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DPD South Lake Union Zoning ORD
May 6, 2013
Version #24

CITY OF SEATTLE

ORDINANCE 124172

COUNCIL BILL 117603

AN ORDINANCE related to land use and zoning, modifying function and locational criteria for the Seattle Mixed zone; modifying use provisions and development standards; enacting and amending affordable housing incentive programs; enacting and amending provisions for height and density bonuses and transfer of development rights; amending Sections 23.34.128, 23.41.012, 23.45.510, 23.45.516,23.45.574, 23.47A.035, 23.48.002, 23.48.004, 23.48.010,23.48.011, 23.48.012, 23.48.014, 23.48.017,23.48.020, 23.48.024, 23.48.026, 23.48.028, 23.48.030, 23.48.032, 23.48.034, 23.48.035, 23.48.036, 23.48.038, 23.49.008, 23.49.010, 23.49.011, 23.49.023, 23.50.026, 23.50.027, 23.50.028, 23.50.053, 23.57.005, 23.57.008, 23.57.012, 23.58A.002, 23.58A.004, 23.58A.012, 23.58A.014, 23.58A.022,23.58A.024, 23.58A.026, 23.66.032, 23.84A.030, 23.84A.032, 23.84A.038, 23.86.006; repealing Sections 23.48.006, 23.48.008, 23.48.016, 23.48.018, 23.48.019, 23.50.051, 23.50.052, 23.58A.013, 23.58A.016, 23.58A.018, 23.58A.023; adding new sections 23.48.008, 23.48.009, 23.48.013, 23.48.022, 23.48.025, 23.58A.003,23.58A.040, 23.58A.042, and 23.58A.044; and amending the Official Land Use Map, Chapter 23.32, at pages 101 and 102 to rezone areas within the South Lake Union Urban Center.

WHEREAS, in 2004, the City Council approved amendments to Seattle's Comprehensive Plan; and

WHEREAS, the 2004 amendments to Seattle's Comprehensive Plan designated the South Lake Union Neighborhood as an Urban Center; and

WHEREAS, the South Lake Union Neighborhood Plan was amended by the City Council in 2007 and recognized by the City as representing the wishes of the South Lake Union neighborhood as expressed through the neighborhood planning process; and

WHEREAS, the South Lake Union Neighborhood Plan recommends allowing increased building height to achieve greater architectural diversity; and

WHEREAS, the South Lake Union Neighborhood Plan also recommends using increased height through an incentive zoning program to mitigate impacts of development in the neighborhood; and

WHEREAS, in 2008 the City Council approved resolution 31104 expressing its intent to consider requiring participation in affordable housing incentive programs when significantly increasing residential or commercial densities; and

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WHEREAS, in 2009, the City Council approved ordinance 122882 to provide for affordable housing incentives as part of legislative rezones; and

WHEREAS, in 2009 the City Council approved resolution 31147 expressing support for entering into a new interlocal agreement with King County to establish a rural transfer of development rights program and identifying South Lake Union as a potential receiving area for the use of additional development rights; and

WHEREAS, in 2011 The Washington State Legislature enacted and the Governor signed legislation providing for tax increment financing for infrastructure in neighborhoods designated to be receiving areas for rural development rights; and

WHEREAS, the City greatly values the world-renowned biomedical research performed in South Lake Union; and

WHEREAS, an intent of this ordinance is to encourage residential development along 8th Avenue North, between John Street and Republican Street, in South Lake Union; and

WHEREAS, if substantial residential development does not occur along 8th Avenue North by December 31, 2020, the City Council should consider allowing certain institutional uses, such as biomedical research facilities, to locate at the north end of the 8th Avenue North residential corridor, so long as such uses meet all of the other development standards established for that section of 8th Avenue North; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Pages 101 and 102 of the Official Land Use Map, as adopted by Section 23.32.016 and as previously amended, is amended to rezone certain land as shown in Exhibit A, Map of Rezones, which is incorporated herein by this reference.

Section 2. Section 23.34.128 of the Seattle Municipal Code, last amended by Ordinance 121782, is amended as follows:

23.34.128 ((-))**Seattle Mixed (SM) zone, function and locational criteria**((.))

In considering rezones to the Seattle Mixed (SM) zone designation, the following function and locational criteria shall be taken into consideration:

A. Function. An area <u>within an urban center, urban village, or station area overlay district</u> that provides for a wide range of uses to encourage development of the area into a mixed-

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use neighborhood with a pedestrian orientation((~~or an area that is in transition from traditional manufacturing or commercial uses to one where residential use is also appropriate~~));

B. Transportation and ((~~F~~))infrastructure ((~~C~~))capacity. An area that is well-served by transit and vehicular systems and where utility infrastructure is adequate, or where such systems and infrastructure can be readily expanded to accommodate growth;

C. Relationship to ((~~S~~))surrounding ((~~A~~))activity. An area that either provides a transition from, or is compatible with, an adjacent neighborhood that is densely developed or zoned ((~~neighborhood or from industrial activity~~))for high density mixed use; or an area where a transition to higher density mixed use is desired, either within a larger area characterized primarily by commercial or industrial activity, or within an area where significant investment in public transit infrastructure can accommodate greater density and adequate transition with surrounding areas can be provided;

D. Mix of ((~~U~~))use. In general, the zone is suitable for a wide range of uses. However, ((~~A~~))an area within the SM zone may be identified for the purposes of encouraging a primarily residential character.((~~Such an area shall be designated as Seattle Mixed/Residential (SM/R).~~)) Within ((~~the SM/R~~))these areas, nonresidential uses shall generally be of modest scale or neighborhood-serving in character;

E. Height. Height limits of ((~~forty ()~~))40((~~)~~)) feet, ((~~fifty-five ()~~))55((~~)~~)) feet, ((~~sixty-five()~~))65((~~)~~)) feet, ((~~seventy-five ()~~))75((~~)~~)) feet, ((~~eighty-five ()~~))85((~~)~~)) feet, ((~~and one hundred twenty-five ()~~))125((~~)~~)) feet, 160 feet, 240 feet, and 400 feet may be applied to land zoned SM. Different heights may be applied to different uses in SM zones to more strongly promote certain development types or particular uses within the zone. A ((~~forty ()~~))40((~~)~~)) or ((~~fifty-five ()~~))55((~~)~~)) foot height shall be applied ((~~to the SM/R designation, or~~))where it is appropriate to limit the intensity and scale of new development. A ((~~sixty-five ()~~))65((~~)~~)) foot, ((~~seventy-five ()~~))75((~~)~~)) foot or ((~~eighty-five ()~~))85((~~)~~)) foot height shall apply where it is appropriate to provide for a

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uniform and pedestrian scale. Generally within urban centers and light rail station areas, ((~~A~~))a ((~~one hundred twenty-five (~~))125((~~)~~)) foot, 160 foot, 240 foot, or 400 foot height may be designated for areas where high density, mixed use development is desirable or where development at this height and intensity will ((~~to~~))serve as transition from areas where greater heights are permitted.

Section 3. Section 23.41.012 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

23.41.012 ((-))**Development standard departures**

A. Departure from Land Use Code requirements may be permitted for new multifamily, commercial, and Major Institution development as part of the design review process. Departures may be allowed if an applicant demonstrates that departures from Land Use Code requirements would result in a development that better meets the intent of adopted design guidelines.

B. Departures may be granted from any Land Use Code standard or requirement, except for the following:

1. Procedures;

2. Permitted, prohibited or conditional use provisions, except that departures may be granted from development standards for required street-level uses;

3. Residential density limits;

4. In Downtown zones, provisions for exceeding the base FAR or achieving bonus development as provided in Chapter 23.49, Downtown ((~~Z~~))zoning;

5. In Downtown zones, the minimum size for Planned Community Developments as provided in Section 23.49.036;

6. In Downtown zones, the average floor area limit for stories in residential use in Table for 23.49.058.D.1;

7. In Downtown zones, the provisions for combined lot developments as

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provided in Section 23.49.041;

8. In Downtown Mixed Commercial zones, tower spacing requirements as provided in subsection 23.49.058.E;

9. Downtown view corridor requirements, provided that departures may be granted to allow open railings on upper level roof decks or rooftop open space to project into the required view corridor, provided such railings are determined to have a minimal impact on views and meet the requirements of the Building Code;

10. In Seattle Mixed zones in the South Lake Union Urban Center, floor plate limits for all uses provided in Section 23.48.013, except that departures of up to a 5 percent increase in floor plate area may be granted for structures with nonresidential uses meeting the conditions of subsections 23.48.013.B.1.d.1 and 23.48.013.B.1.d.2;

11. In Seattle Mixed zones in the South Lake Union Urban Center, provisions for gaining extra floor area provided for in Section 23.48.011 and Chapter 23.58A;

12. In Seattle Mixed zones in the South Lake Union Urban Center, provisions limiting the number of towers permitted per block provided for in Section 23.48.013;

13. In the Seattle Mixed zones in the South Lake Union Urban Center, provisions for upper level setbacks provided for in Section 23.48.013;

((~~10.~~))14. Floor Area Ratios;

((~~11.~~))15. Maximum size of use;

((~~12~~)) 16. Structure height, except that:

a. Within the Roosevelt Commercial Core building height departures up to an additional 3 feet may be granted for properties zoned NC3-65, (Map A for 23.41.012, Roosevelt Commercial Core);

b. Within the Ballard Municipal Center Master Plan area building height departures may be granted for properties zoned NC3-65, (Map B for 23.41.012, Ballard

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Municipal Center Master Plan Area). The additional height may not exceed 9 feet, and may be granted only for townhouses that front a mid-block pedestrian connection or a park identified in the Ballard Municipal Center Master Plan;

c. In Downtown zones building height departures may be granted for minor communication utilities as set forth in subsection 23.57.013.B;

d. Within the Uptown Urban Center building height departures up to 3 feet of additional height may be granted if the top floor of the structure is set back at least 6 feet in addition to all required building setbacks;

e. Within the Upper Queen Anne Hill Residential Urban Village and Neighborhood Commercial zones within the Upper Queen Anne neighborhood, (Map C for 23.41.012 Upper Queen Anne Commercial Areas), building height departures up to 3 feet of additional height may be granted if the top floor of the structure is set back at least 6 feet in addition to all required building setbacks;

f. Within the PSM 85-120 zone in the area shown on Map A for 23.49.180, departures may be granted from development standards that apply as conditions to additional height, except for floor area ratios and provisions for adding bonus floor area above the base FAR.

((~~13~~))17. Quantity of parking required, minimum and maximum parking limits, and minimum and maximum number of drive-in lanes, except that within the Ballard Municipal Center Master Plan area required parking for ground level retail uses that abut established mid-block pedestrian connections through private property as identified in the "Ballard Municipal Center Master Plan Design Guidelines, 2000" may be reduced, but shall not be less than the required parking for Pedestrian-designated areas shown in Table D for ((~~Section~~))23.54.015;

((~~14~~))18. Provisions of the Shoreline District, Chapter 23.60A;

((~~15~~))19. Standards for storage of solid-waste containers;

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((~~16~~))20. The quantity of open space required for major office projects in Downtown zones as provided in subsection 23.49.016.B;

((~~17~~))21. Noise and odor standards;

((~~18~~))22. Standards for the location of access to parking in Downtown zones;

((~~19~~))23. Provisions of Chapter 23.52, Transportation Concurrency Project Review System;

((~~20~~))24. Provisions of Chapter 23.53, Requirements for Streets, Alleys and Easements, except that departures may be granted from the access easement standards in Section 23.53.025 and the provisions for structural building overhangs in Section 23.53.035;

((~~21~~)) 25. Affordable housing production conditions within the MPC-YT zone, pursuant to Section 23.75.085;

((~~22~~)) 26. Limits on floor area for uses within the MPC-YT zone, as provided in Sections 23.75.085 and 23.75.090 or as applicable under Section 23.75.040;

((~~23~~)) 27. Limits on number, distribution, and gross floor area per story for highrise structures within the MPC-YT zone, as provide in Section 23.75.120 or as applicable under Section 23.75.040;

((~~24~~))28. Definitions; ((~~and~~))

((~~25~~))29. Measurements((~~,~~)); and

((~~26~~))30. Lot configuration standards in subsections 23.22.100.C.3, 23.24.040.A.9, and 23.28.030.A.3, which may be modified as authorized in those provisions.

C. Limitations upon departures through the design review process established in subsections 23.41.012.B and 23.41.012.D do not limit departures expressly permitted by other provisions of this ((~~t~~))Title 23 or other titles of the Seattle Municipal Code.

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Section 4. Subsection F of Section 23.45.516 of the Seattle Municipal Code, which section was last amended by Ordinance 123770, is amended as follows:

23.45.510 Floor area ratio (FAR) limits

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F. If TDP is transferred from a lot pursuant to Section 23.58A.((~~018~~))042, the amount of non-exempt floor area that may be permitted is the applicable base FAR, plus any net amount of TDP previously transferred to the lot, minus the sum of the existing non-exempt floor area on the lot and the amount of TDP transferred.

Section 5. Subsections D, E, F and G of Section 23.45.516 of the Seattle Municipal Code, last amended by Ordinance 123495, are amended as follows:

23.45.516 Additional height and extra residential floor area in Midrise and Highrise zones

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D. Transferable ((~~of~~))Development Potential (TDP) from Landmark ((~~S~~))structures and ((~~O~~))open ((~~S~~))space((~~.~~))

1. Sending lots. TDP may be transferred under the provisions of Section 23.58A.((~~018~~))040, as modified by this Section 23.45.516, only from Landmark TDP sites and open space TDP sites. In order to be eligible as a Landmark TDP site or open space TDP site, a lot ((~~must~~))shall be located in the First Hill Urban Center Village and((~~must~~)) shall be zoned MR or HR. Sending lots are subject to the limits and conditions in this Chapter 23.45 and Chapter 23.58A. The amount of TDP that may be transferred from a lot is limited to the amount by which the base FAR under Section 23.45.510 exceeds floor area on the lot that is not exempt under ((~~that~~))Section 23.45.510.

2. Receiving lots. Any lot located in an HR zone within the First Hill Urban Center Village is eligible for extra residential floor area according to the provisions of this Section 23.45.516 to receive TDP from an eligible sending lot, subject to the limits and

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conditions in this Chapter 23.45 and Chapter 23.58A.

E. Combined lot development. When authorized by the Director pursuant to this Section 23.45.516, lots located on the same block in an HR zone may be combined, whether contiguous or not, solely for the purpose of allowing some or all of the capacity for chargeable floor area on one or more such lots under this ((e))Chapter 23.45 to be used on one or more other lots, according to the provisions of this subsection 23.45.516.E.

1. Up to all of the capacity on one lot, referred to in this subsection 23.45.516.E as the "base lot," for chargeable floor area in addition to the base FAR, pursuant to Section 23.45.510 (referred to in this subsection 23.45.516.E as "bonus capacity"), may be used on one or more other lots, subject to compliance with all conditions to obtaining extra residential floor area, pursuant to Chapter 23.58A, as modified in this Section 23.45.516. For purposes of applying any conditions related to amenities or features provided on site under this Section 23.45.516, only the lot or lots on which such bonus capacity is used are considered to be the lot or site using a bonus. Criteria for use of extra residential floor area that apply to the structure(s) ((~~or structures~~)) shall be applied only to the structure(s) on the lots using the transferred bonus capacity. For purposes of the condition to height above 240 feet in subsection 23.45.516.C.2.b.3((~~f~~)) of this Section 23.45.516, all lots in a combined lot development are considered as one lot.

2. Only if all of the bonus capacity on all lots in a combined lot development is used on fewer than all of those lots, there may be transferred from a base lot where no bonus capacity is used, to one or more other lots in the combined lot development, up to all of the unused base FAR on the base lot, without regard to limits on the transfer of TDP or on use of TDP in Chapter 23.58A or subsection 23.45.516.D. Such transfer shall be treated as a transfer of TDP for purposes of determining remaining development capacity on the base lot and TDP available to transfer under Chapter 23.58A, but shall be treated as additional base FAR on the

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other lots, and, to the extent that, together with other base floor area, it does not exceed the amount of chargeable floor area below the base height limit on the lot where it is used, it shall not be treated as extra residential floor area. If less than all of the bonus capacity of the base lot is used on such other lots, and if the base lot qualifies as a sending lot for TDP, the unused base FAR may be transferred as TDP to the extent permitted by Chapter 23.58A and this ((s))Section 23.45.516, but in each case only to satisfy in part the conditions to achieve extra floor area, not as additional base FAR.

3. To the extent permitted by the Director, the maximum chargeable floor area for any one or more lots in the combined lot development may be increased up to the combined maximum chargeable floor area under Section 23.45.510 computed for all lots participating in the combined lot development, provided that the maximum chargeable floor area on one or more other lots in the combined lot development is correspondingly reduced. To the extent permitted by the Director, and subject to subsection 23.45.516.E.2((above)), the base floor area for any one or more lots in the combined lot development may be increased up to the combined base chargeable floor area under Section 23.45.510 computed for all lots participating in the combined lot development, provided that the base floor area on one or more other lots in the combined lot development is correspondingly reduced.

4. The Director shall allow a combined lot development only to the extent that the Director determines, in a Type I land use decision, that permitting more chargeable floor area than would otherwise be allowed on a lot or lots and the corresponding reduction on another lot or lots will result in a significant public benefit through one of more of the following:

a. preservation of a landmark structure located on the block or on an adjacent block either through the inclusion of the lot with the landmark structure as a base lot in the combined lot development or through the transfer of TDP from the lot with the landmark structure to a lot in the combined lot development;

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b. inclusion on the same block of a structure in which low-income housing is provided to satisfy all or part of the conditions to earn extra residential floor area; and/or

c. provision of open space on the same block to satisfy in part the conditions to achieve extra residential floor area.

5. The fee owners of each of the combined lots shall execute an appropriate agreement or instrument, which shall include the legal descriptions of each lot and shall be recorded in the King County real property records. In the agreement or instrument, the owners shall acknowledge the extent to which development capacity on each base lot is reduced by the use of such capacity on another lot or lots, at least for so long as the chargeable floor area for which such capacity is used remains on such other lot or lots. The agreement or instrument shall also provide that its covenants and conditions shall run with the land and shall be specifically enforceable by the parties and by the City of Seattle.

6. Nothing in this subsection 23.45.516.E shall allow the development on any lot in a combined lot development to exceed or deviate from height limits or other development standards.

F. Neighborhood ((~~G~~))green ((~~S~~))street ((~~S~~))setback. Floor area may be gained for a neighborhood green street setback according to the provisions of Chapter 23.58A by development on lots abutting one of the streets or street segments within the First Hill Urban Village shown on Map A for 23.45.516.

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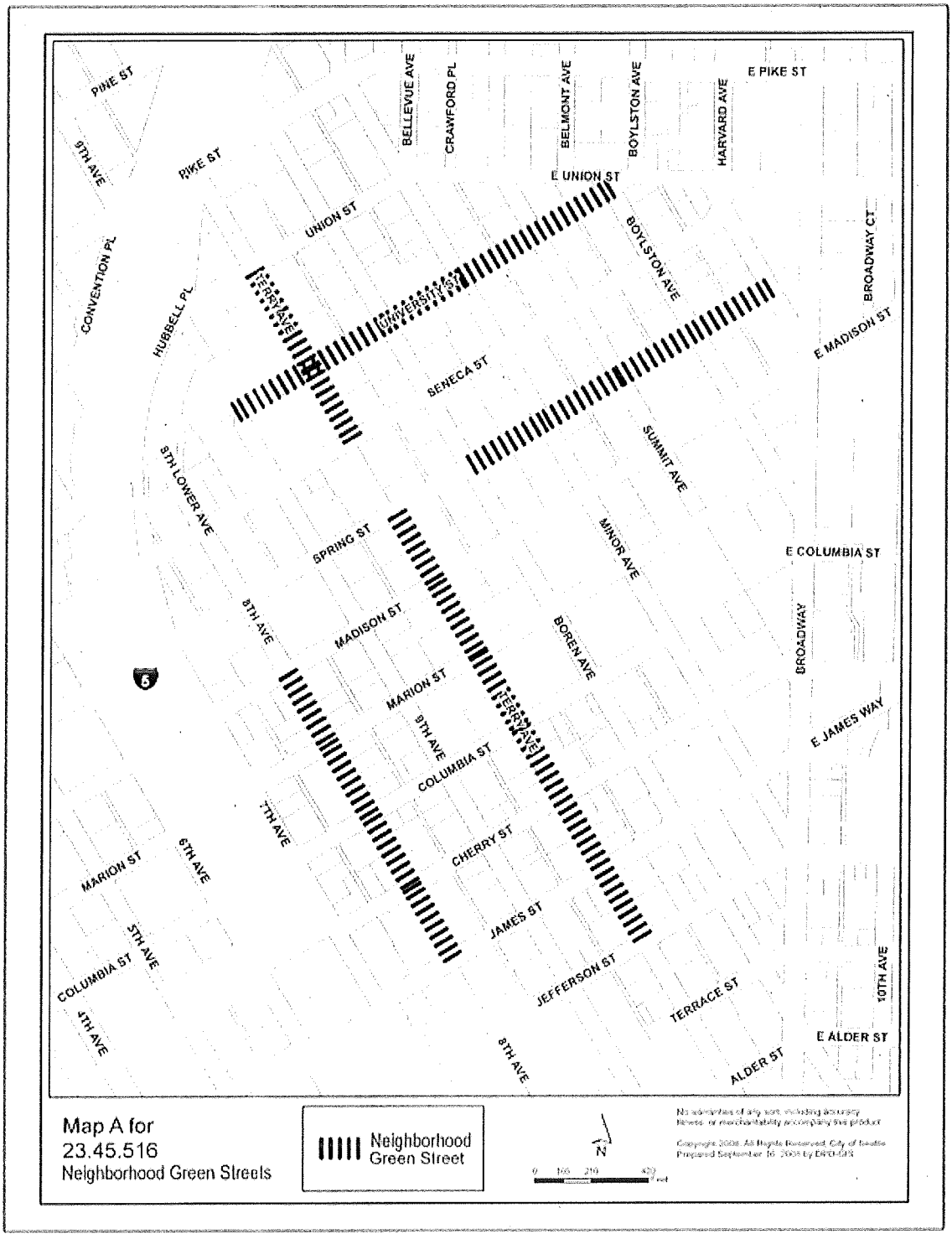
Map A for 23.45.516

Neighborhood Green Streets



G. Neighborhood open space. In HR zones, subject to the limits in this Section 23.45.516 and Chapter 23.58A, extra residential floor area may be gained through a voluntary agreement to provide neighborhood open space or a payment in lieu of neighborhood open space, according to the provisions of Section 23.58A.((~~016~~))040.

Section 6. Section 23.45.574 of the Seattle Municipal Code, last amended by Ordinance 123495, is amended as follows:

23.45.574 Assisted living facilities

A. In addition to the requirements of subsection 23.45.574.B, a((~~A~~))ssisted living facilities are subject to the development standards for apartments for the zone in which they are located, except that density limits and amenity area requirements do not apply to assisted living facilities.

B. Other requirements((~~.~~))

1. Facility kitchen. An on-site kitchen that serves the entire assisted living facility is required.

2. Communal area. Communal areas that are either interior or exterior spaces, such as(((~~e.g.,~~))) solariums, decks and porches, recreation rooms, dining rooms, living rooms, foyers and lobbies((~~that are provided with comfortable seating~~)), and gardens or other outdoor landscaped areas ((~~that are accessible to wheelchairs and walkers) with sufficient accommodations for socialization and meeting with friends and family~~))shall be provided as follows:

a. The total amount of communal area shall, at a minimum, equal 5 percent of the total floor area in assisted living units, or 25 percent of the lot area, whichever is less. In calculating the total floor area in assisted living units, all of the area of each ((~~of the individual~~))unit((~~s~~)), excluding the bathroom, is ((~~shall be~~))counted, including counters, closets and built-ins((~~, but excluding the bathroom~~));

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b. ((~~No s~~))Service areas, including, but not limited to, the facility kitchen, laundry, hallways and corridors, supply closets, operations and maintenance areas, staff areas and offices, and rooms used only for counseling or medical services, shall not be counted ((~~toward the~~))as required communal area((~~requirement~~)); ((~~and~~))

c. A minimum of 400 square feet of the required communal area shall be provided as an outdoor((~~s~~)) area((~~,~~)) with a minimum((~~no~~)) dimension of ((~~less than~~))10 feet. ((~~A departure from the required amount and/or dimension of outdoor communal space may be permitted as part of the design review process, pursuant to Section 23.41.012.A.~~))Outdoor areas provided as required communal area shall be accessible to people with disabilities; and

d. Adequate seating for residents and guests shall be provided in required communal areas.

Section 7. Section 23.47A.035 of the Seattle Municipal Code, last amended by Ordinance 123495, is amended as follows:

23.47A.035 Assisted living facilities((~~development standards~~))

A. In addition to the requirements in subsection 23.47A.035.B, ((~~A~~))assisted living facilities are subject to the development standards of the zone in which they are located, except that the amenity area requirements of Section 23.47A.024 do not apply.

B. Other ((~~R~~))requirements((~~.~~))

1. Minimum ((~~U~~))unit ((~~S~~))size. Assisted living units ((~~must~~))shall be designed to meet the minimum square footage required by WAC 388-110-140.

2. Facility ((~~K~~))kitchen. An on-site kitchen that serves the entire assisted living facility is required((~~must be provided on-site~~)).

3. Communal ((~~A~~))area. Communal areas that are either interior or exterior spaces, such as(((~~e.g.,~~)) solariums, decks and porches, recreation rooms, dining rooms, living rooms, foyers and lobbies((~~that are provided with comfortable seating~~)), and gardens or other

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outdoor landscaped areas ((~~that are accessible to wheelchairs and walkers) with sufficient accommodations for socialization and meeting with friends and family must be~~))shall be provided as follows:((~~-~~))

a. The total amount of communal area ((~~must~~))shall equal at least ((~~ten (~~))10((~~)~~)) percent of the total floor area in assisted living units. In calculating the total floor area in assisted living units, all of the area of each ((~~of the individual~~))unit((~~s~~)), excluding bathrooms, is counted, including counters, closets and built-ins((~~, but excluding the bathroom~~));

b. ((~~No s~~))Service areas, including, but not limited to, the facility kitchen, laundry, hallways and corridors, supply closets, operations and maintenance areas, staff areas and offices, and rooms used only for counseling or medical services, shall not be counted as required((~~may be counted toward the~~)) communal area((~~requirement~~)); ((~~and~~))

c. A minimum of ((~~four hundred (~~))400((~~)~~)) square feet of the required communal area ((~~must~~))shall be provided as an outdoor((~~s~~)) area, with no dimension less than ((~~ten (~~))10((~~)~~)) feet. Outdoor areas provided as required communal area shall be accessible to people with disabilities; and

d. Adequate seating for residents and guests shall be provided in required communal areas.

Section 8. Section 23.48.002 of the Seattle Municipal Code, last amended by Ordinance 123495, is amended as follows:

23.48.002 Scope of provisions

A. This ((~~e~~))Chapter 23.48 identifies uses that are or may be permitted in Seattle Mixed (SM) zones and establishes development standards. The SM zone boundaries are shown on the Official Land Use Map. The "D" suffix with a height limit range may be applied to SM((-))zoned land in the West Dravus area.

