



# City of Bellevue

## Development Services Department Director's Rule Affordable Commercial Space DRAFT

### A. Purpose:

This program will partially address the growing issue of small business affordability and business displacement within Bellevue by incentivizing affordable commercial (specifically "Active Use") space for small and independent businesses via inclusion in the FAR amenity incentive stack in Wilburton. The incentive would be available to developers who designate spaces to be leased to small independent businesses at 1.5 times operating expenses.

### B. Background:

Small businesses provide vibrancy, wealth generation opportunities, and innovation to a community. Despite this, Bellevue is becoming less conducive to small business success. Specifically, affordability of commercial space is the largest barrier to doing business in Bellevue for local small businesses (2023 Business Survey). Furthermore, as Bellevue redevelops, much of the Class B and C space, which is frequently the more affordable option, is disappearing.

### C. Rule:

#### 1. Operating Expenses Definition:

Under LUC 20.25R.050.D.2.h, the Director is required to define by rule what constitutes "operating expenses" for the purposes of LUC 20.25R.050.D.2.h. A space's "Operating Expenses" include all costs associated with maintaining the space. These can include, but are not limited to, the following:

- Property taxes for the portion of the building leased to the tenant;
- Insurance for the portion of the building leased to the tenant;
- Common area maintenance & utilities; and
- Administrative / Management Fees.

The owner of the affordable commercial space shall verify a prospective tenant's "operating expenses" prior to executing a lease with that tenant for the affordable commercial space. The City shall certify "operating expenses" upon submittal of a tenant improvement permit for the affordable commercial space.

#### 2. Qualified Business Definition:

Under LUC 20.25R.050.D.2.h, the Director is required to define by rule what constitutes a “qualified business” for the purposes of LUC 20.25R.050.D.2.h. A business qualified to lease space under the program must meet the following criteria at the initial time of leasing:

- Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses;
- Employs twenty-five or fewer full time equivalent employees working at least 40 hours/week;
- Generates a gross revenue of less than \$5,000,000 annually as reported on its federal income tax return, on its return filed with the Washington Department of Revenue, or in another manner approved by the Director; and
- Tenant business operates no more than two locations in addition to the space to be leased.

Businesses displaced by redevelopment in Bellevue are eligible to be “qualified businesses” where they meet the above listed criteria at the initial time of leasing.

If at the initial time of leasing a tenant is a “qualified business,” then the owner and the tenant may later renew or the extend the lease regardless of whether the tenant continues to be a “qualified business.” However, if the affordable commercial space becomes vacant, then the owner must lease the affordable commercial space to a new “qualified business” in accordance with the requirements of LUC 20.25R.050.D.2.h and this rule.

The owner of the affordable commercial space shall verify that a prospective tenant is a “qualified business” prior to executing a lease with that tenant for the affordable commercial space. The City shall certify whether the tenant is a “qualified business” upon submittal of a tenant improvement permit for the affordable commercial space.

### **3. Tenant Improvements:**

Under LUC 20.25R.050.D.2.h, the Director may approve a total rate exceeding 1.5 times operating expenses up to a maximum of 2.0 times operating expenses to provide for repayment of owner-financed tenant improvements. To request an increased rate, the applicant must provide, at the time of application for a tenant improvement permit, a letter outlining the following:

1. The dollar amount of tenant improvement funding to be provided to the tenant business;
2. The proposed increase in lease rate required to provide funding for tenant improvements; and
3. A narrative describing why the proposed increase in lease rate is necessary under the circumstances.

### **4. Covenant Required:**

Prior to issuance of a building permit for the development proposing to include affordable commercial space, the City and the owner of the site shall enter into an agreement, in a form approved by the Director, to ensure compliance with the requirements contained in LUC 20.25R.050.D.2.h of in this rule for the life of the project, which shall not be less than 50 years. 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.

#### **D. Compliance with Rulemaking Authority:**

Under LUC 20.25R.050.D.2.h, when adopting any rule to implement this subsection, the Director must consider, and be consistent with, the City's economic development goals, including those specified in the City's Economic Development Plan and Comprehensive Plan. In adopting this rule, the Director has considered the following goals and policies relating to economic development and has determined that this rule is consistent with such goals and policies:

- Wilburton/NE 8<sup>th</sup> Street Subarea Plan
  - Policy S-WI-38: Accommodate the continued operation of existing service and commercial uses and allow new service and commercial businesses that are compatible with planned land uses.
  - Policy S-WI-39: Increase access to affordable commercial space for small-scale retailers, emphasizing trail-oriented retail along the Eastrail corridor and the Grand Connection.
  - Policy S-WI-40: Provide flexibility toward developing building floorplates that support a diverse business mix within higher density development.
  - Policy S-WI-87: Use land use code tools that enable development contributions toward public benefit, including affordable and family-sized housing units, open space, and community and cultural spaces.
- Comprehensive Plan
  - Policy LU-36: Employ land use incentive systems that offers additional development capacity or flexibility in exchange for commensurate public benefits that address identified needs of that area.
  - Policy ED-6: Develop and maintain regulations that support continued equitable, environmentally sustainable economic growth.
  - Policy ED-39: Promote and nurture entrepreneurial development in Bellevue by retaining and creating areas where small or emerging businesses can develop and flourish.
  - Policy ED-47: Identify areas at risk of business displacement and the space needs of those businesses and work to find or develop alternative space within the city.

- Economic Development Plan (2020)
  - Policy SB 3: Encourage the preservation of existing spaces and the creation of new spaces that are suitable for small businesses.
    - Policy SB 3 SB 3.1: Review the land use code to remove barriers for small businesses moving into existing spaces.
    - Policy SB 3.3: Calibrate incentives for new construction to bolster the availability of smaller office spaces.
    - Policy SB 3.4: Utilize future zoning updates, such as Wilburton, to develop more flexible land use approaches.
  - Policy R2: Encourage the preservation of existing spaces and the creation of new spaces that are suitable for independent retail, neighborhood services, restaurant, and beverage establishments.
  - Policy R2.2: Calibrate incentives for developers to create smaller, more accessible commercial spaces for retail and restaurants in new developments.