by a maximum of fifteen feet within the Perimeter Overlay in Perimeter Overlays A-2, A-3, B-1, B-2, and B-3.

Section 3. Imposition of Interim Official Control to Allow FAR Utilization. This interim official control allows FAR from land area in a Downtown Perimeter Overlay to be used for development outside of the Perimeter Overlay within a single project limit. However, the FAR utilization provided by this interim official control is not available within the DT-OB Land Use District or within Perimeter Overlay A-1. FAR from land area in a Downtown Perimeter Overlay may be utilized for development outside of the Perimeter

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Overlay in another Perimeter Overlay or in the DT-MU Land Use District, provided that all of the following conditions are met:

- A. The land area of the available FAR in a Downtown Perimeter Overlay and the development utilizing the FAR in DT-MU are within a single project limit;
- B. The available FAR from land area in the Perimeter Overlay may be utilized for development in another Perimeter Overlay or in the DT-MU only, and only if the areas within the Perimeter Overlay are developed as residential uses. The utilization of available FAR shall not result in exceeding the applicable maximum FAR in any Perimeter Overlay;
- C. Utilization of available FAR as provided in this Section shall count towards the maximum FAR for the single project limit. Development in DT-MU may exceed the maximum FAR for DT-MU in LUC 20.25A.060.A.4 provided that the additional FAR for the project limit is utilized consistent with this interim official control; and
- D. Where the utilization of available FAR results in the development in DT-MU and/or Perimeter Overlay exceeding the base FAR, the development within DT-MU and/or Perimeter Overlay must participate in the Amenity Incentive Program for that District.

Section 4. Duration and Scope of Interim Official Control. Pursuant to RCW 36.70A.390, this interim official control is hereby extended and shall remain in effect for an additional period of 6 months through November 18, 2024, unless further extended by the City Council consistent with the GMA. In accordance with RCW 36.70A.390, the City Council has held a public hearing on this Ordinance extending and modifying the interim official control so as to hear and consider public comment and testimony regarding this interim official control.

Section 5. Vesting to Interim Official Control. Land use permit applications deemed complete under the provisions of the Downtown Code (Part 20.25A LUC), Part 20.30V LUC, and LUC 20.35.030.C between the effective date of this interim official control, as established by Ordinance No. 6736, and the expiration date of this interim official control, as established by this Ordinance, shall vest to the provisions of this interim official control. In addition, the provisions of this interim official control will apply to land use permit applications that vest pursuant to the terms of LUC 20.40.500 between the effective date of this interim official control, as established by Ordinance No. 6736, and the expiration date of this interim official control, as established by this Ordinance. However, in no event shall the vesting period under this interim official control for a Master Development Plan (MDP) and associated Design Review approval exceed 2 years from the date of issuance of MDP approval, unless the Director of the Development Services Department (“Director”) approves an extended vesting period pursuant to LUC 20.30V.190.B. If, pursuant to LUC 20.30V.190.B, the Director approved an extended vesting period between the effective date of this interim official control, as established by Ordinance No. 6736, and the effective date of this Ordinance, such extended vesting period shall apply to Section 2.B.1.a of this interim official control regardless of Section 5 of Ordinance Nos. 6736 and 6760. Land use permits and approvals that have been issued by the City prior to the effective date of this interim official control, as established by Ordinance No. 6736, and any development application

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that does not vest pursuant to the express provisions of this interim official control will not receive the benefits of this interim official control and will be reviewed under the permanent regulations in Part 20.25A LUC.

Section 6. Reservation of Right to Adopt Permanent Regulations. This interim official control is designed to be a temporary and interim measure to incentivize affordable housing and encourage residential uses in Downtown while the Phase 2 Next Right Work permanent LUCA is developed, in response to the housing and affordable housing shortage in the City. Nothing in this interim official control shall constitute a permanent development regulation or replace the underlying permanent development regulations in Part 20.25A LUC beyond the time period during which this interim official control is in effect or restrict the City Council's ability to adopt permanent development regulations that differ from the interim official control.

Section 7. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

Section 8. Effective Date. This Ordinance shall take effect on May 18, 2024.

Section 9. Findings of Fact. The findings contained in this Ordinance are hereby adopted as Findings of Fact to justify this extension and modification of the temporary interim official control originally adopted by Ordinance No. 6736 and initially extended by Ordinance No. 6760, as set forth above.

Passed by the City Council this _____ day of _____, 2024 and signed in authentication of its passage this _____ day of _____, 2024.

(SEAL)

Lynne Robinson, Mayor

Approved as to form:
Kathryn L. Gerla, City Attorney

Robert Sepler, Assistant City Attorney

Attest:

Charmaine Arredondo, City Clerk
Published: _____