B. Other regulations, such as requirements ((~~for streets, alleys and easements (Chapter~~

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~~23.53); standards for parking quantity, access and design (Chapter 23.54); standards for solid waste storage (Chapter 23.54); signs (Chapter 23.55); and methods for measurements (Chapter 23.86) may apply to development proposals.~~))in Chapter 23.53 (streets, alleys and easements); Chapter 23.54 (standards for parking quantity, access and design); Chapter 23.54 (standards for solid waste storage); Chapter 23.55 (signs); and Chapter 23.86 (methods for measurements) may apply to development proposals. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this ((e))Chapter 23.48 and additional regulations in Chapter 23.57.

Section 9. This Section 23.48.004 of the Seattle Municipal Code, last amended by Ordinance 122411, is amended as follows.

Subchapter I Use Provisions

23.48.004 ((~~**Permitted u**~~))**U**ses((~~.~~))

A. Permitted uses

1. All uses are permitted outright, either as principal or accessory uses, except those specifically prohibited by ((~~S~~))subsection 23.48.00((~~6~~))4.B and those permitted only as conditional uses by ((~~S~~))subsection 23.48.00((~~8~~))4.C.

((~~B~~))2. Adult cabarets ((~~must~~))shall comply with the requirements of subsection 23.47A.004.H.

3. In the SM 85-240 zone, permitted nonresidential uses are limited to a height of 20 feet above the street-level of structures with residential uses and are subject to the development standards of subsection 23.48.014.B.

B. Prohibited uses. The following uses are prohibited as both principal and accessory uses, except as otherwise noted:

1. All high-impact uses;

2. All heavy manufacturing uses;

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3. General manufacturing uses greater than 25,000 square feet of gross floor area for an individual business establishment;

4. Drive-in businesses, except gas stations;

5. Jails;

6. Adult motion picture theaters and adult panorams;

7. Outdoor storage, except for outdoor storage associated with florists and horticulture uses;

8. Principal use surface parking;

9. Animal shelters and kennels;

10. Animal husbandry;

11. Park and pool lots;

12. Park and ride lots;

13. Work release centers;

14. Recycling;

15. Solid waste management; and

16. Mobile home parks.

C. Conditional uses

1. Conditional uses are subject to the procedures described in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, and shall meet the provisions of both Section 23.42.042 and this subsection 23.48.004.C.

2. Mini-warehouses and warehouses may be permitted by the Director as administrative conditional uses if:

a. The street level portion of a mini-warehouse or warehouse only fronts on an east/west oriented street, or an alley; and

b. Vehicular entrances, including those for loading operations, will not

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disrupt traffic or transit routes; and

c. The traffic generated will not disrupt the pedestrian character of an area by significantly increasing the potential for pedestrian-vehicle conflicts.

D. Required street-level uses

1. One or more of the uses listed in this subsection 23.48.004.D are required at street-level on all lots abutting streets designated as Class 1 Pedestrian Streets shown on Map A for 23.48.014, except as required in subsection 23.48.004.D.3. The following uses qualify as required street-level uses:

a. General sales and service uses;

b. Eating and drinking establishments;

c. Entertainment uses;

d. Public libraries;

e. Public parks; and

f. Arts facilities.

2. Standards for required street-level uses. Required street-level uses shall meet the development standards in subsection 23.48.014.E.

3. Within the SM 160/85-240 zone, for development meeting the standards in subsection 23.48.017.B, structures with a street-facing façade along 8th Avenue N. or a designated neighborhood green street (Map A for 23.48.014) shall have a minimum of 10 percent of the length of the street-level portion of that street-facing facade occupied by general sales and service uses, eating and drinking establishments, or entertainment uses, that shall meet the development standards for required street-level uses in subsection 23.48.014.E.

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Section 10. This Section 23.48.006 of the Seattle Municipal Code, last amended by Ordinance 122311, is hereby repealed.

((~~**23.48.006 Prohibited uses.**~~

~~The following uses are prohibited as both principal and accessory uses, except as otherwise noted:~~

~~A. All high-impact uses;~~

~~B. All heavy manufacturing uses;~~

~~C. General manufacturing uses greater than twenty-five thousand (25,000) square feet of gross floor area for an individual business establishment;~~

~~D. Drive-in businesses, except gas stations;~~

~~E. Jails;~~

~~F. Adult motion picture theaters and adult panorams;~~

~~G. Outdoor storage, except for outdoor storage associated with florists and horticulture uses;~~

~~H. Principal use surface parking;~~

~~I. Animal shelters and kennels;~~

~~J. Animal husbandry;~~

~~K. Park and pool lots;~~

~~L. Park and ride lots;~~

~~M. Work release centers;~~

~~N. Recycling;~~

~~O. Solid waste management; and~~

~~P. Mobile home parks.~~))

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Section 11. This Section 23.48.008 of the Seattle Municipal Code, last amended by Ordinance 121782, is hereby repealed.

((~~**23.48.008 Conditional uses.**~~

~~A. All conditional uses shall be subject to the procedures described in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, and shall meet the following criteria:~~

~~1. The use shall not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.~~

~~2. In authorizing a conditional use, adverse impacts may be avoided or mitigated by imposing requirements or conditions. The Director shall deny or recommend denial of a conditional use if it is determined that the negative impacts cannot be mitigated satisfactorily.~~

~~B. The following uses may be permitted by the Director as administrative conditional uses when the provisions of this subsection and subsection A are met:~~

~~1. Mini-warehouses and Warehouses. The Director may authorize mini-warehouses or warehouses if:~~

~~a. The street level portion of a mini-warehouse or warehouse only fronts on an east/west oriented street, or an alley; and~~

~~b. Vehicular entrances, including those for loading operations, will not disrupt traffic or transit routes; and~~

~~c. The traffic generated will not disrupt the pedestrian character of an area by significantly increasing the potential for pedestrian-vehicle conflicts.~~

~~C. Any authorized conditional use which has been discontinued shall not be reestablished or recommended except pursuant to a new conditional use permit. The following shall constitute conclusive evidence that the conditional use has been discontinued:~~

~~1. A permit to change the use of the property has been issued and the new use has~~

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~~been established; or~~

~~2. The property has not been devoted to the authorized conditional use for more than twenty-four (24) consecutive months.~~))

Section 12. A new Section 23.48.008 of the Seattle Municipal Code is added to Subchapter II of Chapter 23.48 as follows:

Subchapter II Development Standards

23.48.008 Lot area limits for nonresidential uses in the SM/R 55/85 zone

A. In the SM/R 55/85 zone, development with nonresidential uses only, except hotels with 100 rooms/suites or fewer, is limited to a lot area of 21,600 square feet or less.

B. Development on lots greater than 21,600 square feet in area shall include residential use in an amount of gross floor area equal to 60 percent or more of the gross floor area in nonresidential use, except for development that is an elementary or secondary school, or a hotel with 100 rooms/suites or fewer.

C. Two lots of up to 21,600 square feet each, separated by an alley and connected above grade by a skybridge or other similar means shall be considered two separate lots for the purposes of this Section 23.48.008. Such a connection above grade, across the alley may be allowed pursuant to the City Council's approval of an aerial alley vacation or temporary use permit.

D. Nonresidential structures on adjacent lots not separated by an alley, subject to this Section 23.48.008, shall not be internally connected.

E. Nonresidential uses existing prior to November 6, 1996 that do not meet the requirements of Section 23.48.006 are allowed to expand by an amount of gross floor area not to exceed 20 percent of the existing gross floor area, without meeting the requirements of this Section 23.48.008. This provision may only be used once for an individual use.

F. Nonresidential use exception. A nonresidential structure may be permitted where a

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residential or mixed use structure would otherwise be required, subject to the following:

1. The proposal is comprised of two or more lots within the same SM/R zone; and

2. The amount of gross floor area in residential use in the structures on both lots is equal to at least 60 percent of the total gross floor area of the total combined development on the lots included in the proposal; and

3. The nonresidential structure is subject to design review to ensure compatibility with the residential character of the surrounding area; and

4. The proposal meets one or more of the following:

a. The project includes the rehabilitation of a landmark structure or incorporates structures or elements of structures of architectural or historical significance as identified in the Seattle Comprehensive Plan or design guidelines; or

b. The project includes general sales and service uses, eating and drinking establishments, major durables retail sales uses, entertainment uses, human service uses or child care centers at the street level in an amount equal to 50 percent of the structure's footprint; or

c. On the lot(s) accommodating the required amount of residential use, as specified in subsection 23.48.008.F.2, a minimum of 10 percent of all new housing units in the proposal are provided as affordable housing as defined in Chapter 23.58A, and shall be maintained as affordable housing for a period of at least 20 years, or a minimum of 10 percent of all new housing units in the proposal are provided as townhouses.

Section 13. A new Section 23.48.009 of the Seattle Municipal Code is added to Subchapter II of Chapter 23.48 as follows:

23.48.009 Floor area ratio

A. General provisions

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1. All gross floor area not exempt under subsection 23.48.009.D counts toward the maximum gross floor area allowed under the floor area ratio (FAR) limits.

2. The applicable FAR limit applies to the total non-exempt gross floor area of all structures on the lot.

3. If a lot is in more than one zone, the FAR limit for each zone applies to the portion of the lot located in that zone.

B. Floor Area Ratio (FAR) limits in SM zones

1. FAR limits in SM zones exclusive of specified SM zones within the South Lake Union Urban Center are as shown in Table A for 23.48.009:

Table A for 23.48.009
Floor Area Ratios in Seattle Mixed Zones, excluding specified SM zones within the South Lake Union Urban Center

ZONE	Base FAR for all uses	Maximum FAR for all uses
SM 40	3	3.5
SM 65	3.5	5
SM 85	4.5 (1)	6 (1)
SM 125	5	8
SM 160	5	9
SM 240	6	13
SM/R 55/85	NA	NA
SM/D 40-85	NA	NA

Footnotes for Table A for 23.48.009:

NA (not applicable) refers to zones where uses are not subject to an FAR limit.

(1) Within the area shown on Map A for 23.48.009, all gross floor area occupied by a residential use is exempt from FAR calculations.

2. FAR limits for specified SM zones within the South Lake Union Urban Center are as shown in Table B for 23.48.009.

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Table B for 23.48.009 FAR Limits for Specified Zones in South Lake Union Urban Center			
Zone	**FAR limits for nonresidential uses**		**Maximum FAR for structures that do not exceed the base residential height limit and include any residential use.**
	Base FAR	**Maximum FAR**	
SM 85/65-125	4.5	6	4.5
SM 85/65-160	4.5	7	4.5
SM 160/85-240	4.5*	7	6
SM 85-240	0.5	NA	6
SM 240/125-400	5*	7	10
*In the SM 160/85-240, and SM 240/125-400 zones, an additional increment of 0.5 FAR above the base FAR is permitted on lots meeting conditions of 23.48.009.B.4.			

3. FAR for development including a mix of residential and nonresidential uses.

a. For zones included on Table B for 23.48.009, development including a mix of nonresidential uses and residential uses that do not exceed the base height limit for residential use shall:

1) obtain extra floor area for any chargeable nonresidential floor area above the base FAR for nonresidential uses as prescribed in in Table B for 23.48.009; and

2) not exceed the lower of the maximum FAR for nonresidential uses in Table B of 23.48.009 or the maximum FAR for structures that do not exceed the base height limit and include any residential use in Table B of 23.48.009.

b. For the SM 160/85-240 and SM 240/125-400 zones, residential uses are allowed above the base height limit in structures having nonresidential uses that exceed 85 feet in height, if the following conditions are met:

1) All uses are subject to the maximum FAR limit for nonresidential uses in Table B for 23.48.009, and for the purposes of calculating FAR, floor area in residential use shall be included as chargeable floor area;

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2) If residential and nonresidential uses are combined on the same story, the floor area limits of subsection 23.48.013.B.3 apply;

3) Stories occupied only by residential uses may exceed the maximum height limit for nonresidential uses, and all stories above the base height limit for residential use that are only occupied by residential uses are subject to the floor area limits of 23.48.013.B.2 and the maximum façade width standards of 23.48.013.E;

4) Extra residential floor area above the base height limit for residential use shall be obtained as provided for in Section 23.48.011;

5) Extra nonresidential floor area above the base FAR for nonresidential uses shown on Table B for 23.48.009 shall be obtained as provided for in Section 23.48.011; and

6) For the purposes of applying standards for limits on towers per block in subsection 23.48.013.F, the project shall be considered to be a structure with nonresidential uses exceeding 85 feet in height; and

7) For the purposes of applying tower separation standards in subsection 23.48.013.G, the structure shall be considered to be a residential tower.

4. For the zones included on Table B for 23.48.009, an additional increment of up to 0.5 FAR is permitted for nonresidential uses above the base FAR of the zone if a lot meets the conditions of either subsection 23.48.009.B.4.a or subsection 23.48.009.B.4.b.

a. The lot includes one or more qualifying Landmark structures, subject to the following conditions:

1) The structure is rehabilitated to the extent necessary so that all features and characteristics controlled or designated by ordinance pursuant to Chapter 25.12 are in good condition and consistent with the applicable ordinances and with any certificates of

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approval issued by the Landmarks Preservation Board, all as determined by the Director of Neighborhoods; and

2) A notice is recorded in the King County real estate records, in a form satisfactory to the Director, regarding the bonus allowed and the effect thereof under the terms of this Chapter 23.48.

3) For purposes of this Section 23.48.009, a "qualifying Landmark" is a structure that:

a) is subject, in whole or in part, to a designating ordinance pursuant to Chapter 25.12; and

b) is on a lot on which no improvement, object, feature or characteristic has been altered or removed contrary to any provision of Chapter 25.12 or any designating ordinance.

4) A qualifying Landmark that allows for the additional increment of FAR under this subsection 23.48.009.B.4 is not eligible as a Landmark TDR or Landmark TDP sending site. For so long as any of the chargeable floor area of the increment allowed above the base FAR of the zone under this subsection 23.48.009.B.4 remains on the lot, each Landmark for which the increment was granted shall remain designated as a Landmark under Chapter 25.12 and the owner shall maintain the exterior and interior of each qualifying Landmark in good condition and repair and in a manner that preserves the features and characteristics that are subject to designation or controls by ordinance unless the Landmarks Preservation Board has issued a Certificate of Approval for the modification or demolition of the Landmark.

5) The amount of additional increment of FAR permitted above the base FAR under subsection 23.48.009.B.4 is not more than the square footage of floor area in the Landmark structure(s).

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b. The lot includes an open space that is a minimum of 10,000 square feet in area and that has been improved as open space accessible to the public prior to the effective date of this ordinance, subject to the following conditions:

1) The Director, in consultation with the Director of the Seattle Parks and Recreation Department, determines that the design and location of the open space provides a public benefit and is suitable for recreational use;

2) Declaration. The owner(s) of the lot where the open space is located shall execute and record a declaration and voluntary agreement in a form acceptable to the Director identifying the open space provided to qualify for the additional increment of FAR above the base FAR; acknowledging that the right to develop and occupy a portion of the gross floor area on the lot using the additional increment of floor area is based upon the long-term provision and maintenance of the open space and that development is restricted in the open space; and committing to provide and maintain the open space; and

3) Duration; Alteration. The owners of the lot granted the additional increment of floor area above the base FAR as a result of having the open space on the lot shall provide and maintain the open space for as long as the increment of additional floor area allowed above the base FAR exists. The open space amenity allowing for the additional increment of floor area above the base FAR may be altered or removed only to the extent that either or both of the following occur: An amount of chargeable floor area equal to the increment of floor area allowed above the base FAR under this subsection 23.48.009.B.4.b is

a) removed or converted to a use for which extra nonresidential floor area is not required under the provisions of the zone; or

b) is subject to provisions for gaining extra nonresidential floor area through alternative means consistent with the provisions of the zone and provisions for allowing extra nonresidential floor area in Chapter 23.58A. Alteration or removal of the open

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space may be further restricted by the provisions of the zone and by conditions of any applicable permit.

4) The amount of extra FAR permitted above the base FAR is not more than three times the square footage of open space provided to qualify for that increment of FAR.

5. In the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, hotel use is permitted above 85 feet in height and is subject to the same provisions as residential use exceeding the base height limit for residential use, provided that all development standards that apply to a residential tower also apply to the hotel use, including the provisions of Section 23.48.011 for gaining extra residential floor area.

6. In the SM 85/65-125, SM 85/65-160, SM 160/85-240, SM 85-240, and SM 240/125-400 zones within South Lake Union Urban Center, for residential tower structures that have only nonresidential uses up to or above the base height limit for residential uses, the FAR limits for all nonresidential uses in the structure are the same as the FAR limits specified for nonresidential uses in Table B for 23.48.009.

7. On lots with multiple structures that include a residential tower exempt from FAR calculations, the applicable FAR limits for all other structures shall be based on the total lot area minus the area of the lot required for the podium and residential tower development in order to meet the coverage limit of subsection 23.48.013.A. For the portion of the lot with the residential tower, the FAR limit for permitted nonresidential uses in a residential tower that is also a mixed use structure shall be based on the area of the portion of the lot occupied by the residential tower.

8. Within the area in the SM 160/85-240 zone meeting the standards for location in subsection 23.48.017.B, structures designed for research and development laboratory use and

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administrative office associated with research and development laboratories are permitted a base FAR of 5 and a maximum FAR of 7, provided that the maximum number of floors provided above grade is eight.

C. All non-exempt floor area above the base floor area ratio is considered extra floor area. Extra floor area may be obtained, up to the maximum floor area ratio, only through the provision of public amenities meeting the standards of Section 23.48.011 and Chapter 23.58A.

D. The following floor area is exempt from FAR limits:

1. All gross floor area underground.

2. Portions of a story that extend no more than 4 feet above existing or finished grade, whichever is lower, excluding access, to increase privacy for residential units in the first full story above grade.

3. The floor area contained in a Landmark structure subject to controls and incentives imposed by a designating ordinance if the owner of the Landmark has executed and recorded an agreement acceptable in form and content to the Landmarks Preservation Board providing for the rehabilitation and maintenance of the historically significant features of the structure including but not limited to a Certificate of Approval for the modification of the Landmark. This exemption does not apply to a lot from which a Landmark TDP or TDR has been transferred under Chapter 23.58A and does not apply for purposes of determining TDR or TDP available for transfer under Chapter 23.58A.

4. As an allowance for mechanical equipment, in any structure 65 feet in height or more, 3.5 percent of the total chargeable gross floor area in a structure is exempt from FAR calculations. Calculation of the allowance includes the remaining gross floor area after all exempt space allowed in this subsection 23.48.009.D has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, is not included as part of the calculation of total gross floor area.

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5. All gross floor area for solar collectors and wind-driven power generators.

6. In the South Lake Union Urban Center, street-level uses identified in subsection 23.48.004.D, whether required or not, and that meet the development standards of subsection 23.48.014.E; except that at locations meeting the conditions of Section 23.48.017, only gross floor area at street-level that is a general sales and service, eating and drinking establishment, or entertainment use is exempt.

7. In the South Lake Union Urban Center, all residential use in a residential tower in the SM 85/65-125, SM 85/65-160, SM 160/85-240, SM 85-240, and SM 240/125-400 zones, except residential use in a mixed use project under the provisions of 23.48.009.3.b.

8. In the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, all floor area in hotel use pursuant to subsection 23.48.009.B.5.

9. In the South Lake Union Urban Center, floor area in child care use and elementary and secondary schools.

10. In the SM 85 zone shown on Map A for 23.48.009, all gross floor area occupied by a residential use.

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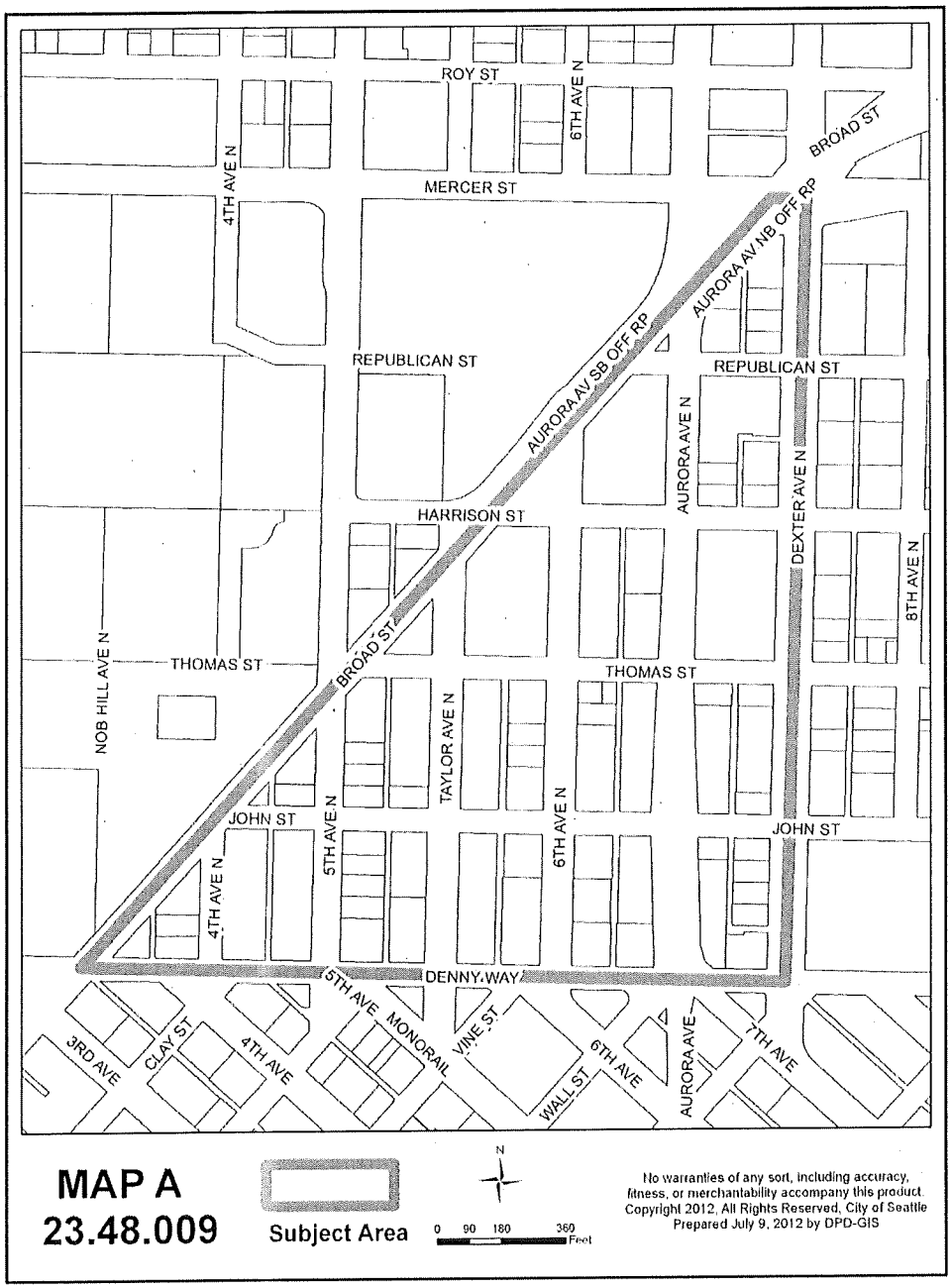
Map A for 23.48.009:



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Section 14. Section 23.48.010 of the Seattle Municipal code, last amended by Ordinance 123649, is amended as follows:

23.48.010 ((~~General s~~))Structure height

((~~A. Maximum Height. Maximum structure height is 40 feet, 55 feet, 65 feet, 75 feet, 85 feet, or 125 feet as designated on the Official Land Use Map, Chapter 23.32, except as provided in this Section 23.48.010, in Section 23.48.016, or in Section 23.48.017.~~

~~B. Within the South Lake Union Urban Center, the maximum structure height in zones with 65 foot and 75 foot height limits may be increased to 85 feet; and the maximum structure height in zones with an 85 foot height limit may be increased to 105 feet, when:~~

~~1. A minimum of two floors in the structure have a floor to floor height of at least 14 feet; and~~

~~2. The additional height is used to accommodate mechanical equipment; and~~

~~3. The additional height permitted does not allow more than six floors in zones with a 65 foot height limit, or more than seven floors in zones with a 75 foot or 85 foot height limit; and~~

~~4. The height limit provisions of Section 23.48.016.A.1.b, Standards applicable to specific areas, are satisfied.~~

~~C. Additional Height Permitted. Within the area bounded by Valley and Mercer Streets and Westlake and Fairview Avenues North, maximum structure height may be increased from forty (40) feet to sixty-five (65) feet as a special exception pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. In order to grant the special exception, the Director must find:~~

~~1. The lot is not located within the shoreline district. However, if a lot is located partially within the shoreline district, those portions of that lot which are not in the shoreline district may be eligible for the special exception.~~

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~~2. In order to reduce potential height, bulk and scale and view impacts, enhance pedestrian connections across Valley and Mercer Streets, and provide greater opportunities for public open space:~~

~~a. A minimum of twenty (20) percent of the total development area must be provided as useable open space at street level. The useable open space must be directly accessible to the public during the hours of operation of South Lake Union Park, and no occupied portion of the structure may extend into the required useable open space.~~

~~(1) If the Director determines that greater public benefit will result, a portion of the required useable open space may be located above street level, provided:~~

~~i. A minimum of twenty-five (25) percent of the total development area is provided as useable open space;~~

~~ii. The useable open space is directly accessible to the public during the hours of operation of South Lake Union Park, and no occupied portion of the structure may extend into the required useable open space;~~

~~iii. The useable open space enhances visual and physical pedestrian connection(s) between South Lake Union Park and the development area; and~~

~~iv. The required useable open space is provided at heights less than forty (40) feet, measured from existing or finished grade, whichever is lower.~~

~~(2) If the Director determines that greater public benefit will result, a portion of the required useable open space may be located below street level, provided:~~

~~i. A minimum of twenty-five (25) percent of the total development area is provided as useable open space;~~

~~ii. The useable open space is directly accessible to the public during the hours of operation of South Lake Union Park, and no occupied portion of the~~

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~~structure may extend into the required useable open space;~~

~~iii. The useable open space enhances the pedestrian connection(s) between South Lake Union Park and the development area;~~

~~iv. The useable open space provides visual and physical connections from street level to the useable open space. Required useable open space allows for ease of access to pedestrians from street level and may include streetscape elements such as semitransparent fencing and low-level vegetation; and~~

~~v. The design and siting of the required useable open space provides adequate light and air exposure and encourages lively pedestrian activity.~~

~~vi. When useable open space is provided below street level, the height of facades that abut the open space shall be measured from existing grade.~~

~~b. All portions of a structure that exceed forty (40) feet in height are limited to a maximum lot coverage of sixty-four (64) percent. In addition, portions of a structure above forty (40) feet in height must be located at least fifteen (15) feet from the street property line along Valley Street and Westlake, Terry, Boren, and Fairview Avenues North.~~

~~c. Departures from development standards may be granted pursuant to Chapter 23.41. Part I, Design Review, except for open space quantity or upper level lot coverage requirements in this section.~~

~~3. For buildings constructed under permits applied for after February 21, 2001, all uses at street level, except for parking, must have a minimum floor to floor height of thirteen (13) feet. Along Terry Avenue North between Valley and Mercer Streets and along Valley Street between Westlake and Boren Avenues North, the following apply:~~

~~a. A minimum of eighty (80) percent of a structure's street front facade at street level must be occupied by uses other than parking. For purposes of calculating the eighty (80) percent, twenty-two (22) feet for the width of a driveway to access parking may be~~

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~~subtracted from the length of the street front facade if the Director determines that access to parking from Valley Street or Terry Avenue North is the best opportunity to avoid traffic problems or pedestrian conflicts.~~

~~b. A minimum depth of thirty (30) feet from the street front facade of the structure must be occupied by uses other than parking. The minimum required depth may be averaged, with no depth less than fifteen (15) feet.~~

~~c. If the street front facade and depth requirements result in a space greater than fifty (50) percent of the structure's footprint, the Director may modify the street front facade and depth requirements to reduce the space to fifty (50) percent of the structure's footprint.~~

~~D. Additional Height Permitted. In zones with a 65 foot height limit, additional height may be permitted pursuant to Section 23.48.017~~))

A. Base and maximum height limits

1. Except as otherwise provided in this Section 23.48.010, maximum structure height for Seattle Mixed (SM) zones are as designated on the Official Land Use Map. In certain zones, as specified in this Section 23.48.010, the maximum structure height is allowed only for particular uses or only under specified conditions, or both. Where height limits are established for portions of a structure that contain specified types of uses, the applicable height limit for the structure is the highest applicable height limit for the types of uses in the structure, unless otherwise specified.

2. In zones listed below in this subsection 23.48.010.A.2, the applicable height limit for portions of a structure that contain nonresidential and live-work uses is shown as the first figure after the zone designation, and the base height limit for portions of a structure in residential use is shown as the first figure following the "/". The third figure shown is the maximum residential height limit. Except as stated in Section 23.48.010 (height exceptions), the

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base residential height limit is the applicable height limit for portions of a structure in residential use if the structure does not gain extra residential floor area under the provisions of Chapter 23.58A, and the maximum residential height limit is the height limit for portions of a structure in residential use if the structure includes extra floor area under the provisions of Chapter 23.58A and if the structure complies with the standards for tower development specified in Section 23.48.013 (Upper-level development standards) and Section 23.48.014 (street-level development standards):

SM 85/65-125

SM 85/65-160

SM 160/85-240

SM 240/125-400

3. In the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, hotel use is permitted above 85 feet in height and is subject to the same provisions as residential use exceeding the base height limit for residential use, provided that all development standards that apply to a residential tower also apply to the hotel use, including the provisions of Section 23.48.011 for gaining extra residential floor area.

4. In the SM 85-240 zone, the base height limit is shown as the first figure, and the second figure is the maximum residential height limit. Except as stated in subsections 23.48.010.G and 23.48.010.H, the base height limit is the applicable height limit for portions of a structure if the structure does not gain extra residential floor area under the provisions of Chapter 23.58A, and the maximum residential height limit is the height limit for portions of a structure in residential use if the structure includes extra residential floor area under the provisions of Chapter 23.58A, and if the structure complies with the standards for residential tower development in this Chapter 23.48.

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B. Height limits in the SM/R 55/85 zone

1. New structures occupied only by nonresidential uses are subject to a height limit of 55 feet.

2. Structures occupied only by residential uses and mixed-use structures with 60 percent or more of the structure's gross floor area in residential use are subject to a height limit of 85 feet.

C. Height limits in the Seattle Mixed/Dravus 40-85 (SM/D 40-85) zone

1. Base height limit. Structures in the SM/D 40-85 zone are subject to a height limit of 40 feet, except as otherwise provided in subsection 23.48.016.C.2.

2. Additional height for structures with only residential uses above 40 feet. A structure in the SM/D 40-85 zone that has only residential uses above a height of 40 feet is subject to a maximum height limit of 85 feet, if the following conditions are met:

a. The applicant satisfies the conditions for bonus development under Section 23.48.011;

b. The portion of any structure above 45 feet in height shall be set back at least 50 feet from W. Dravus Street, except that the first 4 feet of the horizontal projection of decks, balconies with open railings, eaves, cornices, and gutters is permitted in the required setback, and the exceptions for pitched roofs and rooftop features of subsection 23.48.016.C.3 are allowed above the 45 foot height limit in the required setback.

3. Exceptions for pitched roofs and rooftop features. Additional height above the applicable limit pursuant to subsections 23.48.016.C.1, 23.48.016.C.2, or 23.48.016.C.2.b, is allowed for pitched roofs and certain rooftop features, as set forth in subsections 23.48.010.D and 23.48.010.E.

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D. Additional height permitted in the SM 160/85-240 and SM 85-240 zones within the South Lake Union Urban Center

1. Increases in the maximum height limit in the SM 160/85-240 and SM 85-240 zones. In the SM 160/85-240 and SM 85-240 zones in the South Lake Union Urban Center, a structure is allowed additional height of up to 30 percent above the maximum height limit for residential uses, and, in the SM 160/85-240 zone, up to 20 percent above the height limit for nonresidential uses, if all of the following conditions are met:

a. The project includes an elementary school or a kindergarten through eighth grade school operated by the Seattle Public School District that meets the specifications promulgated by the Seattle Public School District, which may include minimum space requirements for academic core functions, child care, administrative offices, a library, maintenance facilities, food service, and specialty instruction space;

b. Prior to issuance of a Master Use Permit, the applicant shall submit a letter to the Director from the Seattle School District indicating that, based on the Master Use Permit plans, the school district has determined that the development could meet the School District's specifications;

c. Prior to issuance of a building permit, the applicant shall submit a written certification by the School District to the Director that the School District's specifications have been met;

d. The amount of floor area allowed to exceed the applicable height limit is equivalent to the amount of enclosed floor area on the lot in school use;

e. The floor area added through the increase in height is subject to the development standards in Sections 23.48.012 and 23.48.013 that apply to structures that exceed the base height for residential use or the applicable podium height for nonresidential uses;

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f. The floor area allowed to exceed the maximum residential height limit is not subject to the provisions for gaining extra residential floor area in Chapter 23.58A; should the school use be discontinued, floor area gained through the provisions of this Section 23.48.010 shall be subject to the provisions of Chapter 23.58A; and

g. The allowances for rooftop features in subsection 23.48.010.G shall apply above the structure height permitted under this subsection 23.48.010.D.

2. Additional height above the applicable height limit for portions of a structure that contain nonresidential and live-work uses is permitted in the SM 160/85-240 zone at locations and under the conditions specified in Section 23.48.017.

E. A proposal to build a structure greater than 85 feet in height in the SM 85/65-160 and SM 160/85-240 zones and located north of Mercer Street and West of Fairview Avenue within the South Lake Union Urban Center, requires the applicant to show that the proposed structure height will not physically obstruct use of the flight path shown on Map A for 23.48.010 or endanger aircraft operations.

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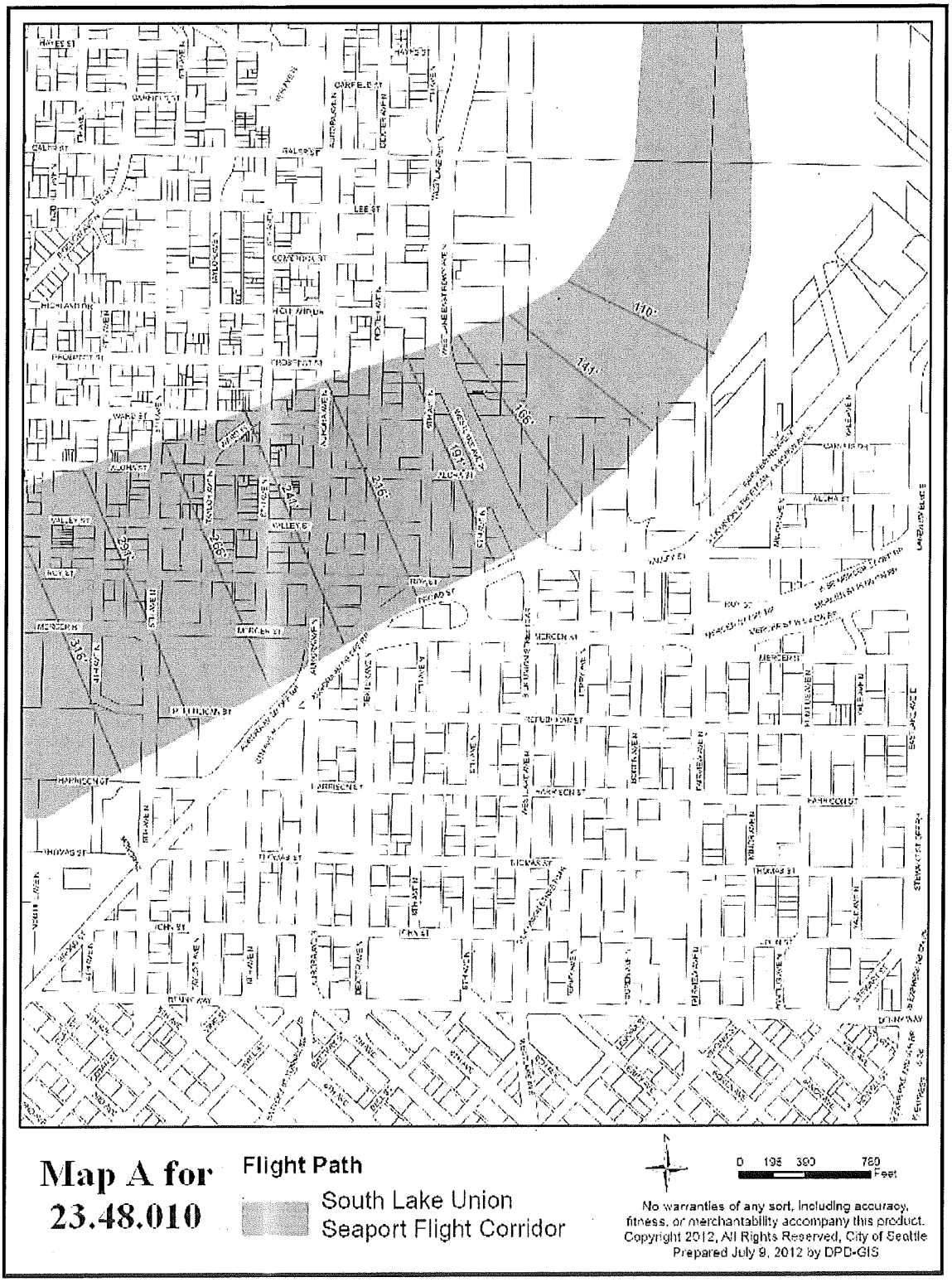
Map A for 23.48.010: South Lake Union Seaport Flight Corridor



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F. All non-exempt floor area located above the base height is considered extra floor area. Extra floor area may be obtained above the base height, up to the maximum height, only through the provision of public amenities meeting the standards of Section 23.48.011 and Chapter 23.58A.

((~~E~~))G. Pitched ((~~R~~))roofs. In SM zones with a height limit of 85 feet or less, ((~~T~~))the ridge of a pitched roof((s)) with a minimum slope of ((~~six~~))6 to ((~~twelve~~))12 may extend 10 feet above the height limit. The ridge of a pitched roof((s)) with a minimum slope of 4 to 12 may extend 5 feet above the height limit (Exhibit A for 23.48.010)((~~A~~)). No portion of a shed roof shall be permitted to extend beyond the height limit under this provision.

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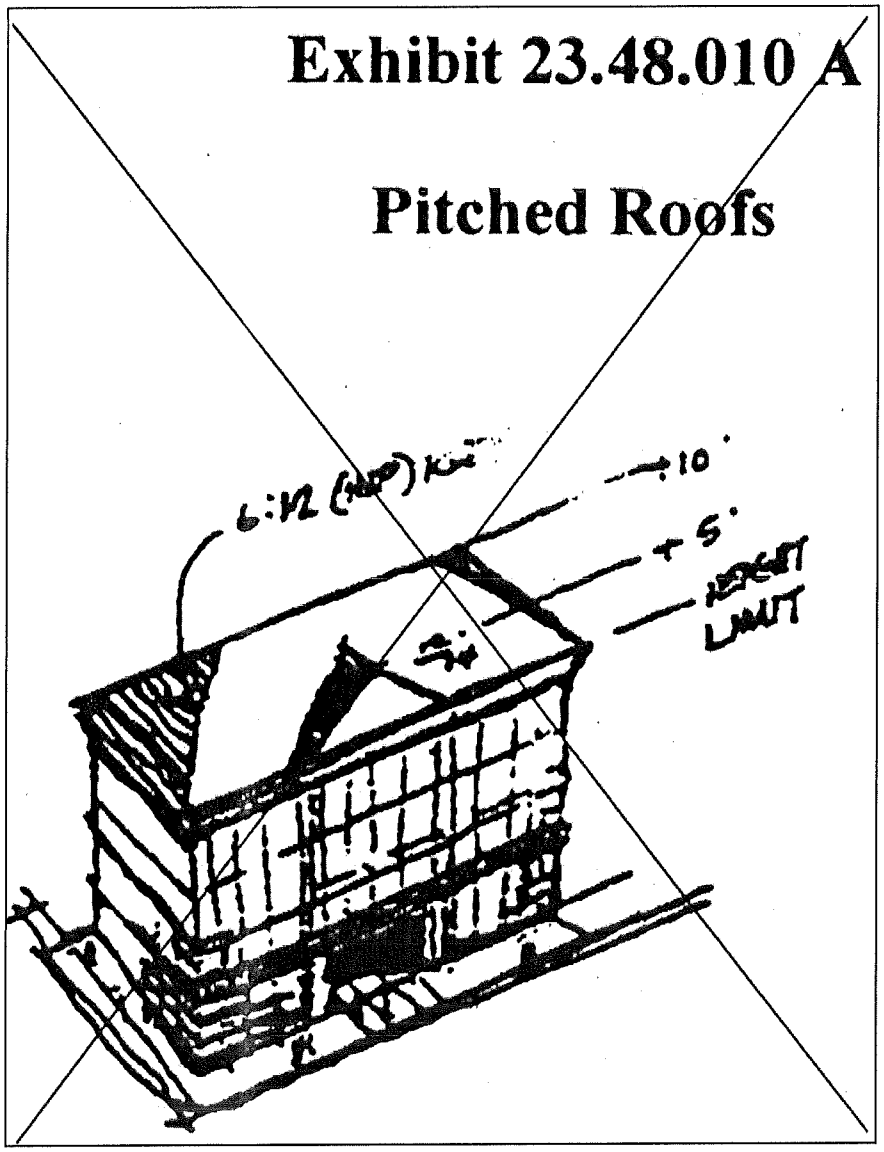
Exhibit A for 23.48.010

Pitched roofs

((~~Exhibit 23.48.010A~~))



((~~F~~))H. Rooftop ((~~F~~))features

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1. Smokestacks((,)), chimneys((,)), flagpoles((,)), and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of 10 feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend up to 4 feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to 7 feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to 15 feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection 23.48.010. H.4 does not exceed 20 percent of the roof area, or 25 percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair ((~~and elevator~~))penthouses;

c. Mechanical equipment;

d. Atriums, greenhouses, and solariums;

e. Play equipment and open-mesh fencing that encloses it, as long as the fencing is at least 15 feet from the roof edge;((~~and~~))

f. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.012; and

g. Covered or enclosed common amenity area for structures exceeding a height of 125 feet.

5. For structures greater than 85 feet in height, elevator penthouses up to 25 feet above the height limit are permitted. If the elevator provides access to a rooftop designed to

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provide usable open space, elevator penthouses up to 35 feet above the height limit are permitted.

((~~5~~))6. Greenhouses that are dedicated to food production are permitted to extend 15 feet above the applicable height limit, as long as the combined total coverage of all features gaining additional height listed in this subsection 23.48.010.((~~F~~))H does not exceed 50 percent of the roof area.

((~~6~~))7. At the applicant's option, the combined total coverage of all features listed in subsections 23.48.010. H.4 and 23.48.010. H.5 above may be increased to 65 percent of the roof area, provided that all of the following are satisfied:

a. All mechanical equipment is screened; and

b. No rooftop features are located closer than 10 feet to the roof edge.

((~~7~~))8. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection 23.48.010. H.8 at least 10 feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Atriums, greenhouses and solariums;

e. Minor communication utilities and accessory communication devices according to the provisions of Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

((~~8~~))9. Screening. Rooftop mechanical equipment and elevator penthouses shall

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be screened with fencing, wall enclosures, or other structures.

((~~9~~))10. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

Section 15. Section 23.48.011 of the Seattle Municipal code, last amended by Ordinance 122882, is amended as follows:

23.48.011 ((~~**Affordable Housing Incentive Program.**~~))**Extra floor area in Seattle Mixed Zones**

A. General

1. Development containing extra floor area obtained under Sections 23.48.009 or 23.48.010 shall provide public amenities according to the standards of this Section 23.48.011 and Chapter 23.58A. If the development is not located within an adopted Local Infrastructure Project Area, extra floor shall be achieved through the requirements of subsection 23.48.011.B. If the development is located within an adopted Local Infrastructure Project Area, extra floor shall be achieved through the requirements of subsection 23.48.011.C.

2. Definitions in Section 23.58A.004 apply in this Section 23.48.011 unless otherwise specified.

B. Calculation outside of an adopted Local Infrastructure Project Area

1. Means to achieve extra residential floor area. If the maximum height limit for residential use is 85 feet or lower or the lot is located outside of the South Lake Union Urban Center, the applicant shall use bonus residential floor area for affordable housing pursuant to Section 23.58A.014 to achieve all extra residential floor area on the lot. If the maximum height limit for residential use is greater than 85 feet and the lot is located in the South Lake Union Urban Center, the applicant shall:

a. achieve 60 percent of the extra residential floor area on the lot by using bonus residential floor area for affordable housing pursuant to Section 23.58A.014; and

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b. achieve 40 percent of the extra residential floor area by using open space transferable development potential or Landmark transferable development potential pursuant to subsection 23.48.011.D and Section 23.58A.042.

2. Means to achieve extra nonresidential floor area. If the maximum height limit for nonresidential use is 85 feet or lower or the lot is located outside of the South Lake Union Urban Center, the applicant shall use bonus nonresidential floor area for affordable housing and child care pursuant to Section 23.58A.024 to achieve all extra nonresidential floor area on the lot. If the maximum height limit for nonresidential use is greater than 85 feet and the lot is located in the South Lake Union Urban Center, the applicant shall:

a. achieve 75 percent of the extra nonresidential floor area on the lot by using bonus nonresidential floor area for affordable housing and child care pursuant to Section 23.58A.024, or housing transferable development rights pursuant to subsection 23.48.011.D and Section 23.58A.042, or both.

b. achieve 25 percent of the extra nonresidential floor area by using open space transferable development rights or Landmark transferable development rights pursuant to subsection 23.48.011.D and Section 23.58A.042.

C. Calculation within an adopted Local Infrastructure Project Area

1. Means to achieve extra residential floor area. If the maximum height limit for residential use is 85 feet or lower, the applicant shall use bonus residential floor area for affordable housing pursuant to Section 23.58A.014 to achieve all extra residential floor area on the lot. If the maximum height limit for residential use is greater than 85 feet, the applicant shall:

a. achieve 60 percent of the extra residential floor area on the lot by using bonus residential floor area for affordable housing pursuant to Section 23.58A.014; and

b. achieve 40 percent of extra residential floor area by acquiring regional development credits pursuant to Section 23.58A.044.

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2. Means to achieve extra nonresidential floor area. If the maximum height limit for nonresidential use is 85 feet or lower, the applicant shall use bonus nonresidential floor area for affordable housing and child care pursuant to Section 23.58A.024 to achieve all extra nonresidential floor area on the lot. If the maximum height limit for nonresidential use is greater than 85 feet, the applicant shall:

a. achieve 75 percent of the extra residential floor area on the lot by using bonus nonresidential floor area for affordable housing and child care pursuant to Section 23.58A.024, or housing transferable development rights pursuant to subsection 23.48.011.D and Section 23.58A.042, or both; and

b. achieve 25 percent of extra nonresidential floor area by acquiring regional development credits pursuant to Section 23.58A.044.

D. Standards for Transferable Development Potential (TDP) and Transferable Development Rights (TDR).

1. All lots in the South Lake Union Urban Center that meet the definition of a TDR or TDP sites in Chapter 23.84A are eligible for transfer.

2. Receiving sites in the South Lake Union Urban Center may only receive TDP or TDR from sending sites in the South Lake Union Urban Center except that receiving sites in the South Lake Union Center may receive Landmark or open space TDP or TDR from sending sites in Downtown or South Downtown if the applicant demonstrates to the satisfaction of the Director that no private or public entities are offering such TDP or TDR for sale in the South Lake Union Urban Center, at a price per square foot no greater than the fee-in-lieu rates for the payment option for affordable housing under Section 23.58A.014 for TDP and the payment option for affordable housing and childcare under Section 23.58A.024 for TDR.

3. A cumulative combination of TDR and TDP exceeding a total of five times the lot area may not be transferred from any lot.

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E. Minimum requirement. Developments containing any extra floor area shall meet the following requirements:

1. LEED requirement.

a. Except as described in 23.48.011.E.1.b, the applicant will earn a LEED Gold rating or meet a substantially equivalent standard, and shall demonstrate compliance with that commitment, in accordance with the provisions of Section 23.48.025.

b. An applicant may choose to earn at least a LEED Silver rating, if the Director of the Office of Sustainability and Environment determines that the development is served by a district energy provider. A building is considered served by a district energy provider if it is capable of connecting to a district energy system and has a contract with a district energy utility to serve primary heating and/or cooling needs. A district energy provider is an entity with a franchise agreement with the City that maintains a closed-loop district energy utility system that is either currently or scheduled to primarily use renewable and/or waste heat sources, per the system development plans and timeframes of an agreement with the City and the district energy provider. A district energy provider may, subject to City approval, rely on a temporary on-site or near-by transitional plant that is installed and maintained by the provider prior to connection of the development to a permanent district energy system.

2. Transportation Management Program. The applicant will provide a Transportation Management Program (TMP), consistent with requirements for TMPs in any applicable Director's Rule, that demonstrates to the satisfaction of the Director in consultation with the Director of Transportation, that no more than 40 percent of trips to and from the development will be made using single-occupant vehicles (SOVs). The TMP shall be submitted with the Master Use Permit application.

a. For purposes of measuring the percent of trips to and from the development made using SOVs in the TMP, the number of SOV trips shall be calculated for the

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p.m. peak hour in which an applicant expects the largest number of vehicle trips to be made by employees at the site (the p.m. peak hour of the generator).

b. Compliance with this subsection 23.48.011.E.2 does not affect the responsibility of any employer to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.

3. Energy management plan. The applicant will provide an energy management plan, approved by the Superintendent of Seattle City Light, demonstrating specific energy conservation or alternative energy generation methods or on-site electrical systems that together can ensure that the existing electrical system can accommodate the projected loads from the development. The approved energy management plan shall be submitted prior to issuance of a Building Permit. The Director, after consulting with the Superintendent of Seattle City Light, may condition the approval of the Building Permit on the implementation of the energy management plan.

((~~A. Additional Height Conditioned on Low-income Housing. In the SM/D/40-85 zone additional building height may be obtained for mixed-use projects and single-purpose residential projects if the applicant provides low-income housing, or makes a payment in lieu thereof, under the terms of this section.~~

~~B. Finding; Definitions.~~

~~1. Pursuant to the authority of RCW 36.70A.540, the City finds that the higher income levels specified in this subsection B, rather than those stated in RCW 36.70A.540, are needed to address local housing market conditions in each of the areas and zones to which this section applies.~~

~~2. For purposes of this section, the following definitions apply:~~

~~a. "Affordable unit" means a unit of low-income housing provided as a condition to bonus development.~~

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~~b. "Base height limit" means 40 feet above the "Grade Plane", as defined in Section 502 of the Seattle Building Code.~~

~~c. "Bonus development" means floor area allowed in stories wholly or in part above the base height limit on condition that low-income housing be provided, or that a payment in lieu thereof be made, under this section.~~

~~d. "Certificate of occupancy" means the first certificate of occupancy issued by the City for a project, whether temporary or permanent, unless otherwise specified.~~

~~e. In the case of rental units, "low-income housing" means housing affordable to and occupied by households with incomes no higher than the lesser of (1) eighty percent of median income, defined as annual median family income for the statistical area or division thereof including Seattle for which median family income is published from time to time by the U.S. Department of Housing and Urban Development, with adjustments according to household size in a manner determined by the Director of the Office of Housing, or (2) the maximum level permitted by RCW 36.70A.540 as in effect when the agreement for the units to serve as affordable units is executed, and "low-income household" means such a household.~~

~~f. In the case of owner occupancy housing units, "low-income housing" means housing affordable to and occupied by households with incomes no higher than the lesser of (1) median income, defined as annual median family income for the statistical area or division thereof including Seattle for which median family income is published from time to time by the U.S. Department of Housing and Urban Development, with adjustments according to household size in a manner determined by the Director of the Office of Housing, or (2) the maximum level permitted by RCW 36.70A.540 as in effect when the agreement for the units to serve as affordable units is executed, and "low-income household" means such a household.~~

~~C. Bonus Options. Bonus development may be allowed when low-income housing is developed (the "performance option") or when the applicant makes a payment to the City in lieu~~

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~~of providing low-income housing (the "payment option"), or when a combination of the performance and payment options is used, in accordance with this section.~~

~~1. Performance option.~~

~~a. The applicant shall provide low-income housing with a floor area equal to the greater of (i) 17.5 percent of 80 percent of the gross residential floor area of all stories on the lot that are wholly or in part above the base height limit, or (ii) 700 square feet.~~

~~b. Each affordable unit shall serve only low-income households for a minimum period of 50 years. For rental housing, rent shall be limited so that housing costs, including rent and basic utilities, shall not exceed 30 percent of the applicable income limit for the unit under this section, all as determined by the Housing Director, for a minimum period of 50 years. For owner-occupied housing, the initial sale price shall not exceed an amount determined by the Housing Director to be consistent with affordable housing for a low-income household with the average family size expected to occupy the unit based on the number of bedrooms, and the units shall be subject to recorded instruments satisfactory to the Housing Director providing for sales prices on any resale consistent with affordability on the same basis for at least 50 years. The Housing Director may promulgate rules specifying the method of determining affordability, including eligible monthly housing costs. The Housing Director may also promulgate rules for determining whether units satisfy the requirements of this section and any requirements relating to down-payment amount, design, quality, maintenance and condition of the low-income housing.~~

~~c. Affordable units each shall include at least 350 net square feet, and they shall be provided in a range of sizes consistent with RCW 36.70A.540. The affordable units shall comply with all other requirements of RCW 36.70A.540, as in effect on the date as of which the provisions of this title apply to the application for a use permit for the project using the bonus development. Affordable units that are developed as part of the project using bonus development~~

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~~shall be completed and ready for occupancy at or before the time when a certificate of occupancy is issued for any other units in that project, and as a condition to any right of the applicant to such a certificate of occupancy. The Housing Director may provide, by rule promulgated after the effective date of this ordinance, for terms and conditions on which an extension of time may be allowed due to delays that the applicant could not reasonably have avoided.~~

~~d. If the affordable units are not being developed within the project using the bonus development:~~

~~(i) The applicant must ensure that a certificate of occupancy for the affordable units is issued before or within two years after the date that the first building permit, other than for grading and shoring, is issued for the project using the bonus development, or such later date as the Housing Director may approve based on delays that the applicant or housing developer could not reasonably have avoided and conditioned on the security provided under subsection C1d(ii) of this section being extended and increased as may be necessary. To the extent the City receives payment through a letter of credit or other security in an amount determined under subsection C1d(ii) of this section, the obligation of the applicant to provide affordable units will be deemed satisfied.~~

~~(ii) The applicant shall provide to the City an irrevocable letter of credit, or other sufficient security approved by the Housing Director, prior to and as a condition of issuance of the first building permit, other than for grading and shoring, for the project using the bonus development, unless completion of the affordable units has already been documented to the satisfaction of the Housing Director and the affordable units are subject to recorded restrictions satisfactory to the Housing Director. The letter of credit or other security shall be in an amount and on terms so that at the end of the period specified in subsection C1d(i) of this section, or on any earlier date thirty (30) days before the letter of credit or other security will expire, if the housing does not qualify or is not provided in a sufficient amount to satisfy the~~

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~~terms of this section, the City shall receive a cash payment for housing in the amount determined pursuant to subsection C2 of this section, after credit for any affordable units then provided and accepted by the Housing Director, plus an amount equal to interest on such payment, at the rate equal to the prime rate quoted by Bank of America or its successor at the time the letter of credit or other security is provided, plus three percent per annum, from the date of issuance of the first building permit, other than for excavation and shoring, for the project using the bonus development. If and when the City becomes entitled to realize on any such security, the Housing Director shall take appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in the same manner as cash payments for housing made under this section.~~

~~e. No subsidies for bonused housing; Exception.~~

~~(i) The Housing Director may require, as a condition of any bonus development under the performance option, that the owner of the lot upon which the affordable units are located agree not to seek or accept any subsidies, including without limitation those items referred to in subsection C1e(ii) of this section, related to housing. For the purpose of this subsection C1e, the qualification for and use of property tax exemptions pursuant to Chapter 5.73 SMC, or any other program implemented pursuant to Chapter 84.14 RCW, does not constitute a subsidy.~~

~~(ii) In general, and except as may be otherwise required by applicable federal or state law, no bonus development may be earned by providing housing if:~~

~~(a) Any person is receiving or will receive with respect to the housing any charitable contributions or public subsidies for housing development or operation, including, but not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle housing loans or grants, county housing funds, or State of Washington housing funds; or~~

~~(b) The housing is or would be, independent of the~~

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~~requirements for the bonus development, subject to any restrictions on the income of occupants, rents or sale prices.~~

~~(iii) The Housing Director may allow the building or buildings in which the affordable units are located to be financed in part with subsidies based on the determination that (1) the public benefit of the affordable housing net of any subsidies, as measured through an economic analysis, exceeds the amount of the payment-in-lieu that would otherwise be paid; and (2) the subsidies being allowed would not be sufficient to leverage private funds for production of the affordable housing, under restrictions as required for the performance option, without additional City subsidy in an amount greater than the payment-in-lieu amount that would otherwise be paid.~~

~~f. If the Housing Director certifies to the Director that either~~

~~(i) the applicant has provided the City with a letter of credit or other sufficient security pursuant to subsection C1d(ii) of this section; or~~

~~(ii) there have been recorded one or more agreements or instruments satisfactory to the Housing Director providing for occupancy and affordability restrictions on affordable units with the minimum floor area determined under this section, all affordable units have been completed, and the affordable units are on a different lot from the bonus development or are in one or more condominium units separate from the bonus development under condominium documents acceptable to the Housing Director,~~

~~then any failure of the affordable units to satisfy the requirements of this subsection C shall not affect the right to maintain or occupy the bonus development. Unless and until the Housing Director shall certify as set forth in subsections C1f(i) or C1f(ii) of this section, it shall be a continuing permit condition, whether or not expressly stated, for each project obtaining bonus development based on the provision of housing under this subsection, that the affordable units shall be maintained in compliance with the terms of this section, as documented to the~~

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~~satisfaction of the Housing Director. The Housing Director may provide by rule for circumstances in which affordable units may be replaced if lost due to casualty or other causes, and for terms and conditions upon which a cash payment may be made in lieu of continuing to provide affordable units under the terms of this subsection C1.~~

~~g. The Housing Director is authorized to accept and execute agreements and instruments to implement this section. Issuance of the certificate of occupancy for the project using the bonus development may be conditioned on such agreements and instruments.~~

~~h. The housing owner, in the case of rental housing, shall provide annual reports and pay an annual monitoring fee to the Office of Housing of $65 for each affordable unit. In the case of affordable units for owner-occupancy, the recorded resale restrictions shall include a provision requiring payment to the City, on any sale or other transfer, of a fee of $500 for the review and processing of documents to determine compliance with income and affordability restrictions.~~

~~2. Payment option.~~

~~a. In lieu of all or part of the performance option, an applicant may pay to the City $18.94 per net square foot in stories wholly or in part above the base height limit. The amount of net square feet in a story is computed by multiplying the gross residential floor area in the story by an efficiency factor of 80 percent.~~

~~b. The Housing Director shall use cash payments and any earnings thereon to support the development of low-income housing in any manner now or hereafter permitted by RCW 36.70A.540, which may include support provided through loans or grants to public or private owners or developers of housing and through loans or grants to low-income households for home purchases, and the City's costs to administer projects, not to exceed 10% of payments made to the City.~~

~~c. Cash payments shall be made prior to issuance, and as a condition to~~

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~~issuance, of any building permit after the first building permit for a project, and in any event before any permit for any construction activity other than excavation and shoring is issued, unless the applicant elects in writing to defer payment. If the applicant elects to defer payment, then the issuance of any certificate of occupancy for the project shall be conditioned upon payment of the full amount of the cash payment determined under this section, plus an interest factor equal to that amount multiplied by the increase, if any, in the Consumer Price Index, All Urban Consumers, West Region, All Items, 1982-84=100, as published monthly, from the last month prior to the date when payment would have been required if deferred payment had not been elected, to the last month for which data are available at the time of payment. If the index specified in this subsection is not available for any reason, the Director shall select a substitute cost of living index. In no case shall the interest factor be less than zero.~~

~~3. The Director and the Housing Director are authorized jointly to adopt rules to interpret and implement the provisions of this subsection C, in addition to rules that may be adopted by the Housing Director independently as authorized in this section.~~

~~4. Nothing in this section shall be construed to confer on any owner or developer of housing any development rights or property interests. Because the availability and terms of the allowance of bonus development depend on the regulations in effect at the relevant time for the project proposing to use such bonus development, pursuant to SMC 23.76.026, any approvals or agreements by the Housing Director regarding the eligibility of actual or proposed housing as to satisfy conditions for bonus development do not grant any vested rights, nor guarantee that any bonus development will be permitted based on such housing.~~))

Section 16. Section 23.48.012 of the Seattle Municipal Code, last amended by Ord. 121782, is amended as follows:

23.48.012 Upper-level setback requirements((.))

((~~A. Upper-level Setbacks are required where shown on Map A, Upper-level setbacks,~~

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~~and as required in this Section.~~

~~1. Structures on lots in the SM/65', SM/75' and SM/85' zones must provide an upper-level setback for the facade facing applicable streets or parks, for any portion of the structure greater than forty-five (45) feet in height.~~

~~2. Structures on lots abutting an alley in the SM/R designated area shall provide an upper-level setback for the facade facing an alley, for any portion of the structure greater than twenty-five (25) feet in height.~~

~~3. Structures on lots in the SM/125 zone, must provide an upper level setback for the facade facing applicable streets or parks, for any portion of the structure greater than seventy-five (75) feet in height.~~

~~B. Upper-level setbacks shall be provided as follows: Any portion of the structure shall be set back at least one (1) foot for every two (2) feet of height above twenty-five (25) feet, forty-five (45) feet, or seventy-five (75) feet whichever is applicable pursuant to subsection A of this section, up to a maximum required setback of fifteen (15) feet (Exhibit 23.48.012 A).~~))

A. The following requirements for upper-level setbacks in this subsection 23.48.012.A apply to structures on lots abutting a street shown on Map A for 23.48.012, except for those structures with nonresidential uses above 85 feet in height or residential uses above the base height limit for residential use, which are subject to the upper-level setback requirements of subsection 23.48.013.C.

1. For all zones except the SM 240/125-400 zone, any portion of a structure greater than 45 feet in height is required to set back from a lot line abutting a street shown on Map A for 23.48.012. In the SM 240/125-400 zone, portions of a structure greater than75 feet in height are required to set back from a lot line abutting a street shown on Map A for 23.48.012.

2. A setback of one foot for every 2 additional feet of height is required for any portion of a structure exceeding the maximum height permitted without a setback according to

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subsection 23.48.012.A.1, up to a maximum setback of 15 feet measured from the street lot line, as shown in Exhibit A for 23.48.012. (((~~Exhibit 23.48.012 A~~))).

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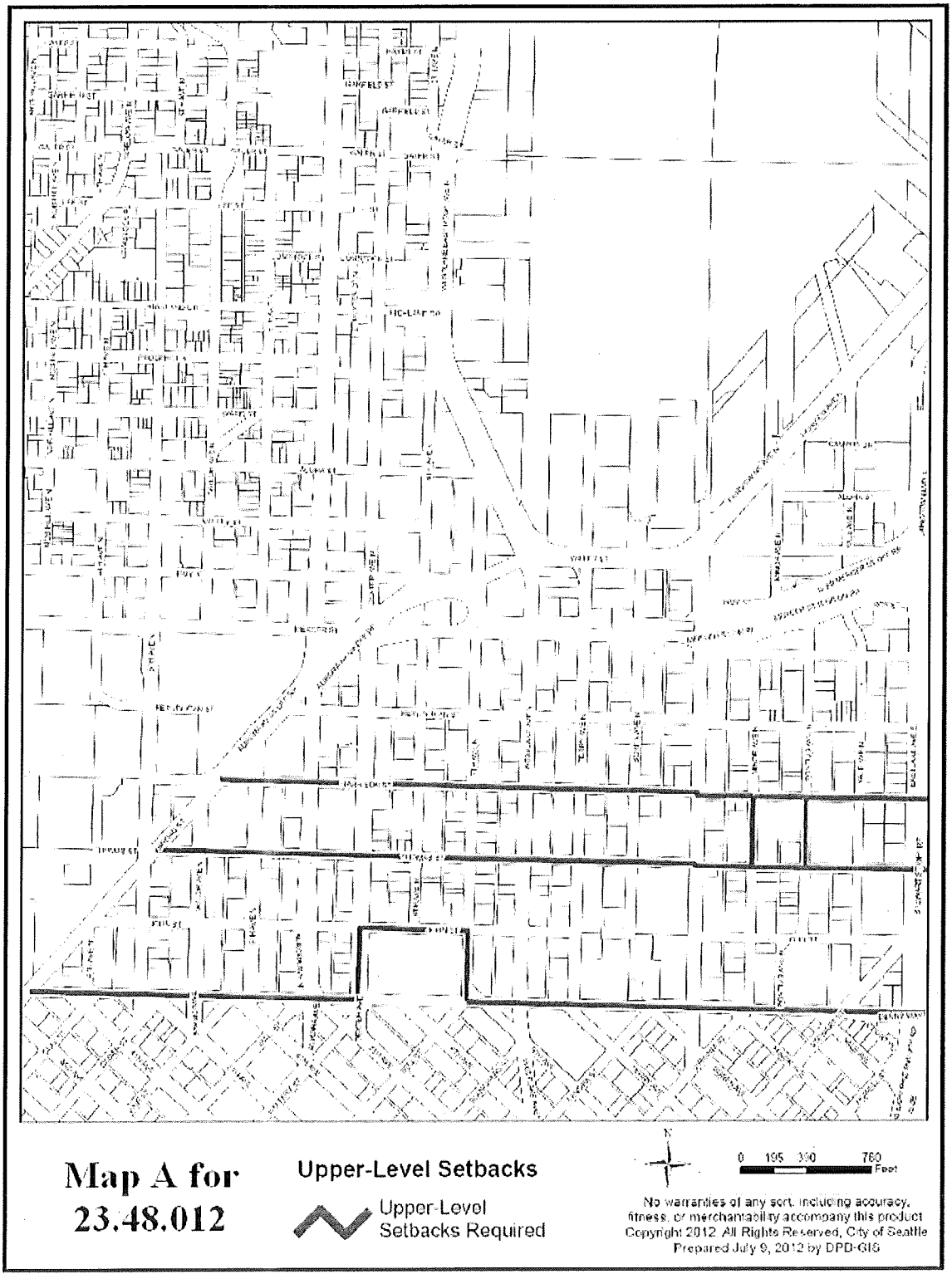
Map A for 23.48.012: Upper-Level Setbacks



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B. Upper-level setbacks in the SM 85/65-160 zone. The following requirements for upper-level setbacks in this subsection 23.48.012.B apply to all development in the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North:

1. Portions of a structure above 45 feet in height shall set back a minimum of 15 feet from street lot lines abutting Valley Street, Westlake Avenue North, Terry Avenue North, Boren Avenue North, and Fairview Avenue North.

2. In addition to the upper-level setbacks specified in subsection 23.48.012.B.1, additional upper-level setbacks are required for tower structures that include residential use above the base height limit for residential use, or hotel use above a height of 85 feet, according to the provisions of subsection 23.48.013.C.3.

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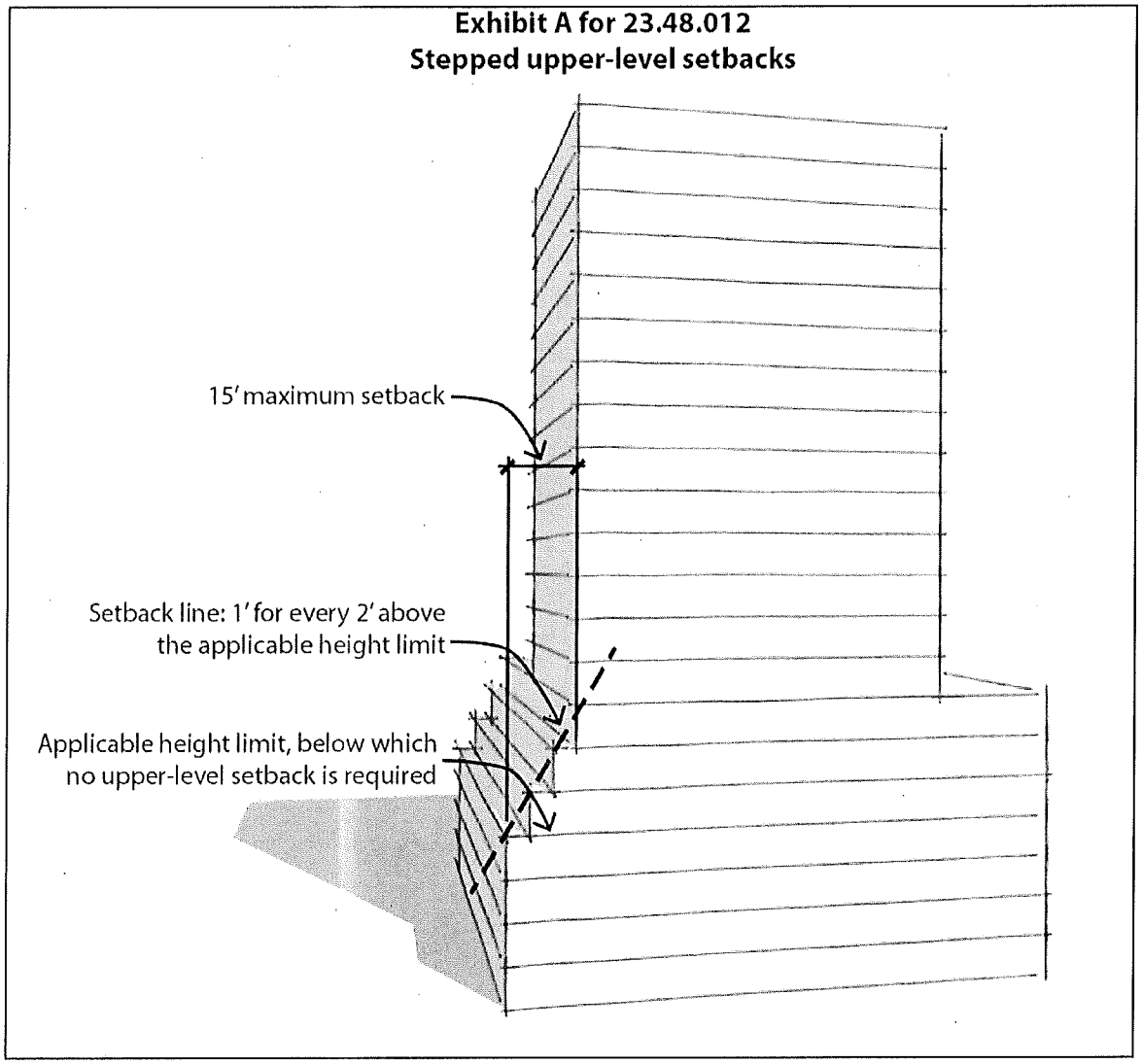
Exhibit A for 23.48.012
Stepped upper-level setbacks



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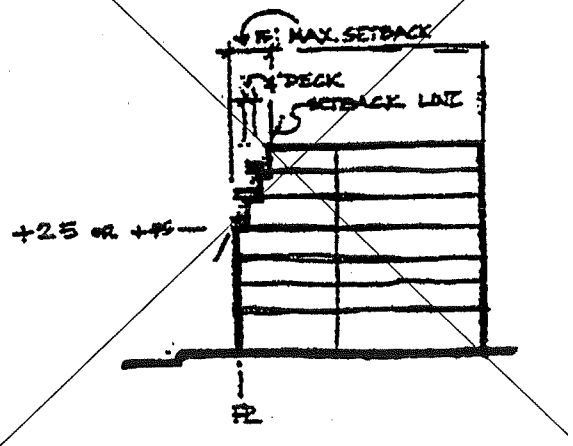
~~Exhibit 23.48.012 A~~

~~Upper-level Setback at either 25' or 45' in Height~~



~~(Note: Exhibit 23.48.012 A portrays the upper-level setback required at 45' in height; where applicable, the setback required at 25' in height would be configured in the same way.)~~

Upper-level Setback at 75' in Height

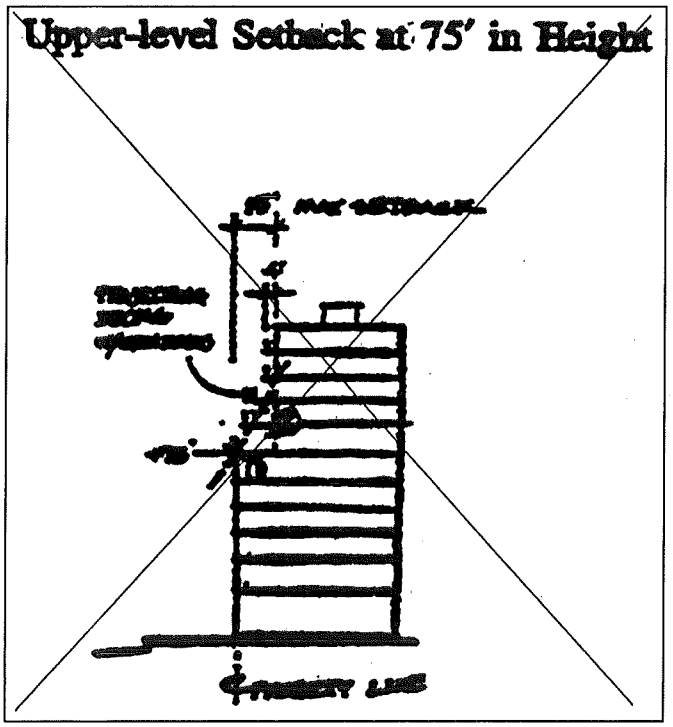


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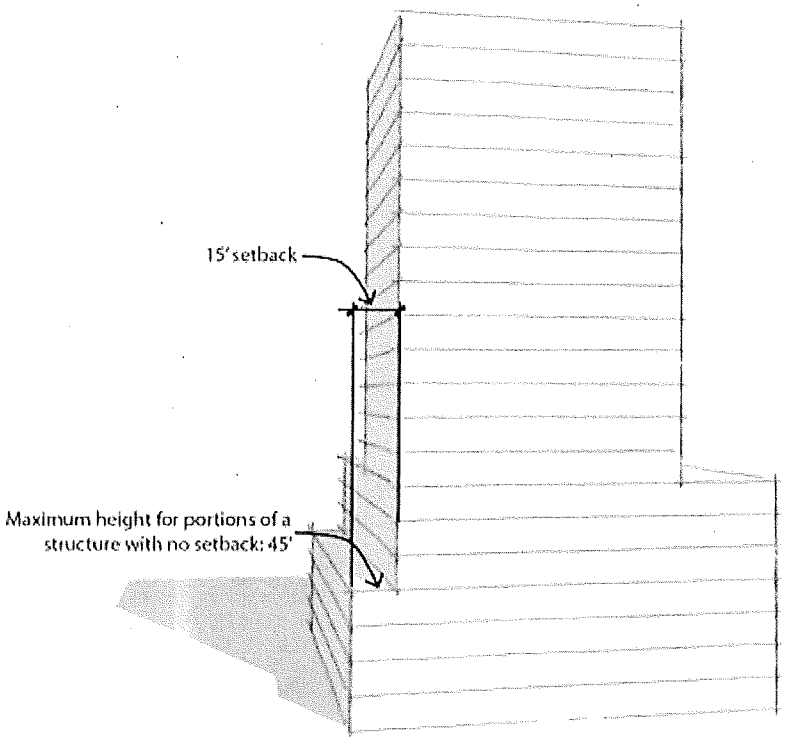
Exhibit B for 23.48.012

Upper-level setback from specified streets in the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North



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C. Upper-level setbacks on alleys in the SM/R 55/85 zone. For lots abutting an alley in the SM/R 55/85 zone, portions of a structure greater than 25 feet in height shall set back a minimum of one foot from the alley lot line for every 2 feet of additional height above 25 feet, up to a maximum setback of 15 feet measured from the alley lot line, as shown in Exhibit A for 23.48.012.

((~~C~~))D. ((~~Structures~~))Projections permitted in ((~~R~~))required ((~~U~~))upper-level ((~~S~~))setbacks. ((~~The first four (4) feet of h~~))Horizontal projections, ((~~of~~))including decks, balconies with open railings, eaves, cornices, and gutters ((~~shall be~~))are permitted to extend a maximum of 4 feet in required setbacks (Exhibit C for 23.48.012)((~~B~~)).

Exhibit C for 23.48.012

Horizontal projection into upper level setbacks

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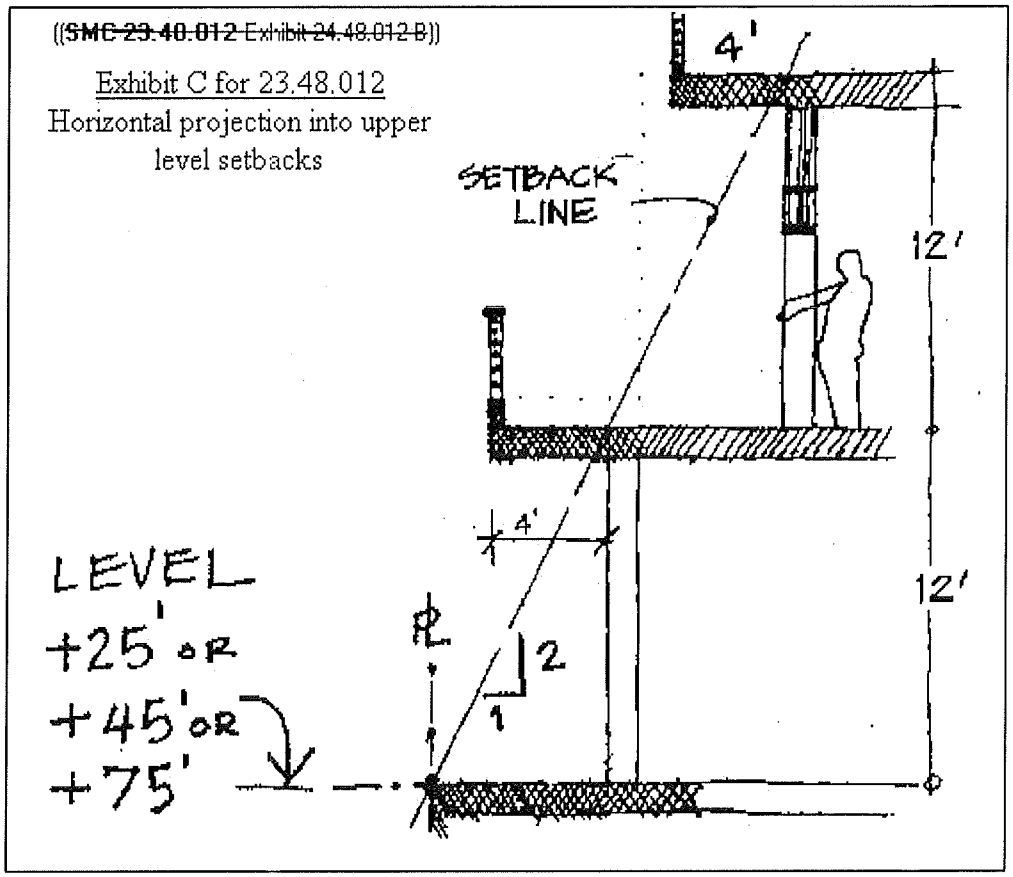

Section 17. A new Section 23.48.013 is added to the Seattle Municipal Code as follows:

23.48.013 Upper-level development standards for specific building types in SM zones in the South Lake Union Urban Center

Lots in the SM 85/65-125, SM 85/65-160, SM 160/85-240, SM 85-240, and SM 240/125-400 zones that are located within the South Lake Union Urban Center are subject to upper-level development standards that may include upper level coverage limits, gross floor area limits and podium heights, upper-level setbacks, façade modulation, maximum facade widths, a limit on the number of towers per block, and tower separation requirements, as specified in this Section 23.48.013. For the purpose of this Section 23.48.013, a tower is either a structure with nonresidential uses above a height of 85 feet, the podium, or a structure that has residential uses that exceed the base height limit established for residential uses in the zone under subsection

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23.48.010.A.2.

A. Upper-level coverage limit. For residential towers, the average gross floor area of all stories above the podium height specified on Map A for 23.48.013 shall not exceed 50 percent of the lot area, provided that:

1. In no case shall the gross floor area of stories above the podium height exceed the gross floor area limits of subsection 23.48.013.B.2; and

2. The limit on towers per block in subsection 23.48.013.F apply.

B. Floor area limits and podium heights. The following provisions apply to development in the SM 85/65-125, SM 85-240, SM 85/65-160, SM 160/85-240, and SM 240/125-400 zones located within the South Lake Union Urban Center:

1. Floor area limit for structures or portions of structures occupied by nonresidential uses.

a. Except as specified in subsections 23.48.013.B.1.b and 23.48.013.B.1.c, there is no floor area limit for nonresidential uses in a structure that does not contain nonresidential uses above 85 feet in height.

b. There is no floor area limit for a structure that includes research and development uses and does not exceed a height of 105 feet, provided that the following conditions are met:

1) A minimum of two floors in the structure are occupied by research and development uses and have a floor-to-floor height of at least 14 feet; and

2) The structure has no more than seven stories.

c. Within locations in the SM 160/85-240 zone meeting the standards in subsection 23.48.017.B, there is no floor area limit for structures that do not exceed a height of 120 feet and that are designed for research and development laboratory use and administrative office associated with research and development laboratories.

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d. For structures with nonresidential uses that exceed a height of 85 feet, or that exceed the height of 105 feet under the provisions of subsection 23.48.013.B.1.b, or 120 feet under subsection 23.48.013.1.c, each story of the structure above the specified podium height indicated for the lot on Map A for 23.48.013 is limited to a maximum gross floor area of 24,000 square feet per story, except that the average gross floor area for stories above the specified podium height is 30,000 square feet for structures on a lot that meets the following conditions:

1) The lot has a minimum area of 60,000 square feet; and

2) The lot includes an existing open space or a qualifying Landmark structure and is permitted an additional increment of FAR above the base FAR, as permitted in subsection 23.48.009.B.4.

2. Floor area limit for residential towers. For a structure with residential use that exceeds the base height limit established for residential uses in the zone under subsection 23.48.010.A.2, the following maximum gross floor area limit applies:

a. For a structure that does not exceed a height of 160 feet, excluding rooftop features that are otherwise permitted above the height limit under the provisions of subsection 23.48.010.I, the gross floor area for stories with residential use that extend above the podium height indicated for the lot on Map A for 23.48.013 shall not exceed 12,500 square feet per story, or the floor size established by the upper-level coverage limit in subsection 23.48.013.A, whichever is less.

b. For a structure that exceeds a height of 160 feet, the following limits apply:

1) The average gross floor area for all stories with residential use that extend above the podium height indicated for the lot on Map A for 23.48.013 shall not exceed 10,500 square feet, or the floor size established by the upper-level coverage limit in

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subsection 23.48.013.A, whichever is less.

2) The gross floor area of any single residential story above the podium height shall not exceed 11,500 square feet.

3. Floor area limit for mixed use development. This subsection 23.48.013.B.3 applies to structures that include both residential and non-residential uses, as provided for in 23.48.009.3.b.

a. For a story that includes both residential and non-residential uses, the gross floor area limit for all uses combined shall not exceed the floor area limit for non-residential uses, provided that the floor area occupied by residential use shall not exceed the floor area limit otherwise applicable to residential use.

b. For a mixed use structure with residential uses located on separate stories from non-residential uses, the floor area limits shall apply to each use at the applicable height limit.

4. Podium standards. The standards for podiums only apply to projects that are subject to a floor area limit in this subsection 23.48.013.B, and apply only to the lower portion of the structure that are not subject to the floor area limit.

a. Height limit for podiums. The specific podium height for a lot is shown on Map A for 23.48.013, and the height limit extends from the street lot line to the parallel alley lot line, or, where there is no alley lot line parallel to the street lot line, from the street lot line to a distance of 120 feet from the street lot line, or to the rear lot line, if the lot is less than 120 feet deep.

b. Area limit for podiums. For the podiums of structures with residential uses that exceed the base height limit established for the zone under subsection 23.48.010.A.2 and for structures with nonresidential uses that exceed a height of 85 feet, the average lot coverage of all the stories below the podium height specified on Map A for 23.48.013 shall not

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exceed 75 percent of the lot area, except that 100 percent lot coverage is permitted for each story if the total number of stories below the podium height is three, or fewer, stories, or if the conditions in subsection 23.48.013.B.4.c apply .

c. The area limit on podiums in subsection 23.48.013.B.4.b does not apply if a lot includes one of the following:

1) Usable open space that meets the provisions of 23.48.014.G; or

2) A structure that has been in existence prior to 1965 and the following conditions are met;

a) The structure is rehabilitated and maintained to comply with applicable codes and shall have a minimum useful life of at least 50 years from the time that it was included on the lot with the project allowed to waive the podium area limit;

b) The owner agrees that the structure shall not be significantly altered for at least 50 years from the time that it was included on the lot with the project allowed to waive. Significant alteration means the following:

i. Alteration of the exterior facades of the structure, except alterations that restore the facades to their original condition;

ii. Alteration of the floor-to-ceiling height of the street level story, except alterations that restore the floor-to-ceiling height to its original condition; or

iii. The addition of stories to the structure, unless the proposed addition is no taller than the maximum height to which the structure was originally built, or the addition is approved through the design review process as compatible with the original character of the structure and is necessary for adapting the structure to new uses; and

c) If the structure is removed from the lot, then any use of the portion of the lot previously occupied by the structure shall be limited to usable open space.

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The portion of the lot previously occupied by the structure shall be defined by a rectangle enclosing the exterior walls of the structure as they existed at the time it was included on the lot with the project allowed to waive the podium area limit, with the rectangle extended to the nearest street frontage.

((e))d. Additional height for podiums abutting Class 1 Pedestrian Streets. Podium height for structures fronting on Class 1 Pedestrian Streets pursuant to Section 23.48.014, may exceed podium height limits shown on Map A for 23.48.013 by an average of ((~~five~~))5 feet provided that floor-to-ceiling clearance at the ground floor is at least 15 feet.

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Map A for 23.48.013

Podium Heights

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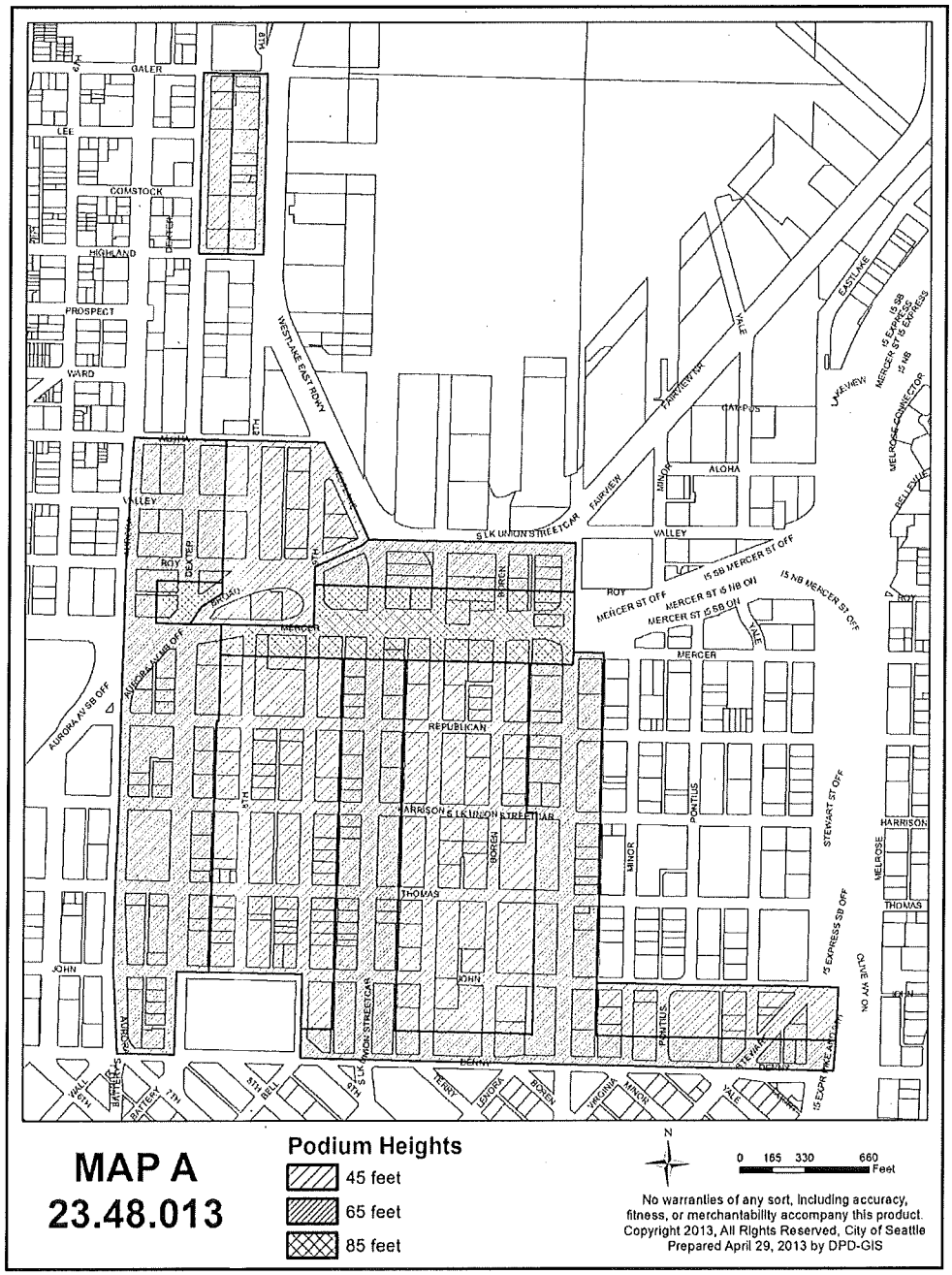

C. Upper-level setbacks

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1. The following requirements for upper-level setbacks in this subsection 23.48.013.C.1 apply to development that meets the following conditions:

a. The development is on lot abutting a street shown on Map A for 23.48.013; and

b. For lots in the SM 85-240, SM 85/65-160, SM 160/85-240, and SM 240/125-400 zones located within the South Lake Union Urban Center, the development includes a tower structure with residential uses exceeding the base height limit established for residential uses in the zone under subsection 23.48.010.A.2, or includes a structure with non-residential uses that exceed a height of 85 feet.

2. The required upper-level setbacks for development specified in subsection 23.48.013.C.1 shall be provided as follows:

a. For portions of a structure facing the applicable street, the maximum height above which a setback is required is specified on Column 2 of Table A for 23.48.013.

b. For portions of a structure exceeding the maximum height above which a setback is required, the minimum depth of the setback, measured from the abutting applicable street lot line, is specified on Column 3 of Table A for 23.48.013.

Table A for 23.48.013
Required upper-level setbacks for development meeting the conditions of Section 23.48.013.C

Column 1: Location of lot	Column 2: Height above which setback is required	Column 3: Minimum depth of setback from applicable street property line
Thomas Street, south side, from Aurora Ave N to 8th Ave N	45 feet	50 feet
Thomas Street, south side, from 8th Ave N to 9th Ave N	45 feet	40 feet
Thomas Street, south side, between 9th Ave N and alley between Fairview Ave N and Minor Ave N	45 feet	30 feet
John Street, north side, between		

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Aurora Ave N and 9th Ave N	45 feet	30 feet
John Street, north side, between 9th Ave N and Boren Ave N	45 feet	15 feet
John Street, south side, between Aurora Ave N and Minor Ave N	45 feet	30 feet
Boren Ave N, both sides, between Mercer Street and John Street	65 feet (1)	10 feet (1)
Fairview Ave N, west side, from Mercer Street to John Street	65 feet	10 feet
Fairview Ave N, east side, from Mercer Street to John Street	65 feet	10 feet

Notes to Table A for 23.48.013:

(1) On corner lots at intersections with Thomas and John Streets, for the portion of the lot subject to the setback requirements on these cross streets, the lower height above which setbacks are required and the greater distance of the setback from the cross streets apply.

3. Upper-level setbacks for residential tower development in the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North. For tower structures that include residential use above the base height limit for residential use, or hotel use above a height of 85 feet, upper-level setbacks, in addition to those specified in subsection 23.48.012.B.1, are required as follows:

a. Any portion of the structure above 65 feet in height shall set back a minimum of 30 feet from the following street lot lines:

1) the street lot line abutting the eastern edge of Westlake Avenue North from Mercer Street to Valley Street; and

2) the street lot line abutting the western edge of Fairview Avenue North from Mercer Street to Valley Street.

b. For lots abutting the street lot line on the southern edge of Valley Street between Westlake Avenue North and Fairview Avenue North, any portion of a structure above 65 feet in height shall provide a minimum setback of 25 feet.

4. Upper level setbacks for tower structures in the SM 160/85-240 zone for the block bounded by Mercer Street, Fairview Avenue North, Republican Street, and Boren Avenue

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North. In addition to upper level setback requirements in this subsection 23.48.013.C, for tower structures with residential or non-residential uses on lots in the SM 160/85-240 zone on the block bounded by Mercer Street, Fairview Avenue North, Republican Street, and Boren Avenue North, any portion of the tower structure above 85 feet shall be set back a minimum of 110 feet from the street lot line abutting Mercer Street.

5. Projections permitted in required upper-level setbacks. The first 4 feet of horizontal projection of decks, balconies with open railings, eaves, cornices, and gutters are permitted in required setbacks, as shown in Exhibit B for 23.48.012.

D. Facade modulation. For all structures with nonresidential uses exceeding 85 feet in height, facade modulation is required for the street-facing portions of a structure located within 15 feet of a street lot line and exceeding the podium height specified for the lot on Map A for 23.48.013. No modulation is required for portions of a facade set back 15 feet or more from a street lot line.

1. The maximum length of a facade without modulation is prescribed in Table B for 23.48.013, Façade Modulation. This maximum length shall be measured parallel to each street lot line, and shall apply to any portion of a facade, including projections such as balconies, that is located within 15 feet of street lot lines.

Table B for 23.48.013
Façade Modulation

Height of street facing portion of structure	**Maximum length of un-modulated façade within 15 feet of street lot line**
For stories above the podium height specified on Map A for 23.48.013 up to 125 feet	150 feet
For stories above 125 feet	120 feet

2. If a portion of a facade that is within 15 feet of the street lot line is the maximum length permitted for an un-modulated facade, the length of the façade may be

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increased only if additional portions of the façade set back a minimum of 15 feet from the street lot line for a minimum distance of 40 feet. If the required setback is provided, additional portions of the façade may be located within 15 feet of the street lot line.

E. Maximum façade width. A maximum façade width applies to certain residential structures that exceed the base height limit for residential use, as specified in subsections 23.48.013.E.1 and 23.48.013.E.2 below. The maximum façade width only applies to portions of the structure above the podium height specified for the lot on Map A for 23.48.013.

1. Except in the SM 85/65-125 zone and the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, for portions of a structure that exceed the podium height but do not exceed a height of 160 feet, and that have an average floor size exceeding 10,500 square feet, the maximum façade width is 120 feet along the general east/west axis of the site (perpendicular to the Avenues).

2. In the SM 85/65-125 zone, the maximum façade width is 105 feet along the general north/south axis of the site (parallel to the Avenues).

3. In the SM 85/65-160 zone, on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, the maximum façade width for portions of structures above the podium height is 105 feet along the general east/west axis of the site (perpendicular to the Avenues).

F. Limit on tower structures per block. The number of towers permitted on a block, which for the purposes of this subsection 23.48.013.F is defined as the area bounded by street lot lines, shall be as follows:

1. Only one residential tower, or one structure with nonresidential uses exceeding 85 feet in height, is permitted on a single block front, except as further limited by subsections 23.48.013.F.3, 23.48.013.F.4, and 23.48.013.F.5.

2. For purposes of this subsection 23.48.013.F an existing tower is either:

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a. A tower that is physically present, except as provided below in subsection 23.48.13.F.2.b; or

b. A proposed tower for which a Master Use Permit decision has been issued, unless and until either:

1) the Master Use Permit issued pursuant to such a decision expires or is cancelled, or the related application is withdrawn by the applicant, without the tower having been constructed; or

2) a ruling by a hearing examiner or court reversing or vacating such a decision, or determining such decision or the Master Use Permit issued thereunder to be invalid, becomes final and no longer subject to judicial review.

3. In the SM 85/65-160 zone, only one residential tower structure or one nonresidential tower structure with a hotel use meeting residential development standards is permitted per block.

4. In the SM 85/65-125 zone, more than one residential tower is permitted on a block front provided that the minimum lot area for a tower is 30,000 square feet .

5. Only one structure with nonresidential uses exceeding 85 feet in height is permitted on a block, unless the structure is permitted under Section 23.48.017 or unless all of the following conditions apply:

a. The structure is on a lot with a minimum area of 60,000 square feet. The area of one or more lots, separated only by an alley, may be combined for the purposes of calculating the minimum required lot area under this subsection 23.48.013.F.5. The minimum lot area is 59,000 square feet if the lot area was reduced below 60,000 square feet as a result of acquisition of right-of-way by the City ;

b. A minimum separation of 60 feet is provided between all portions of structures on the lot that exceed the limit on podium height shown on Map A for 23.48.013. If

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the lot includes a qualifying Landmark structure, an average separation of 60 feet is permitted.

c. A minimum of 15 percent of the lot area is provided as landscaped open space at ground level, allowing for some area to be provided above grade to adapt to topographic conditions, provided that such open space is accessible to people with disabilities. The required open space shall have a minimum horizontal dimension of 15 feet and shall be provided as one continuous area.

d. A pedestrian connection meeting the development standards of subsection 23.48.014.F for through-block pedestrian connections for large lot developments is provided though the lot to connect the north-south avenues abutting the lot. If the lot abuts an avenue that has been vacated, the connection shall be to an easement providing public access along the original alignment of the avenue. In addition, if the slope of the lot between the north-south avenues exceeds a slope of 10 percent, a hill-climb shall be provided.

e. The application of the provisions in this subsection 23.48.013.F.5 shall not result in more than two structures on a block with either nonresidential uses above 85 feet in height or with residential use above the base height limit for residential use, except as allowed by subsection 23.48.013.F.5.f.

f. For lots that, as a result of a street vacation, exceed 150,000 square feet, the Director shall, as a Type 1 decision, determine the permitted number of structures with nonresidential uses above 85 feet in height or with residential use above the base height limit, based on the limits in subsection 23.48.013.F.5.e as applied to the block conditions existing prior to the street vacation.

g. The Director shall make a determination of project impacts on the need for pedestrian and bike facilities and complete a voluntary agreement between the property owner and the City to mitigate impacts, if any. The Director may consider the following as impact mitigation:

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1) Pedestrian walkways on a lot, including through-block connections on through lots, where appropriate, to facilitate pedestrian circulation by connecting structures to each other and abutting streets;

2) Sidewalk improvements, including sidewalk widening, to accommodate increased pedestrian volumes and streetscape improvements that will enhance pedestrian comfort and safety;

3) Improvements to enhance the pedestrian environment, such as providing overhead weather protection, landscaping, and other streetscape improvements; and

4) Bike share stations.

h. For development that exceeds 85,000 or more square feet of gross office floor area, the Director shall make a determination as to the project's impact on the need for open space. The Director may limit floor area or allow floor area subject to conditions, which may include a voluntary agreement between the property owner and the City to mitigate impacts, if any. The Director shall take into account subsection 23.49.016.A in assessing the demand for open space generated by an office development in an area permitting high employment densities.

1) The Director may consider the following as mitigation for open space impacts:

a) Open space provided on-site or off-site, consistent with the provisions in subsection 23.49.016.C, or provided through payment in lieu, consistent with subsection 23.49.016.D, except that in all cases the open space shall be located on a lot in an SM zone that is accessible to the development's occupants,

b) Additional pedestrian amenities through on-site or streetscape improvements provided as mitigation for impacts on pedestrian facilities pursuant to subsection 23.48.013.F.3.g., and

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c) Public space inside or on the roof of a landmark building.

2) The Director may approve open space in lieu of that contained or referred to in subsection 23.49.016.C to mitigate project impacts, based on consideration of relevant factors, including the following:

a) the density or other characteristics of the workers anticipated to occupy the development compared to the presumed office employment population providing the basis for the open space standards applicable under Section 23.49.016; and

b) characteristics or features of the development that mitigate the anticipated open space impacts of workers or others using or occupying the project.

G. Tower separation. The following separation is required between structures with residential use above the base height limit for residential use and that are located on the same block. For the purposes of this subsection 23.48.013.F, a block is defined as the area bounded by street lot lines.

1. A separation of 60 feet is required between all portions of the structure that exceed the base height limit for residential use, except as exempted by subsection 23.48.013.F.2.

2. No separation is required on blocks within the area bounded by Aurora Avenue North, John Street, Thomas Street and 9th Avenue North.

3. The projection of unenclosed decks and balconies, and architectural features such as cornices shall be disregarded in calculating tower separation.

Section 18. Section 23.48.014 of the Seattle Municipal Code, last amended by Ordinance 121782, is amended as follows:

23.48.014 ((~~**General facade requirements.**~~))**Street-level development standards**

A. General façade requirements

1. Primary pedestrian entrance. ((~~A~~))Each new structure facing a street is

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required to provide a primary building entrance for pedestrians ((~~shall be required~~))from the street or a street-oriented courtyard((~~s~~)) that is ((~~and shall be~~))no more than ((~~three (~~))3((~~)~~)) feet above or below the sidewalk grade.

((~~B~~))2. Minimum ((~~F~~))facade ((~~H~~))height. A minimum façade height is required for the street-facing facades of new structures, unless ((~~Minimum facade heights shall not apply when~~))all portions of the structure are lower than the ((~~elevation of the~~)) required minimum facade height listed below.

((~~1~~))a. On Class 1 Pedestrian Streets, as shown on Map ((~~B~~))A for 23.48.014, ((~~Pedestrian Street Classifications, located at the end of this Chapter, all facades shall have a~~))the minimum height for street-facing façades is ((~~of forty-five (~~))45((~~)~~)) feet.

((~~2~~))b. On Class 2 Pedestrian Streets and Neighborhood Green Streets, as shown on Map ((~~B~~))A for 23.48.014, ((~~all facades shall have a~~))the minimum height for street-facing facades is ((~~of twenty-five (~~))25((~~)~~)) feet.

((~~3~~))c. On all other streets, ((~~all facades shall have a~~))the minimum height for street-facing facades is ((~~of fifteen (~~))15((~~)~~)) feet.

((~~C~~))3. Permitted setbacks from street lot lines. Except on lots subject to the provisions of subsection 23.48.014.B, the street-facing facades of a structure are permitted to set back from the street lot line as follows:

a. The street-facing facades of structures abutting ((~~All facades on~~))Class 1 Pedestrian Streets, as shown on Map ((~~B~~))A for 23.48.014, shall be built to the street lot ((~~property~~))line ((~~along~~))for a minimum of ((~~seventy (~~))70((~~)~~)) percent of the facade length (((~~Exhibit 23.48.014 A).~~)), provided that the street frontage of any required outdoor amenity area, or other required open space, or usable open space provided in accordance with subsections 23.48.013.B.4.c, 23.48.014.F, or 23.48.014.G is excluded from the total amount of frontage required to be built to the street lot line.

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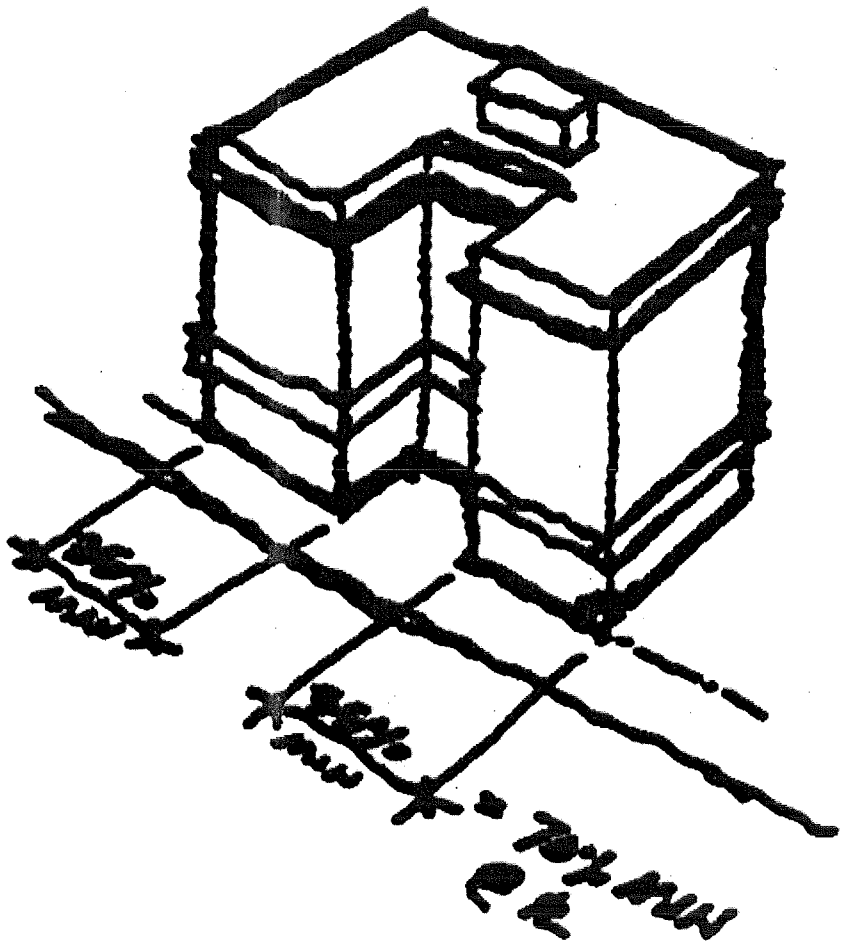
Exhibit A for 23.48.014

Percentage of Façade at Lot Line

~~((SMC23.48.014A Percentage of Facade at Property Line))~~

Exhibit A for 23.48.014

Percentage of Facade at Lot Line



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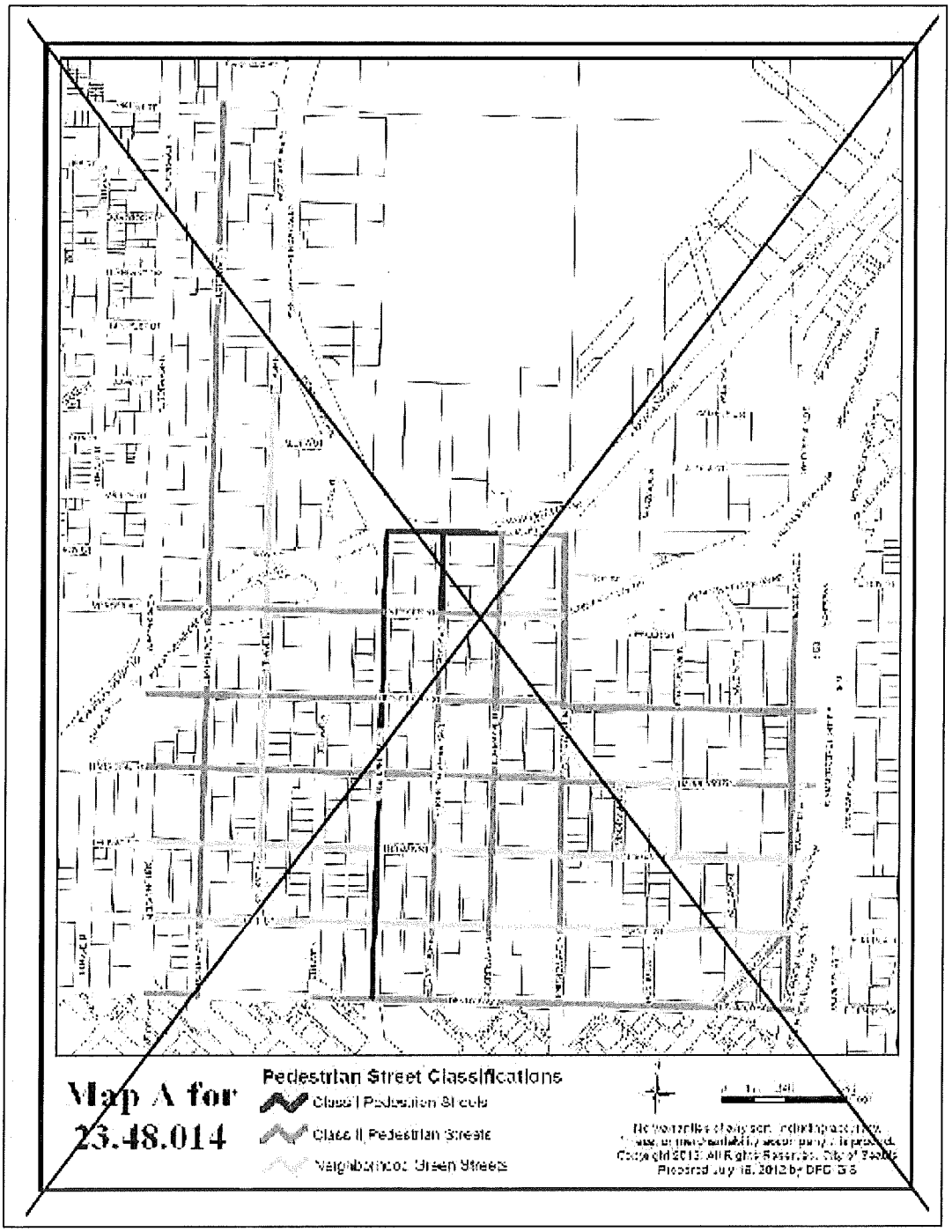
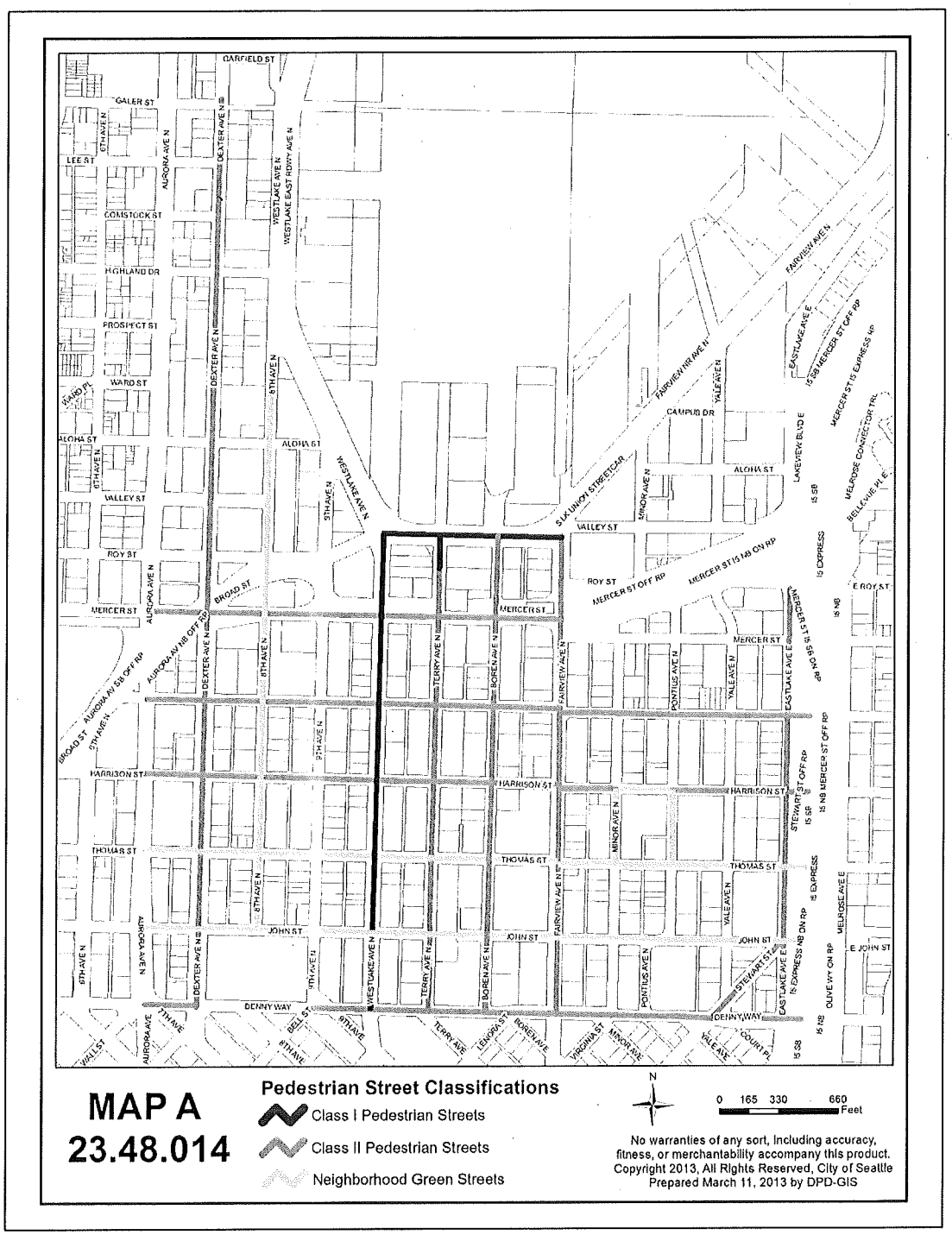
Map A for 23.48.014
Pedestrian Street Classifications





((~~D~~))b. ((~~Street-level Setback.~~))Except on Class 1 Pedestrian Streets, as

shown on Map ((~~B~~))A for 23.48.014, and as specified in subsection 23.48.014.B.1, the street-facing façade of a structure((s)) may be set back up to ((~~twelve (~~))12((~~)~~)) feet from the street lot((~~property~~)) line subject to the following (Exhibit B for 23.48.014)((~~B~~)):

((~~1.~~))1) The setback area shall be landscaped according to the provisions of Section 23.48.024((~~.~~));

((~~2.~~))2) Additional setbacks are ((~~shall be~~))permitted for up to ((~~thirty (~~))30((~~)~~)) percent of the length of portions of the street façade that are set back from the street lot line((~~the set-back street wall~~)), provided that the additional setback is located ((~~a distance of twenty (~~))20((~~)~~)) feet or more ((~~greater~~))from any street corner((~~.~~)); and

3) Any required outdoor amenity area, or other required open space, or usable open space provided in accordance with subsections 23.49.013.B.4.c, 23.48.014.F or 23.48.014.G is not considered part of the setback area and may extend beyond the limit on setbacks from the street lot line that would otherwise apply under subsections 23.48.014.A.3.b or 23.49.014.A.3.b.2.

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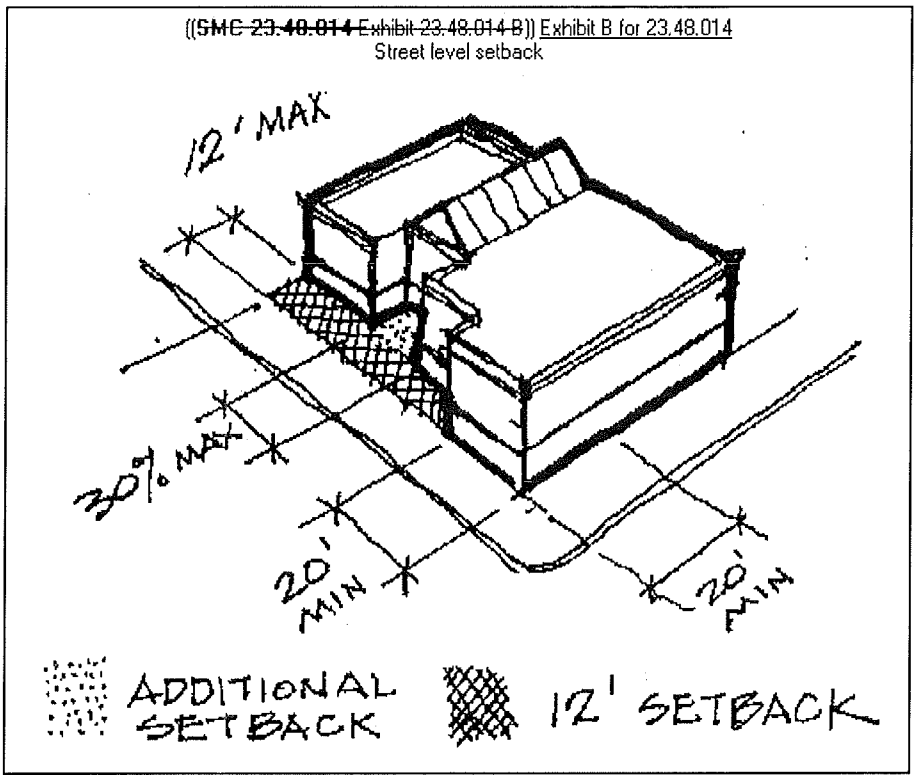
Exhibit B for 23.48.014: Street level setback



B. Additional façade requirements in the SM 85-240 zone. In addition to the provisions of subsection 23.48.014.A, the following standards apply in the SM 85-240 zone.

1. Required street-facing façade setback

a. All street-facing facades along 8th Avenue North, except those portions occupied by permitted non-residential uses and subject to the provisions of subsection 23.48.014.B.2, are required to set back an average of 10 feet from the street lot line, provided that no setback shall be less than 5 feet from the street lot line, and any setback area further than 15 feet from the street lot line shall not be included in the averaging calculation.

b. The setback requirement of this subsection 23.48.014.B.1 does not apply to the following:

1) Portions of the street-facing façade that are located no more

than 40 feet from a street corner; and

2) Portions of the structure that are partially below grade and meet the following conditions:

a) The roof of the partially below-grade portion of the structure in the setback area is no more than 4 feet above finished grade;

b) The surface of the roof is used for private access or amenity area for abutting units; and

c) A landscaped area a minimum of 2 feet in depth measured from the abutting street lot line is maintained at grade level. As a Type I decision, the Director, in consultation with the Director of Transportation, may waive this requirement for a landscaped setback if it is determined that a continuous landscaped area can be provided in the right-of-way area abutting the street lot line.

c. Only ground-related residential units and floor area for building lobbies for residential uses are permitted within the portion of the story of the structure abutting the required setback area, and each unit or lobby area is required to have direct access to the required setback area.

d. The street-level façade of lobby area abutting the required setback shall not exceed a width equivalent to 20 percent of the total width of the required setback measured along 8th Avenue North.

e. Private amenity area, unenclosed stoops, steps, or porches related to the abutting, ground level residential units or common amenity area with access to residential lobbies shall be provided within the required setback area.

f. Bay windows, canopies, horizontal projection of decks, balconies with open railings, eaves, cornices, gutters, and other similar architectural features are permitted to extend no more than 4 feet into required setbacks.

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g. Driveways providing access to parking within a structure are not permitted within the required setback area.

2. Development standards for non-residential uses. Nonresidential uses are permitted on the ground floor of mixed use structures, subject to the following:

a. Non-residential uses are not permitted to extend more than 20 feet above the street level.

b. Non-residential uses are only permitted on corner portions of the lot that are within 20 lineal feet of intersecting street lot lines.

C. Additional requirements in the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North. Street level facades on that portion of Terry Avenue between Mercer Street and Valley Street shall be set back an average of 10 feet from the lot line. In addition all street level facades on Valley Street within 50 feet of Terry Avenue shall be set back an average of 50 feet from the lot line.

D. Transparency and blank facade requirements. The provisions of this subsection 23.48.014.C apply to the area of a street facing facade between 2 feet and 8 feet above a sidewalk (Exhibit C for 23.48.014).

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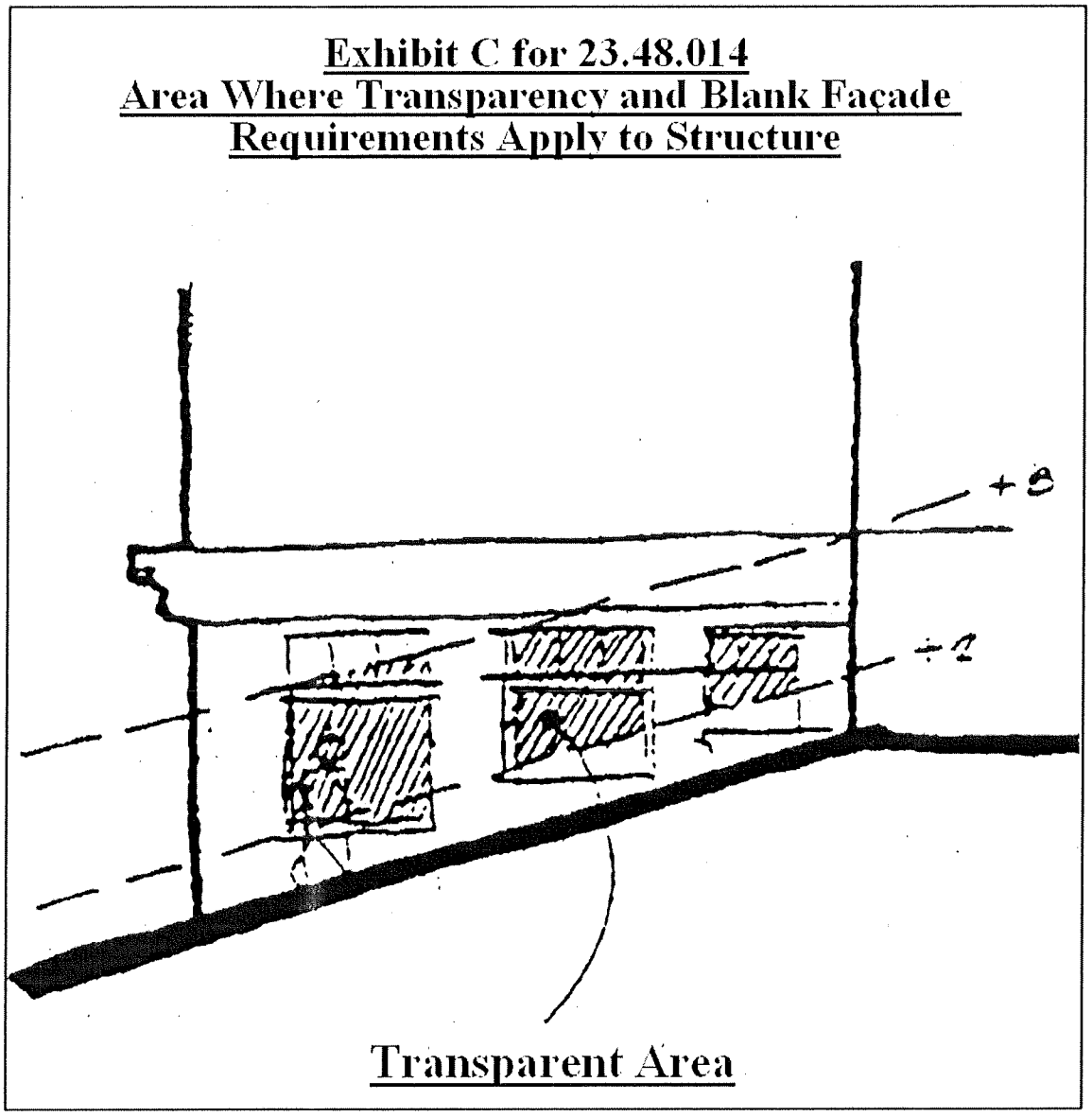
Exhibit C for 23.48.014

Area Where Transparency and Blank Façade Requirements Apply to Structure



1. Transparency requirements apply to all street-facing, street level facades, except for portions of structures in residential use, as follow:

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a. For Class 1 and Class 2 Pedestrian Streets and Neighborhood Green Streets, shown on Map A for 23.48.014, a minimum of 60 percent of the street facing facade must be transparent.

b. For all other streets not specified in subsection 23.48.014.D.1.a, a minimum of 30 percent of the street facing facade must be transparent.

c. If the slope of the street frontage of the facade exceeds 7.5 percent, the required amount of transparency shall be reduced to 45 percent of the street facing facade on Class 1 and Class 2 Pedestrian Streets and Neighborhood Green Streets, shown on Map A for 23.48.014, and 22 percent of the street facing facade on all other streets.

d. Only clear or lightly tinted glass in windows, doors, and display windows are considered transparent. Transparent areas shall allow views into the structure or into display windows from the outside.

2. Blank facade limits. Any portion of the facade that is not transparent is considered to be a blank facade.

a. Blank facade limits for Class 1 and Class 2 Pedestrian Streets and Neighborhood Green Streets.

1) Blank facades shall be limited to segments 15 feet wide, except for garage doors, which may be wider than 15 feet. Blank facade width may be increased to 30 feet if the Director determines that the facade is enhanced by architectural detailing, artwork, landscaping, or other similar features that have visual interest. The width of garage doors shall be limited to the width of the driveway plus 5 feet.

2) Any blank segments of the facade shall be separated by transparent areas at least 2 feet wide.

3) The total of all blank facade segments, including garage doors, shall not exceed 40 percent of the street facade of the structure on each street frontage; or 55

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percent if the slope of the street frontage of the facade exceeds 7.5 percent.

b. Blank facade limits for all other streets not specified in subsection 23.48.014.B.2.a.

1) Blank facades are limited to segments 30 feet wide, except for garage doors which may be wider than 30 feet. Blank facade width may be increased to 60 feet if the Director determines that the facade is enhanced by architectural detailing, artwork, landscaping, or other similar features that have visual interest. The width of garage doors shall be limited to the width of the driveway plus 5 feet.

2) Any blank segments of the facade shall be separated by transparent areas at least 2 feet wide.

3) The total of all blank facade segments, including garage doors, shall not exceed 70 percent of the street facade of the structure on each street frontage; or 78 percent if the slope of the street frontage of the facade exceeds 7.5 percent.

c. Blank facade limits do not apply to portions of structures in residential use.

E. Development standards for required street-level uses. Street-level uses required by subsection 23.48.004.D, and street-level uses exempt from FAR calculations under the provisions of subsection 23.48.009.D.6, whether required or not, shall meet the following development standards:

1. A minimum of 75 percent of each street frontage where street-level uses are required shall be occupied by uses listed in subsection 23.48.004.D. For structures with a street-facing façade along 8th Avenue N., located on blocks identified pursuant to subsection 23.48.017.B, or located on a designated neighborhood green street the minimum street frontage of required street-level uses is 10 percent of that street-facing facade. The remaining street frontage at street-level may contain other permitted uses and/or pedestrian or vehicular

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entrances. The frontage of any outdoor common amenity area required for residential uses or other required open space shall not be counted in street frontage.

2. The space occupied by required street-level uses shall have a minimum floor-to-floor height of 13 feet and extend at least 30 feet in depth at street-level from the street front facade.

3. Required street-level uses shall be located within 10 feet of the street lot line, except that if outdoor amenity area required in subsection 23.48.020.B, or other required open space, abuts the applicable street lot line and separates the street-facing façade from the street, the required street-level use may abut the amenity area or open space.

4. Pedestrian access to required street-level uses shall be provided directly from the street, permitted outdoor common amenity area, or abutting required open space. Pedestrian entrances shall be located no more than 3 feet above or below sidewalk grade or at the same elevation as the abutting permitted outdoor common amenity area or required open space.

F. Required open area in the SM 85/65-160 zone. In the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, a minimum of 20 percent of the lot area shall be provided as open area that is located and configured to allow easy pedestrian access to project occupants from streets or other abutting public spaces, including access for persons with disabilities. The open area shall include the following:

1. A minimum of 60 percent of the required open area shall be provided as usable open space that meets the following conditions:

a. The usable open space is open from the ground to the sky and is visible and accessible to pedestrians from an abutting street, including persons with disabilities;

b. The open space is substantially at street-level, although portions are permitted to be within 4 feet of street level, provided that grade changes are gradual and do not

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significantly disrupt the continuity of the space, and no part of the open space is significantly above or below the grade of the nearest abutting street;

c. The open space has a minimum horizontal dimension of 15 feet; and

d. The open space enhances visual and physical pedestrian connections between South Lake Union Park and development on the lot, and is accessible to the public, free of charge, during the hours of operation of South Lake union Park.

2. At the applicant's option, up to 40 percent of the required open area may be provided as any combination of :

a. A woonerf that serves as a through-block pedestrian passageway and that satisfies the following:

1) The passageway is open to the sky, has a minimum width of 20 feet, and provides a direct and continuous connection between the north/south avenues abutting the lot;

2) The passageway is designed to provide safe pedestrian use, including a clear pathway demarcated as a priority pedestrian zone; and

3) The passageway is adequately lit and available for pedestrian use 24 hours every day

b. Open areas with a horizontal dimension that is less than 15 feet abutting a street lot line if one or more of the following:

1) An area abutting a sidewalk that extends the pedestrian area onto the lot to accommodate additional streetscape amenities, such as landscaping, street furniture, special lighting, public art, or extensions of right-of-way green factor treatments;

2) Setback areas abutting the street with a maximum depth of 10 feet that provide private usable open space, stoops, terraces, and/or landscaping for abutting ground level dwelling units that have direct access to the setback area, provided that the total

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amount of such setback areas does not exceed half of the 40 percent portion of the open area allowed by this subsection 23.48.014.F.2; or

3) Additional sidewalk areas created by extending the curbline into the abutting street right-of-way that are improved with such streetscape amenities as landscaping, street furniture, special lighting, public art, or extensions of right-of-way green factor treatments.

c. Usable elevated open space up to a maximum of 40 feet above street-level, and that meets the following:

1) At least 50 percent of the perimeter of the elevated open space is not enclosed by a façade and is open and oriented to provide views of South Lake Union Park;

2) The minimum horizontal dimension of the open space is 15 feet, and

d. No more than 50 percent of the open areas allowed pursuant to this subsection 23.48.014.F.2 shall be:

1) Located more than 4 feet above street-level.; and

2) Comprised of unenclosed covered areas, such as arcades or areas beneath building overhangs or overhead weather protection attached to abutting facades that abut sidewalks or pedestrian paths across the lot, or freestanding pavilions or kiosks that provide overhead weather protection..

3. When authorized by the Director as a Type I decision pursuant to this subsection 23.49.014.F, lots within the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, may be combined, whether contiguous or not, for the purpose of allowing the open area required on a lot by this subsection 23.48.014.F to be met on one or more other lots within the SM 85/65-160 zone on the

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blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, according to the following provisions:

a. The Director shall allow lots to be combined to meet open area requirements if the Director determines that the combined amount of open area on all lots meets or exceeds the minimum amount required by subsection 23.48.014.F.1, and that the added flexibility will achieve better open space conditions, as indicated by the following:

1) The open area in general will provide for a better relationship between the development on the combined lots and South Lake Union Park;

2) The added flexibility will allow for better integration of open space and surrounding development and improve accessibility among the blocks in the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North and adjacent areas;

3) A greater diversity of open space will be achieved for the area;

4) Greater public use of the open space will be encouraged;

5) The flexibility would result in open spaces that are more substantial is size and/or more adaptable to a greater variety of uses, or that establish a more significant neighborhood focal point than would otherwise likely occur; and/or

6) The opens space provided will enhance urban form by promoting better massing, more usable open spaces with increased solar access, enhanced views within and through the site, and other improved conditions.

b. Prior to issuance of a Master Use Permit for any development that relies on one or more other lots within the SM 85/65-160 zone on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North to meet the open area requirements of this subsection 23.48.014.F, the fee owners of both the property subject to the Master Use Permit and the lot(s) utilized to meet open area requirements for the Master Use

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Permit shall execute an appropriate agreement or instrument that is recorded in the King County real property records that:

1) Includes the legal description of each lot;

2) Acknowledges the specific extent to which the open space standards are met through a combination of the lots;

3) Provides that its covenants and conditions shall run with the land and shall be specifically enforceable by the parties and by the City of Seattle; and

4) Provides that the agreement or instrument shall be in effect unless the Master Use Permit expires, is cancelled, is withdrawn by the applicant, or the development allowed by the Master Use Permit no longer requires the other lot(s) in order to meet the open area requirements of this subsection 23.48.014.F.

G. Required usable open space in the SM 85/65-125, SM 85/65-160, SM 160/85-240 and SM 240/125-400 zones.

1. Except as provided for in subsection 23.48.014.G.3 and 23.48.014.G.4, in the SM 85/65-125, SM 85/65-160, SM 160/85-240 and SM 240/125-400 zones, on lots exceeding 30,000 square feet in area, proposed development containing extra floor area as provided for in Section 23.48.011 shall provide usable open space as follows:

a. The minimum amount of required usable open space shall be equal to 15 percent of the lot area and shall generally be accessible at street level, with variations in elevation allowed to accommodate changes in topography;

b. The average horizontal dimension for any area qualifying as required usable open space is 20 feet, and the minimum horizontal dimension is 10 feet, except that there is no minimum horizontal dimension for additional pedestrian area abutting a sidewalk that is provided according to subsection 23.48.014.G.1.f;

c. A minimum of 45 percent of the required usable open space shall be

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exterior space open to the sky and shall abut a street along at least one street frontage and provide both visual and physical access from the street to pedestrians, including persons with disabilities;

d. Up to a maximum of 20 percent of the required usable open space may be covered overhead to provide weather protected space and a widened sidewalk area, if the following conditions are met:

1) The open space abuts a street lot line and is open and accessible to pedestrians along the sidewalk and,

2) If the space is covered by portions of the structure above, or is provided as an arcade open to the street, the minimum vertical clearance is 20 feet;

e. Up to a maximum of 35 percent of the required usable open space may be provided as enclosed space, such as a public atrium, a shopping atrium, wintergarden, or covered portion of a through-block pedestrian connection, if the enclosed open space meets all of the following requirements:

1) Direct access is provided to pedestrians, including persons with disabilities, from the street, or from an outdoor, usable public open space abutting the street;

2) The space is provided as one continuous area that is a minimum of 2,000 square feet in size. Space, such as lobby area, that is used solely to provide access between the structure's principal street entrance and elevators, does not qualify as required usable open space;

3) The minimum floor-to-ceiling height is 15 feet;

4) The space is accessible to the public during normal business hours; and

f. Up to a maximum of 10 percent of the required usable open space may be provided as an area abutting a sidewalk that extends the pedestrian area onto the lot or

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accommodates landscaping or extensions of right-of way green factor treatment pursuant to Section 23.86.019. Minor changes between the sidewalk elevation and the elevation of the abutting sidewalk area are permitted to accommodate changes in topography, or to provide for features such as ramps that improve access for persons with disabilities.

2. Usable open space provided under this subsection 23.48.014.G is eligible to qualify as amenity area for residential uses under Section 23.48.020 or open space required for office use under Section 23.48.022, provided the applicable standards of these Sections are met.

3. Usable open space satisfying the requirements of this subsection 23.48.014.G may be provided on a site other than the project site, provided that the following conditions are met:

a. The alternate open space site is located within an SM zone and within 650 feet of the project site;

b. The amount of usable open space is no less than 10 percent of the lot area; and

c. The owner of any lot on which off-site open space is provided records a restrictive covenant in a form acceptable to the Director assuring compliance with requirements of this subsection 23.48.014.G.

H. Through-block pedestrian connections for large lot developments

1. A through-block pedestrian connection meeting the standards of subsection 23.48.014.G.2 is required in the SM 85/65-125, SM 85-240, SM 85/65-160, SM 160/85-240, and SM 240/125-400 zones for development described as follows:

a. Within the block defined as the area enclosed by street rights-of-way, the lot area of the development is a minimum of 60,000 square feet, except that the area of lots separated only by an alley right-of-way may be combined for the purposes of calculating the minimum required lot area;

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b. The lot area of the development abuts the two north-south avenues for a minimum linear distance of 120 feet along each avenue.

2. The required through-block pedestrian connection shall meet the following development standards:

a. A continuous pedestrian passageway shall extend across the development lot to both abutting avenues. The alignment of the pedestrian connection and the point at which it intersects each avenue shall be no closer than 100 feet to an east-west street abutting the block, and the connection at the avenues shall be accessible at grade level from the sidewalk.

b. The required pedestrian connection shall have an average width of 25 feet and a minimum width of 15 feet. Any segment of the pedestrian passage that is covered from side to side shall have a minimum width of 20 feet.

c. The pedestrian passage shall be open to the sky, except that up to 35 percent of the length of the passageway may be covered and enclosed, provided the minimum height of covered portions is 13 feet. Unenclosed area of the pedestrian connection may be counted as required open space; and

d. If the pedestrian passage crosses an alley, the alley right-of-way shall be improved to ensure pedestrian safety and to reinforce the relationship between portions of the passageway on either side of the alley.

3. The Director may allow departures from the standards for though-block pedestrian connections as a Type I decision, if the applicant demonstrates that alternative treatments will better serve the development by enhancing pedestrian comfort and promoting greater use of the connection.

4. For development providing a through-block pedestrian connection on blocks with an alley, the allowed FAR from any lot included in the development may be transferred to

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any other lot of the development across the alley.

Section 19. Section 23.48.016 of the Seattle Municipal Code, last amended by Ordinance 123649, is hereby repealed.

~~((23.48.016 Standards applicable to specific areas~~

~~A. Seattle Mixed/Residential (SM/R).~~

~~1. Height Limit.~~

~~a. New single purpose nonresidential structures shall have a height limit of fifty-five (55) feet.~~

~~b. Single purpose residential structures and mixed-use structures with sixty (60) percent or more of the structure's gross floor area in residential use are permitted to a height of seventy-five (75) feet.~~

~~2. Scale of Development.~~

~~a. Single purpose, nonresidential development, except hotels with one hundred (100) rooms/suites or fewer, is limited to a lot area of twenty-one thousand six hundred (21,600) square feet or less.~~

~~b. Development on lots with areas greater than twenty-one thousand six hundred (21,600) square feet must include residential use in an amount of gross floor area equal to sixty (60) percent or more of the gross floor area in nonresidential use, except schools, elementary and secondary, and hotels with one hundred (100) rooms/suites or fewer.~~

~~c. Two (2) lots of up to twenty-one thousand six hundred (21,600) square feet each, separated by an alley and connected above grade by a skybridge or other similar means shall be considered two (2) separate lots for the purposes of this subsection A2. Such a connection above grade, across the alley may be allowed pursuant to the Council's approval of an aerial alley vacation or temporary use permit process.~~

~~d. Single purpose nonresidential structures on adjacent lots not separated~~

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~~by an alley, subject to this subsection, may not be internally connected.~~

~~3. Nonresidential uses existing prior to November 6, 1996 and that do not meet the requirements of this section shall be allowed to expand by an amount of gross floor area not to exceed twenty (20) percent of the existing gross floor area without meeting the requirements of this section. This provision may only be used once for an individual use.~~

~~4. Single purpose nonresidential exception. A single purpose, nonresidential structure may be permitted where a single purpose residential or mixed use structure would otherwise be required, subject to the following:~~

~~a. The proposal is comprised of two (2) or more lots within the same SM/R designated area; and~~

~~b. The amount of gross floor area in residential use in the structures on both lots is equal to at least sixty (60) percent of the total gross floor area of the total combined development on the lots included in the proposal; and~~

~~c. The nonresidential structure is subject to design review to ensure compatibility with the residential character of the surrounding area; and~~

~~d. The proposal meets one or more of the following:~~

~~(1) The project includes the rehabilitation of a landmark structure or incorporates structures or elements of structures of architectural or historical significance as identified in an adopted neighborhood plan or design guidelines, or~~

~~(2) The project includes general sales and service uses, eating and drinking establishments, major durables retail sales uses, entertainment uses, human service uses or child care centers at the street level in an amount equal to fifty (50) percent of the structure's footprint, or~~

~~(3) The lot accommodating the required residential use contributes: a minimum of ten (10) percent of all new housing units in the proposal to the~~

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~~supply of low income housing for a period of at least twenty (20) years, or a minimum of ten (10) percent of all new housing units in the proposal to be provided as townhouses.~~

~~B. Floor Area Ratios. In SM/85 and SM/125 zones, the following floor area ratios (FARs) apply:~~

~~1. In SM/85 zones, a FAR of four and one half (4.5) is the maximum chargeable floor area permitted.~~

~~2. In SM/125 zones, a FAR of five (5) is the maximum chargeable floor area permitted in structures greater than seventy-five (75) feet in height.~~

~~3. The following areas are exempt from FAR calculations:~~

~~a. All gross floor area below grade;~~

~~b. All gross floor area used for accessory parking located above grade.~~

~~c. All gross floor area in residential use.~~

~~4. Up to three and one-half (3½) percent of the gross floor area of a structure shall not be counted in floor area calculations as an allowance for mechanical equipment. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection B3 has been deducted.~~

~~5. Within the South Lake Union Urban Center, gross floor area occupied by mechanical equipment, up to a maximum of fifteen (15) percent, is exempt from floor area calculations. The allowance is calculated on the gross floor area of the structure after all exempt space permitted under subsection B3 has been deducted. Subsection B4 does not apply. Mechanical equipment located on the roof of a structure is not calculated as part of the total gross floor area of a structure.~~

~~6. To the extent provided in Section 23.50.053, the transfer of TDR from a lot reduces the limits on chargeable floor area set forth in this Section. On a lot in an SM/125 zone from which TDR is transferred, the FAR limit in this Section, as so reduced, applies regardless~~

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~~of the height of any structure.~~))

((~~C. Seattle Mixed/D/40-85.~~

~~1. Base Height Limit. Structures in the SM/D/40-85 zone are subject to a height limit of 40 feet, except as otherwise provided in this subsection 23.48.016.C.~~

~~2. Additional Height for Certain Structures with Only Residential Uses Above 40 Feet. A structure in the SM/D/40-85 zone that has only residential uses above a height of 40 feet has a maximum height limit of 85 feet if the applicant satisfies the conditions to bonus development under Section 23.48.011.~~

~~3. Building Setbacks on W. Dravus Street. The portion of any structure above 45 feet in height shall be set back at least 50 feet from W. Dravus Street, except as provided in subsections 23.48.016.C.4 and C.5.~~

~~4. Projections Allowed in Setback. If a setback is required under subsection 23.48.016.C.3, the first 4 feet of horizontal projection of decks, balconies with open railings, eaves, cornices, and gutters is permitted in the required setback.~~

~~5. Exceptions and Rooftop Features. Height in addition to the limit applicable under subsection 23.48.016.C.1 or C.2, and in addition to the limit applicable in a required setback area under subsection 23.48.016.C.3, is allowed for pitched roofs and certain rooftop features as set forth in subsections 23.48.010.E and 23.48.010.F.~~))

Section 20. Section 23.48.017 of the Seattle Municipal Code, which section was enacted by Ordinance 123215, is amended as follows:

23.48.017 Additional height in certain SM-zoned areas in the South Lake Union Urban Center

A. Applicability and ((~~G~~))general ((~~P~~))provisions. For ((~~S~~))structures in the SM 160/85-240 zone designed for research and development laboratory use and administrative office associated with research and development laboratories, structures that do not exceed a height of

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120 feet are not subject to the floor area limits of subsection 23.48.013.B((~~shall have a maximum height of 120 feet~~)), provided the project complies with all the requirements of this Section 23.48.017. In order for a structure ((~~buildings located on a block subject to this Section 23.48.017~~))to qualify for the exemption from the floor area limit((~~height allowed in this subsection 23.48.017.A~~)), at least one complete MUP application for a structure on the same block that has been permitted to extend up to a height of 120 feet without floor area limits((~~that uses the additional height allowed in this subsection 23.48.017.A must~~)) shall be filed within nine months of February 17, 2010((~~the effective date of this ordinance~~)).

B. Location. A structure may be exempt from floor area limits of subsection 23.48.013.B ((~~developed above a height of 65 feet as provided for in subsection 23.48.017.A~~)) if ((~~provided that~~))the structure:

1. is located on a block that((~~:~~)) is designated SM((~~-65~~)) 160/85-240((~~;~~));

2. is bounded by arterial-designated streets on at least two sides((~~;~~));

3. is greater than 60,000 square feet in size and does not exceed 100,000 square feet in size((~~;~~)); and

4. is not bisected by an alley or other public right-of-way.

C. Street-level uses. Street-level uses shall be provided as required by subsection 23.48.004.D.3. ((~~Structures with a street-facing façade along 8th Avenue or a designated green street shall have a minimum of ten percent of that street-facing facade occupied by general sales and service uses, eating and drinking establishments, or entertainment uses.~~

~~D. Maximum FAR and number of floors. The maximum FAR permitted is five. The maximum number of floors permitted above grade is eight. The following areas are exempt from FAR calculations:~~

~~1. All gross floor area below grade;~~

~~2. Floor areas occupied by mechanical equipment as provided for in subsection~~

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~~23.48.016.B.5; and~~

~~3. All gross floor area at ground level that is a general sales and service or eating and drinking establishment use.~~

~~E~~))D. LEED ((~~R~~))requirement. The applicant will strive to achieve a LEED Gold rating or better and at a minimum earn a LEED Silver rating or meet a substantially equivalent standard, and shall demonstrate compliance with that commitment, all in accordance with the provisions of Section 23.((~~49.020~~))48.025.

((~~F. Parking and Access. In addition to the parking and loading access requirements of Section 23.48.034, parking for each structure is subject to the following standards:~~

~~1. Parking is not permitted in floors above street level unless the parking is separated from the street by other uses.~~

~~2. Due to physical site conditions such as topographic or geologic conditions, parking is permitted in floors that are partially below street level and partially above street level without being separated from the street by other uses, if:~~

~~a. The street front portion of the parking (excluding garage and loading doors and permitted access to parking) that is at or above street level is screened from view at the street level; and~~

~~b. The street-facing facade is enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.~~

~~G. Screening and Landscaping. Landscaping that achieves a Seattle Green Factor score of .30 or greater, pursuant to the procedures in Section 23.86.019, is required.~~

~~H~~))E. Open ((~~S~~))space. A minimum of 20 percent of the lot area shall be useable open space. The purpose of the open space shall be to allow for public seating, passive recreation, and a mid-block pedestrian connection. For a multi-phase project, the open space requirement and the other requirements in this subsection 23.48.017.((~~H~~))E shall be calculated and applied to the

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total project. The following standards apply to open space required under this subsection 23.48.017.((~~H~~))E:

1. The open space shall be open during daylight hours and accessible to the general public, without charge, for a minimum of ten hours per day, except that access may be temporarily limited as required for public safety, security, scheduled events, or maintenance reasons. Members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others, unless the space is closed to the general public consistent with this subsection 23.48.017.((~~H~~))E.1. No parking, storage or other use may be established on or above the surface of the open space except as provided in this subsection 23.48.017.((~~H~~))E. Use of the open space by motor vehicles is prohibited. The open space shall be clearly identified with signage placed at a visible location at each street entrance providing access to the open space. The signage shall indicate, in letters legible to passersby, the nature of the open space, its availability for general public access, and directional information as needed.

2. The open space shall contain at least one contiguous area with a minimum of 3,000 square feet and a minimum horizontal dimension of 10 feet.

3. A minimum of 35 percent of the open space shall be landscaped with grass, ground cover, bushes and/or trees.

4. Either permanent or movable seating in an amount equivalent to one lineal foot for every 200 square feet of open space shall be available during hours of public access.

5. The open space shall be located and configured to provide easy access from streets or other abutting public spaces and convenient pedestrian circulation through the open space. The open space shall have a minimum frontage of 30 feet at grade abutting a sidewalk, and be visible from sidewalks on at least one street.

6. The open space shall be provided at ground level, except that some separation

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of multiple levels may be allowed, provided they are physically and visually connected.

7. Up to 20 percent of the open space may be covered by features accessory to public use of the open space, including: permanent, freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters; structural overhangs; overhead arcades or other forms of overhead weather protection; and any other features approved by the Director that contribute to pedestrian comfort and active use of the space. The following features within the open space area may count as open space: areas for temporary kiosks and pavilions, public art, water features, permanent seating that is not reserved for any commercial use, exterior stairs and mechanical assists that provide access to the open space and are available for public use, and any similar features approved by the Director. Seating or tables, or both, may be provided and reserved for customers of restaurants or other uses abutting the open space, however, the area reserved for customer seating shall not exceed 15 percent of the open space area or 500 square feet, whichever is less.

8. Public art shall be included in the public open space. The artwork may include but need not be limited to water features, or two or three-dimensional works in all media. The artwork shall be clearly visible to people using the open space, and, wherever possible, should be visible from the abutting streets. The property owner is responsible for maintaining all art features for the life of the buildings on the lot.

((I))F. Transportation Management Program. The Master Use Permit application shall include a Transportation Management Program (TMP) consistent with requirements for TMPs in the applicable Director's Rule. The TMP shall be approved by the Director only if, after consulting with the Director of ((~~the Seattle Department of~~))Transportation, the Director determines that no more than 40 percent of trips to and from the project will be made using single-occupant vehicles (SOVs).

1. For purposes of measuring attainment of SOV goals contained in the TMP, the

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number of SOV trips shall be calculated for the p.m. hour in which an applicant expects the largest number of vehicle trips to be made by employees at the site (the p.m. peak hour of the generator).

2. Compliance with this Section 23.48.017 does not affect the responsibility of any employer to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.

((~~J~~))G. Energy Management Plan. The Master Use Permit application shall include an energy management plan, approved by the Superintendent of Seattle City Light, containing specific energy conservation or alternative energy generation methods or on-site electrical systems that together can ensure that the existing electrical system can accommodate the projected loads from the project. The Director, after consulting with the Superintendent of Seattle City Light, may condition the approval of the Master Use Permit on the implementation of the energy management plan.

((~~**Editor's note** – Ord. 123215, § 3, reads as follows:~~

~~Section 23.48.017, which section is added by this Council Bill 116665, expires on December 31, 2018. The Council's intent is that the South Lake Union neighborhood plan implementation process that is currently underway may result in Land Use Code and/or Land Use Map amendments. Future development in the neighborhood would be guided by any new amendments.~~))

Section 21. Section 23.48.018 of the Seattle Municipal Code, last amended by Ordinance 121782, is hereby repealed.

((~~**23.48.018 Transparency and blank facade requirements.**~~

~~Facade transparency and blank facade requirements shall apply to the area of the facade between two (2) feet and eight (8) feet above the sidewalk (Exhibit 23.48.018 A).~~

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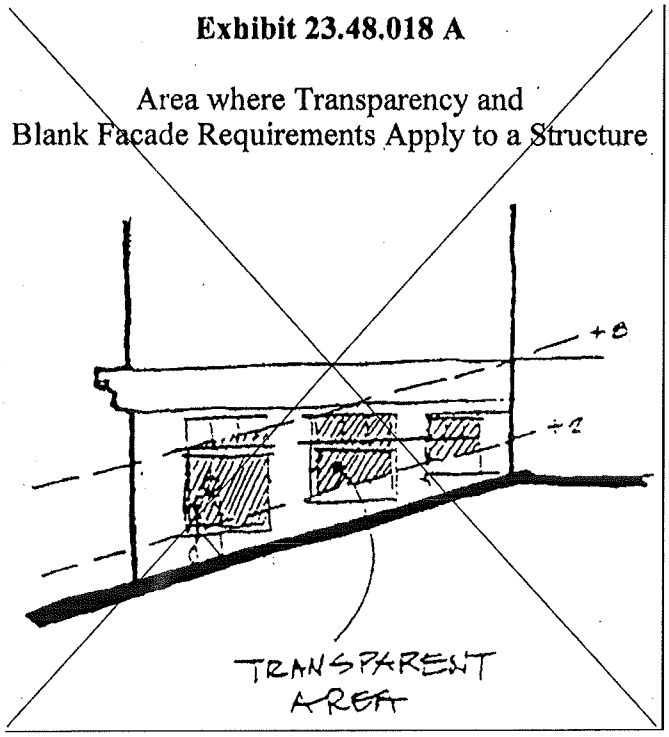
Exhibit 23.48.018 A

Area where Transparency and
Blank Facade Requirements Apply to a Structure



~~A. Facade Transparency Requirements. Transparency requirements apply to all street level facades, except that transparency requirements do not apply to portions of structures in residential use.~~

~~1. Transparency shall be required as follows:~~

~~a. Class 1 and 2 Pedestrian Streets, shown on Map B, located at the end of this Chapter: A minimum of sixty (60) percent of the width of the street level facade must be transparent.~~

~~b. All other streets: A minimum of thirty (30) percent of the width of the street-level facade must be transparent.~~

~~c. When the slope of the street frontage of the facade exceeds seven and one-half (7½) percent, the required amount of transparency shall be reduced to forty-five (45) percent of the width of the street-level facade on Class 1 and 2 Pedestrian Streets, and twenty-two (22) percent of the width of the street-level facade on all other streets.~~

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~~2. Only clear or lightly tinted glass in windows, doors, and display windows shall be considered transparent. Transparent areas shall allow views into the structure or into display windows from the outside.~~

~~B. Blank Facade Limits.~~

~~1. Any portion of the facade which is not transparent shall be considered to be a blank facade.~~

~~2. Blank Facade Limits for Class 1 and 2 Pedestrian Streets.~~

~~a. Blank facades shall be limited to segments fifteen (15) feet wide, except for garage doors which may be wider than fifteen (15) feet. Blank facade width may be increased to thirty (30) feet if the Director determines that the facade is enhanced by architectural detailing, artwork, landscaping, or other similar features that have visual interest. The width of garage doors shall be limited to the width of the driveway plus five (5) feet.~~

~~b. Any blank segments of the facade shall be separated by transparent areas at least two (2) feet wide.~~

~~c. The total of all blank facade segments, including garage doors, shall not exceed forty (40) percent of the street facade of the structure on each street frontage; or fifty-five (55) percent if the slope of the street frontage of the facade exceeds seven and one-half (7½) percent.~~

~~3. Blank Facade Limits for all other streets.~~

~~a. Blank facades shall be limited to segments thirty (30) feet wide, except for garage doors which may be wider than thirty (30) feet. Blank facade width may be increased to sixty (60) feet if the Director determines that the facade is enhanced by architectural detailing, artwork, landscaping, or other similar features that have visual interest. The width of garage doors shall be limited to the width of the driveway plus five (5) feet.~~

~~b. Any blank segments of the facade shall be separated by transparent~~

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~~areas at least two (2) feet wide.~~

~~c. The total of all blank facade segments, including garage doors, shall not exceed seventy (70) percent of the street facade of the structure on each street frontage; or seventy-eight (78) percent if the slope of the street frontage of the facade exceeds seven and one-half (7½) percent.~~

~~4. Blank facade limits shall not apply to portions of structures in residential use.~~))

Section 22. Section 23.48.019 of the Seattle Municipal Code, last amended by Ordinance 122311, is hereby repealed.

((~~**23.48.019 Street-level uses.**~~

~~One or more of the uses listed in subsection A are required at street level on all lots abutting streets designated as Class 1 Pedestrian Streets shown on Map B, located at the end of this Chapter. Required street-level uses shall meet the standards of this Section.~~

~~A. The following uses qualify as required street level uses:~~

~~1. General sales and service uses;~~

~~2. Eating and drinking establishments;~~

~~3. Entertainment uses;~~

~~4. Public libraries; and~~

~~5. Public parks.~~

~~B. A minimum of seventy-five (75) percent of each street frontage at street level where street level uses are required must be occupied by uses listed in subsection A. The remaining twenty-five (25) percent of the street frontage at street level may contain other permitted uses and/or pedestrian or vehicular entrances. The frontage of any exterior outdoor common recreation area required for residential uses, shall not be counted in street frontage.~~

~~C. The space occupied by required street level uses must have a minimum floor to floor height of thirteen (13) feet and extend at least thirty (30) feet in depth at street level from the~~

~~street front facade.~~

~~D. Required street level uses must be located within ten (10) feet of the street property line or abut an open space permitted in subsection B.~~

~~E. Pedestrian access to required street-level uses shall be provided directly from the street or permitted open space. Pedestrian entrances must be located no more than three (3) feet above or below sidewalk grade or at the same elevation as the abutting permitted open space.~~))

Section 23. Section 23.48.020 of the Seattle Municipal Code, last amended by Ordinance 123495, is amended as follows:

23.48.020 Amenity area <u>for residential uses</u>

((~~A. Quantity of amenity area. All new structures containing more than 20 dwelling units shall provide amenity area on the lot in an amount equivalent to 5 percent of the total gross floor area in residential use.~~

~~B. Standards for amenity area.~~

~~1. The amenity area shall be available to all residents and may be provided at or above ground level.~~

~~2. A maximum of 50 percent of the amenity area may be enclosed. Examples of enclosed amenity area include atriums, greenhouses and solariums.~~

~~3. The minimum horizontal dimension for residential amenity area is 15 feet, and no required amenity area shall be less than 225 square feet in size.~~

~~[4. Reserved.]~~

~~5. The exterior portion of required amenity area shall be landscaped and shall provide solar access and seating according to standards promulgated by the Director.~~

~~6. Parking areas, vehicular access easements, and driveways, do not qualify as amenity area, except that a woonerf may provide a maximum of 50 percent of the amenity area if~~

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~~the design of the woonerf is approved through a design review process pursuant to Chapter 23.41.~~))

A. Amenity area. Amenity area is required for all new development with more than 20 dwelling units.

B. Quantity of amenity area. An area equivalent to 5 percent of the total gross floor area in residential use shall be provided as amenity area, except that, in no instance shall the amount of required amenity area exceed the area of the lot.

C. Standards for amenity area. Required amenity area shall meet the following standards:

1. All residents of the project shall have access to the required amenity area, which may be provided at or above ground level.

2. A maximum of 50 percent of the required amenity area may be enclosed.

3. The minimum horizontal dimension for required amenity areas is 15 feet, except that the minimum horizontal dimension is 10 feet for amenity areas provided as landscaped open space accessible from the street at street-level. The minimum size of a required amenity area is 225 square feet.

4. Amenity area that is provided as landscaped, street-level open space that is accessible from the street shall be counted as twice the actual area in determining the amount provided to meet amenity area requirement.

5. In mixed use projects, the Director may permit a bonused public open space to satisfy a portion of the required amenity area, provided that the space meets the standards of this Section 23.48.020, and the Director finds that its design, location, access and hours of operation meet the needs of building residents.

6. Parking areas, driveways, and pedestrian access, except for pedestrian access meeting the Washington State Rules and Regulations for Barrier Free Design, shall not be

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counted as amenity area.

7. For a development that maintains a designated Seattle Landmark on the lot, the Director may, as Type I decision, waive or modify the amenity area requirement if it is determined that maintaining the Landmark structure significantly limits the ability to accommodate the required amenity area on the site.

8. For lots abutting a designated neighborhood green street, up to 50 percent of the amenity area requirement may be met by contributing to the development of the abutting green street. The Director may waive the requirement that the green street abut the lot and allow the improvement to be made to a green street located in the general vicinity of the project if the Director determines that the green street will benefit residents of the project.

Section 24. Subchapter II of Chapter 23.48 of the Seattle Municipal Code is amended to add the new Section 23.48.022 as follows:

23.48.022 Open space requirement for office((~~nonresidential~~)) uses

A. Finding. The City Council finds that:

1. With the increase in office development and the Comprehensive Plan's significant employment growth targets for the South Lake Union Urban Center, office workers will increasingly become major users of open space in the area.

2. Additional major office projects in South Lake Union will result in increased use of public open space. If additional major office projects in South Lake Union do not provide open space to offset the additional demands on public open space caused by such projects, the result will be overcrowding of public open space, adversely affecting the public health, safety and welfare.

3. Recent and projected office development in the South Lake Union Urban Center is generally comparable to office development in the abutting Downtown Urban Center in terms of tenant characteristics, density, and open space need. Therefore, the findings that

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support the current open space requirement in major Downtown office projects are applicable to conditions in South Lake Union.

4. The additional open space needed to accommodate office workers is at least 20 square feet for each 1,000 square feet of office space.

5. As in Downtown, smaller office developments in South Lake Union may encounter design problems in incorporating open space, and the sizes of open spaces provided for office projects under 85,000 square feet may make them less attractive and less likely to be used. Therefore, and in order not to discourage small scale office development, projects involving less than 85,000 square feet of new office space should be exempt from any open space requirement.

B. Quantity of open space. Open space in the amount of 20 square feet for each 1,000 square feet of gross office floor area is required for the following projects:

1. The project is on a lot located in an SM zone within the South Lake Union Urban Center that has a height limit for nonresidential uses that exceeds 85 feet; and

2. The project includes 85,000 or more square feet of gross office floor area.

C. Standards for open space. Open space may be provided on-site or off-site, as follows:

1. On-site open space

a. Open space on site or on an adjacent lot directly accessible from the project site shall satisfy the requirement of this Section 23.48.022 if it meets the standards of 23.48.014.G and the open space is accessible to all occupants of the building.

b. Open space provided on-site under this requirement is eligible for amenity feature bonuses, where allowed in Section 23.48.011 when the following standards are met:

1) The space has a minimum horizontal dimension of 20 feet and a minimum floor-to-ceiling height of 13 feet;

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2) The space is directly accessible to pedestrians, including persons with disabilities, from the street, or from an outdoor usable open space abutting the street;

3) The space is available for use during normal business hours;

4) Enclosed areas providing the connection between the structure's primary pedestrian access to the street and elevator cores, such as lobby space, do not qualify as required open space.

2. Off-site public open space

a. Open space satisfying the requirement of this Section 23.48.022 may be on a site other than the project site, provided that it is within an SM zone and within one-quarter mile of the project site, open to the public without charge, and at least 3,000 square feet in contiguous area. The minimum size of off-site open space and maximum distance from the project may be increased or decreased for a project if the Director determines that such adjustments are reasonably necessary to provide for open space that will meet the additional need for open space caused by the project and enhance public access.

b. Public open space provided on a site other than the project site may qualify for a development bonus for the project if the open space meets the standards of Section 23.48.013

3. Easement for off-site open space. The owner of any lot on which off-site open space is provided to meet the requirements of this Section 23.48.022 shall execute and record an easement in a form acceptable to the Director assuring compliance with the requirements of this Section 23.48.022. The Director is authorized to accept such an easement, provided that the terms do not impose any costs or obligations on the City.

4. Open space provided under this Section 23.48.022 shall qualify as the open space required under Section 23.48.014.F and 23.48.014.G.

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D. Payment in lieu. In lieu of providing open space required under this((~~requirement~~)) Section 23.48.022, an owner may make a payment to the City if the Director determines that the payment will contribute to the improvement of a designated green street or to other public open space improvements abutting the lot or in the vicinity, in an amount sufficient to develop improvements that will meet the additional need for open space caused by the project, and that completion of the improvement within a reasonable time is feasible. Any such payment shall be placed in a dedicated fund or account and used within five years of receipt for the development of such improvements, unless the property owner and the City agree upon a different improvement involving the acquisition or development of public open space that will mitigate the impact of the project. A bonus may be allowed for a payment in lieu of providing the improvement made wholly or in part to satisfy the requirements of this Section 23.48.022, pursuant to Section 23.49.013.

E. Limitations. Open space satisfying the requirement of this Section 23.48.022 for any project shall not be used to satisfy the open space requirement for any other project, nor shall any bonus be granted to any project for open space meeting the requirement of this Section 23.48.022 for any other project. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.013. Open space on the site of any building for which a Master Use Permit decision was issued or a complete building permit application was filed prior to the effective date of this ordinance, that was not required under the Land Use Code in effect when such permit decision was issued or such application filed, but that would have been required for the same building by this Section 23.48.022, shall not be used to satisfy the open space requirement or to gain an FAR bonus for any other project.

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Section 25. Section 23.48.024 of the Seattle Municipal Code, last amended Ordinance 123547, is amended as follows:

23.48.024 Screening and landscaping standards

A. Landscaping requirements

1. All landscaping provided to meet the requirements of this Section 23.48.024 shall comply with the Director's rules adopted to foster the long-term health, viability, and coverage of plantings. The Director's rules shall address, at a minimum, the type and size of plants, spacing of plants, use of drought-tolerant plants, and access to light and air for plants. these rules.

2. Landscaping that achieves a Green Factor score of .30 or greater, pursuant to Section 23.86.019, is required for any lot with:

a. development containing more than four dwelling units; or

b. development, either a new structure or an addition to an existing structure, containing more than 4,000 square feet of nonresidential uses; or

c. any parking lot containing more than 20 new parking spaces for automobiles.

3. Landscaping required by this Section 23.48.024 to achieve the Green Factor score of .30 may be met on one or more other lots within the SM 85/65-160 zone, on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, or their adjacent rights-of-way when a Green Factor score of .50 or greater is achieved and when, prior to issuance of a Master Use Permit for any development that relies on one or more other lots within the SM 85/65-160 zone, on the blocks bounded by Valley Street, Mercer Street, Westlake Avenue North, and Fairview Avenue North, or their adjacent rights-of-way to meet the landscaping requirement of this section, the fee owner of the lot(s) used to meet landscaping requirements shall execute a restrictive covenant that is recorded in the King

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County real property records that;

a. restricts the use of that portion of the off-site property that is to meet the landscaping requirement of this section, to the landscaping required by this section;

b. includes the legal descriptions of the lot burdened by the covenant;

c. acknowledges the specific extent to which the Green Factor standards are met through a combination of the lots; and

d. provides that the covenant shall be in effect until the Master Use Permit terminates or the development allowed by the Master Use Permit no longer requires the off-site landscaping.

((~~A~~))B. ((~~The following types of screening and landscaping apply w~~))Where screening or landscaping is required((~~.~~)) for specific uses in subsection 23.48.024.C, the following types of screening and landscaping shall be provided:

1. Three (((~~3~~)))foot ((~~H~~))high ((~~S~~))screening on ((~~S~~))street ((~~Property~~))lot ((~~L~~))lines. The required ((~~Three (3) foot high~~))screening may be provided as either:

a. A fence or wall at least ((~~three (~~))3((~~)~~)) feet in height; or

b. A hedge or landscaped berm at least ((~~three (~~))3((~~)~~)) feet in height.

2. Landscaping for ((~~S~~))setback ((~~A~~))areas and ((~~B~~))berms. Each setback area or berm required shall be planted with trees, shrubs, and grass or evergreen groundcover. Features such as pedestrian access meeting the Washington State Rules and Regulations for Barrier-Free Design, decorative pavers, sculptures or fountains may cover a maximum of ((~~thirty (~~))30((~~)~~)) percent of each required landscaped area or berm. Landscaping shall be provided according to standards promulgated by the Director. Landscaping designed to provide treatment for storm water runoff qualifies as required landscaping.

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((~~B~~))C. Screening for ((~~S~~))specific ((~~U~~))uses((~~.~~))

1. Gas stations shall provide ((~~three (~~))3((~~)~~)) foot high screening along lot lines abutting all streets, except within required sight triangles.

2. Surface ((~~P~~))parking ((~~A~~))areas((~~.~~))

a. Surface ((~~P~~))parking ((~~A~~))areas ((~~A~~))abutting ((~~S~~))streets. Surface parking areas shall provide ((~~three (~~))3((~~)~~)) foot high screening along the lot lines abutting all streets, except within required sight triangles.

b. Surface ((~~P~~))parking ((~~A~~))areas ((~~A~~))abutting ((~~A~~))alleys. Surface parking areas shall provide ((~~three (~~))3((~~)~~)) foot high screening along the lot lines abutting an alley. The Director may reduce or waive the screening requirement for part or all of the lot line abutting the alley when required parking is provided at the rear lot line and the alley is necessary to provide aisle space.

3. Parking in ((~~S~~))structures. Except as provided for by subsection 23.48.034.B, ((~~P~~))parking located at or above street-level in a garage shall be screened according to the following requirements.

a. On Class 1 and 2 Pedestrian Streets, shown on Map ((~~B~~))A for 23.48.014, ((~~located at the end of this Chapter,~~))parking is not ((~~be~~))permitted at street level unless separated from the street by other uses, provided that garage doors need not be separated. The facade of the separating uses shall be subject to the transparency and blank facade standards in Section 23.48.0((~~18~~))14.

b. On all other streets, parking ((~~shall be~~))is permitted at street level when at least ((~~thirty (~~))30((~~)~~)) percent of the street frontage of the parking area, excluding that portion of the frontage occupied by garage doors, is separated from the street by other uses. The facade of the separating uses shall be subject to the transparency and blank wall standards in Section 23.48.0((~~18~~))14. The remaining parking shall be screened from view at street level and the street

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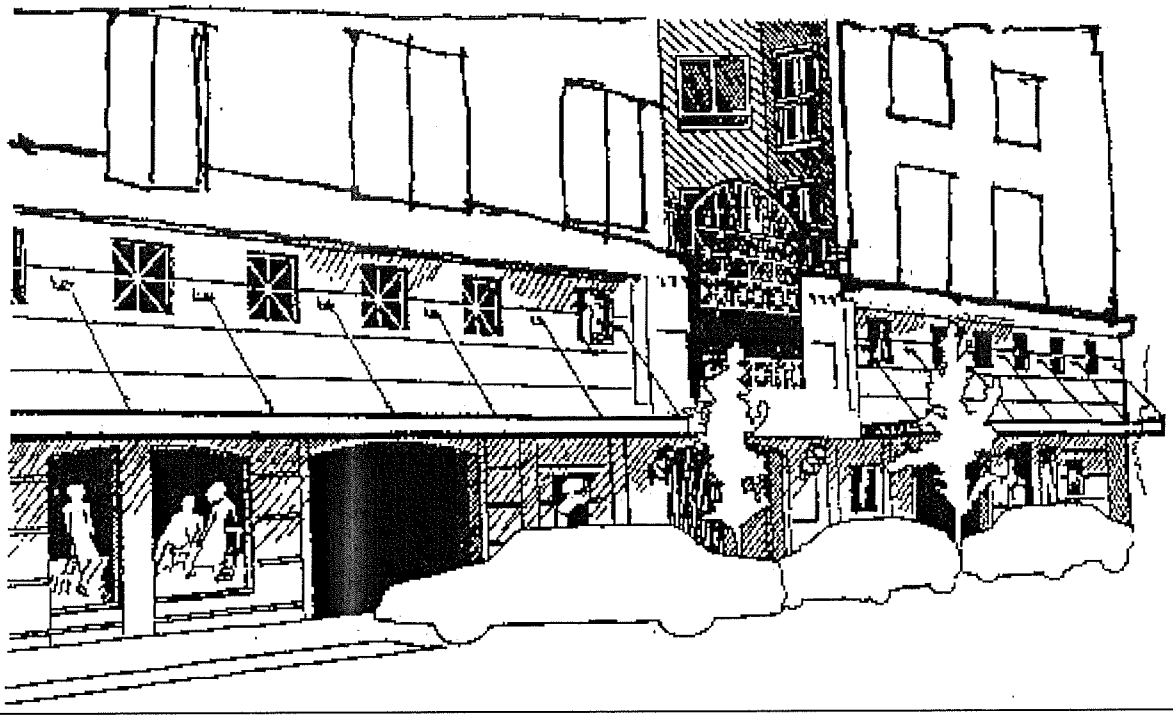
facade shall be enhanced by architectural detailing, artwork, landscaping, or similar visual interest features (Exhibit A for 23.48.024)((~~A~~)).

c. The perimeter of each floor of parking ((~~garages~~))above street level shall have an opaque screen at least 3.5((~~three and one-half (3½)~~)) feet high.

Exhibit A for 23.48.024

Screening for parking at street level (on Class II Pedestrian Streets)

((~~SMC 23.48.024 Exhibit 23.48.024 A~~)) Exhibit A for 23.48.024
Screening for parking at street level (on Class II Pedestrian Streets)



4. Fences or free-standing walls associated with utility services uses may obstruct or allow views to the interior of a site. Where site dimensions and site conditions allow, applicants are encouraged to provide both a landscaped setback between the fence or wall and the right-of-way, and a fence or wall that provides visual interest facing the street lot line, through the height, design or construction of the fence or wall, including the use of materials,

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architectural detailing, artwork, vegetated trellises, decorative fencing, or similar features((~~to provide visual interest~~)). Any fence or free-standing wall for a utility service((~~s~~)) use((~~must~~)) shall provide either:

a((~~)~~)). A ((~~5-foot-deep~~))landscaped area a minimum of 5 feet in depth between the wall or fence and the street lot line; or

b((~~)~~)). Architectural detailing, artwork, vegetated trellises, decorative fencing, or similar features to provide visual interest facing the street lot line, as approved by the Director.

((~~C~~))D. Street ((~~T~~))trees requirements((~~.~~))

1. Street trees shall be provided in all planting strips. Existing street trees may count toward meeting the street tree requirement.

2. Exceptions to ((~~S~~))street ((~~T~~))tree ((~~R~~))requirements((~~.~~))

a. Street trees ((~~shall~~))are not ((~~be~~))required when a change of use is the only permit requested.

b. Street trees ((~~shall~~))are not ((~~be~~))required for temporary use permits.

c. Street trees ((~~shall~~))are not ((~~be~~))required ((~~when expanding~~))if an existing structure is expanded by less than ((~~one thousand (~~))1,000((~~)~~)) square feet. Generally, two (((~~2~~)))street trees shall be required for each additional ((~~one thousand (~~))1,000((~~)~~)) square feet of expansion. Rounding of fractions, per ((~~S~~))subsection 23.86.002.B, is not ((~~be~~))permitted. The number of street trees shall be controlled by the Seattle Department of Transportation standard.

3. If it is not feasible to plant street trees according to City standards, either a ((~~five (5) foot deep~~))landscaped setback a minimum of 5 feet deep ((~~shall be~~))is required along the street ((~~property~~))lot line, or landscaping other than trees may be located in the planting strip according to Department of ((~~Engineering~~))Transportation standards. The street trees shall be

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planted in the landscaped area at least ((~~two (~~))2((~~)~~)) feet from the street lot line if they cannot be placed in the planting strip.

Section 26. Subchapter II of Chapter 23.48 of the Seattle Municipal Code is amended to add the new Section 23.48.025 as follows:

23.48.025 Demonstration of LEED rating

A. Applicability. This Section 23.48.025 applies if a commitment to earn a LEED rating or substantially equivalent standard is a condition of a permit. Applicants for all new development, except additions and alterations, gaining extra residential floor area pursuant to Section 23.48.011, or seeking to qualify for the higher FAR limit in the applicable Table A for 23.48.009 or Table B for 23.48.009, shall make a commitment that the structure will meet Leadership in Energy and Environmental Design (LEED) rating, except that an applicant who is applying for funding from the Washington State Housing Trust Fund and/or the Seattle Office of Housing to develop new affordable housing, as defined in Section 23.58A.180 may elect to meet green building performance standards by meeting the Washington Evergreen Sustainable Development Standards (ESDS).

B. The Director is authorized to determine, as a Type I decision, whether the applicant has demonstrated that a new structure has earned a LEED rating or met a substantially equivalent standard. The Director may establish by rule procedures for determining whether an applicant has demonstrated that a new structure has earned a LEED rating or met any such substantially equivalent standard, provided that no rule shall assign authority for making a final determination to any person other than an officer of the Department of Planning and Development or another City agency with regulatory authority and expertise in green building practices.

C. Demonstration of compliance; penalties

1. The applicant shall demonstrate to the Director the extent to which the applicant has complied with the commitment to earn a LEED rating no later than 180 days after

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issuance of final Certificate of Occupancy for the new structure, or such later date as may be allowed by the Director for good cause, by submitting a report analyzing the extent credits were earned toward such rating from the U.S. Green Building Council or another independent entity approved by the Director. Performance is demonstrated through an independent report from a third party, pursuant to subsection 23.90.018.D. For purposes of this Section 23.48.025, if the Director shall have approved a commitment to achieve a substantially equivalent standard, the term "LEED rating" shall mean such other standard.

2. Failure to submit a timely report regarding a LEED rating from an approved independent entity by the date required is a violation of the Land Use Code. The penalty for such violation is $500 per day from the date that the report was due to the date it is submitted, without any requirement of notice to the applicant.

3. Failure to demonstrate, through an independent report as provided in this subsection 23.48.025 D, full compliance with the applicant's commitment to earn a LEED rating, is a violation of the Land Use Code. The penalty for each violation is an amount determined as follows:

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P = [(LSM-CE)/LSM] × CV × 0.0075,

where:

P is the penalty;

LSM is the minimum number of credits to earn the required LEED rating;

CE is the number of credits earned as documented by the report; and

CV is the Construction Value as set forth on the building permit for the new structure.

Example:

Construction Value	$200,000,000.00
Minimum LEED Credits for rating	33
Credits Earned	32
Penalty = [(33-32)/33] × 200,000,000 × .0075 =	$45,454.55

4. Failure to comply with the applicant's commitment to earn a LEED rating is a violation of the Land Use Code independent of the failure to demonstrate compliance; however, such violation shall not affect the right to occupy any chargeable floor area, and if a penalty is paid in the amount determined under subsection 23.48.025.C.3, no additional penalty shall be imposed for the failure to comply with the commitment.

5. If the Director determines that the report submitted provides satisfactory evidence that the applicant's commitment is satisfied, the Director shall issue a certificate to the applicant so stating. If the Director determines that the applicant did not demonstrate compliance with its commitment to earn a LEED rating in accordance with this Section 23.48.025, the Director may give notice of such determination, and of the calculation of the penalty due, to the applicant.

6. If, within 90 days, or such longer period as the Director may allow for good cause, after initial notice from the Director of a penalty due under this subsection 23.48.025.C,

the applicant shall demonstrate, through a supplemental report from the independent entity that provided the initial report, that it has made sufficient alterations or improvements to earn a LEED rating, or to earn more credits toward such a rating, then the penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be final. If the applicant does not submit a supplemental report in accordance with this subsection 23.48.025.C by the date required under this subsection 23.48.025.C, then the amount of the penalty as set forth in the Director's original notice shall be final.

7. Any owner, other than the applicant, of any lot on which the bonus development was obtained or any part thereof, shall be jointly and severally responsible for compliance and liable for any penalty due under this subsection 23.48.025.C.

D. Use of penalties. A subfund shall be established in the City's General Fund to receive revenue from penalties under subsection 23.48.025.C. Revenue from penalties under that subsection 23.48.025.C shall be allocated to activities or incentives to encourage and promote the development of sustainable buildings. The Director shall recommend to the Mayor and City Council how these funds should be allocated.

Section 27. Section 23.48.026 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.48.026 Noise standards((.))

All permitted uses are subject to the noise standards of Section 23.47A.018.

Section 28. Section 23.48.028 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.48.028 Odor standards((.))

All permitted uses are subject to the odor standards of Section 23.47A.020.

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Section 29. Section 23.48.030 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.48.030 Light and glare standards((.))

All permitted uses are subject to the light and glare standards of Section 23.47A.022.

Section 30. Section 23.48.032 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.48.032 Required parking and loading((.))

A. Off-street parking spaces and bicycle parking are((~~may be~~)) required according to ((~~the requirements of~~))Section 23.54.015, Required parking.

B. Maximum parking limit for nonresidential uses

1. Except as provided in subsections 23.48.032.B.2 ,23.48.032.B.3, and 23.48.032.B.4 parking for nonresidential uses is limited to one parking space per every 1,000 square feet of gross floor area in nonresidential use.

2. Parking for nonresidential uses in excess of the maximum quantity identified in subsection 23.48.032.B.1 may be permitted as a special exception pursuant to Chapter 23.76. When deciding whether to grant a special exception, the Director shall consider evidence of parking demand and the availability of alternative means of transportation, including but not limited to the following:

a. Whether the additional parking will substantially encourage the use of single occupancy vehicles;

b. Characteristics of the work force and employee hours, such as multiple shifts that end when transit service is not readily available;

c. Proximity of transit lines to the lot and headway times of those lines;

d. The need for a motor pool or large number of fleet vehicles at the site;

e. Proximity to existing long-term parking opportunities within the area

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which might eliminate the need for additional parking;

f. Whether the additional parking will adversely affect vehicular and pedestrian circulation in the area;

g. Potential for shared use of additional parking as residential or short-term parking;

h. The need for additional short-term parking to support retail activity in areas where short-term parking and transit service is limited.

3. If on or before September 1, 2012, a lot is providing legal off-site parking for another lot, by means such as a recorded parking easement or off-site accessory parking covenant on the subject lot, then the number of such off-site parking spaces is allowed on the off-site lot in addition to one space per 1,000 square feet for nonresidential uses on the subject lot.

4. A lot in the SM 85/65-160 zone may exceed the maximum parking limit in subsection 23.48.032.B without approval of a special exception pursuant to subsection 23.48.032.B.2 when, prior to issuance of a Master Use Permit for the lot that exceeds the maximum parking limit, the fee owners of both the property subject to the Master Use Permit for the lot that exceeds the maximum parking limit and the fee owners of the property subject to the Master Use Permit execute a restrictive covenant that is recorded in the King County real property records that limits the amount of parking that can be provided on other lot(s), such that the total quantity of parking provided as part of the Master Use Permit together with the parking to be provided on the other lot(s) subject to the restrictive covenant does not exceed the maximum parking limit in subsection 23.48.032.B.

((~~B~~))C. Loading berths ((~~must~~))shall be provided pursuant to Section 23.54.035, Loading berth requirements and space standards.

((~~C~~))D. Where access to a loading berth is from an alley, and truck loading is parallel to the alley, a setback of ((~~twelve (~~))12((~~)~~)) feet is required for the loading berth, measured from the

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centerline of the alley, as shown in Exhibit D for 23.47A.014(((~~Exhibit 23.47A.014 D~~))). This setback shall be maintained up to a height of ((~~sixteen (~~))16((~~)~~)) feet.

Section 31. Section 23.48.034 of the Seattle Municipal Code, last amended by Ordinance 123649, is amended as follows:

23.48.034 Parking and loading location, access and curbcuts

A. Parking accessory to nonresidential uses may be provided on-site and/or within 800 feet of the lot to which it is accessory, according to the provisions of Section 23.54.025, Parking covenants.

B. Parking location within structures

1. Parking at street level

a. Except as permitted under subsections 23.48.034.B.1.b and 23.48.034.B.1.c, parking is not permitted at street-level unless separated from the street by other uses, provided that garage doors need not be separated.

b. Due to physical site conditions such as topographic or geologic conditions, parking is permitted in stories that are partially below street-level and partially above street level without being separated from the street by other uses, if:

1) The street front portion of the parking that is at or above street-level does not abut a Class 1 Pedestrian Street requiring street-level uses; and

2) The street front portion of the parking that is at or above street-level, excluding garage and loading doors and permitted access to parking, is screened from view at the street-level; and

3) The street-facing facade is enhanced by architectural detailing, artwork, landscaping, stoops and porches providing access to residential uses, or similar visual interest features.

c. Parking is permitted in a story that is partially above street-level and

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partially below street-level in a structure permitted in a setback area under the provisions of subsection 23.48.014.B.2.b.

2. Parking above the first story of a structure. The following provisions apply to development in the SM 85/65-125, SM 85/65-160, SM 160/85-240, SM 85-240, and SM 240/125-400 zones within the South Lake Union Urban Center:

a. Except as provided in subsection 23.48.034.B for parking partially above street-level and partially below street-level, parking within structures is permitted above the first story under the following conditions:

1) One story of parking is permitted above the first story of a structure for each story of parking provided below grade that is of at least equivalent capacity, up to a maximum of two stories of parking above the first story.

2) For parking located on a story above the first story of a structure, a minimum of 30 percent of the length of the parking area measured along each street frontage shall be separated from the street by another use. On lots located at street intersections, the separation of parking area by another use shall be provided at the corner portion(s) of the structure.

3) The parking area on a story above the first story of the structure that is not separated from the street by another use shall be enclosed by facades along all street frontages. Facades shall be designed to minimize the impacts of glare from vehicle headlights and interior garage lighting on pedestrian views from the street.

b. The Director may permit more than two stories of parking above the first story of the structure, or may permit other exceptions to subsection 23.48.034.B.2, as a Type I decision, if the Director finds that locating parking below grade is infeasible due to physical site conditions such as a high water table or proximity to a tunnel. In such cases, the Director shall determine the maximum feasible amount of parking that can be provided below grade, if

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any, and the amount of additional parking to be permitted above street level. Site size is not a basis for granting an exception under this subsection 23.48.034.B.2.b.

((~~B~~))C. Accessory surface parking is permitted under the following conditions:

1. All accessory surface parking shall be located at the rear or to the side of the principal structure.

2. The amount of lot area allocated to accessory surface parking shall be limited to 30 percent of the total lot area.

3. In the SM 85/65-125, SM 85/65-160, SM 160/85-240, SM 85-240, and SM 240/125-400 zones in the South Lake Union Urban Center, accessory surface parking is prohibited unless separated from all street lot lines by another use within a structure.

((~~C~~))D. Parking and Loading Access. ((~~When~~))If a lot abuts more than one right-of-way, the location of access for parking and loading shall be determined by the Director, depending on the classification of rights-of-way, as shown on Map ((~~B~~))A for 23.48.014, ((~~located at the end of this Chapter,~~))according to the following:

1. Access to parking and loading shall be from the alley when the lot abuts an alley improved to the standards of ((~~S~~))subsection 23.53.030.C and use of the alley for parking and loading access would not create a significant safety hazard as determined by the Director.

((~~2. If the lot fronts on an alley and an east/west-oriented street, parking and loading access may be from the east/west oriented street if the alley is not improved to the standards of Section 23.53.030.C or use of the alley for parking and loading access would create a significant safety hazard as determined by the Director.~~))

((~~3~~))2. If the lot does not abut an improved alley, or use of the alley for parking and loading access would create a significant safety hazard as determined by the Director, parking and loading access may be permitted from the street. If the lot abuts more than one street, the location of access is determined by the Director, as a Type I decision, after consulting

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with the Director of Transportation. Unless the Director otherwise determines under subsection 23.48.034.D.3.c, access is allowed only from a right-of-way in the category, determined by the classifications shown on Map A for 23.48.014, that is most preferred among the categories of rights-of-way abutting the lot, according to the ranking set forth below, from most to least preferred (a portion of a street that is included in more than one category is considered as belonging only to the least preferred of the categories in which it is included).

a. An undesignated street;

b. Class 2 Pedestrian Street;

c. Class 1 Pedestrian Street;

d. Designated neighborhood green street.

3. The Director may allow or require access from a right-of-way other than one indicated by subsection 23.48.034.D.1 or subsection 23.48.034.D.2 if, after consulting with the Director of Transportation on whether and to what extent alternative locations of access would enhance pedestrian safety and comfort, facilitate transit operations, facilitate the movement of vehicles, minimize the on-street queuing of vehicles, enhance vehicular safety, or minimize hazards, the Director finds that an exception to the access requirement is warranted. Curb cut controls on designated green streets shall be evaluated on a case-by-case basis, but generally access from green streets is not allowed if access from any other right-of-way is possible.

E. Curb cut width and number

1. ((~~Such~~))Permitted access shall be limited to one two-way curbcut. In the event the site is too small to permit one two-way curbcut, two one-way curbcuts shall be permitted.

((~~4. The Director shall also determine whether the location of the parking and loading access will expedite the movement of vehicles, facilitate a smooth flow of traffic, avoid the on-street queuing of vehicles, enhance vehicular safety and pedestrian comfort, and will not create a hazard.~~))

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((~~5~~))2. Curbcut width and number of curbcuts shall satisfy the provisions of Section 23.54.030((~~, Parking space standards~~)), except as modified in this ((~~s~~))Section 23.48.034.

Section 32. Section 23.48.035 of the Seattle Municipal Code, was enacted by Ordinance 119238, is amended as follows:

23.48.035 Assisted living facilities((~~use and development standards.~~))

A. In addition to the requirements of subsection 23.48.035.B, a((~~A~~))ssisted living facilities ((~~shall be~~))are subject to the development standards of the zone ((~~in which~~))where they are located, except that density limits and amenity area requirements do not apply to assisted living facilities.((~~as provided below:~~

~~1. Density. Density limits do not apply to assisted living facilities; and~~

~~2. Open Space. Open space requirements do not apply to assisted living facilities.~~))

B. Other ((~~R~~))requirements((~~.~~))

1. Minimum ((~~U~~))unit ((~~S~~))size. Assisted living units shall be designed to meet the minimum square footage required by WAC 388-110-140.

2. Facility ((~~K~~))kitchen. ((~~There shall be provided a~~))An on-site kitchen that serves ((~~on-site which services~~))the entire assisted living facility is required.

3. Communal ((~~A~~))area. Communal areas that are either interior or exterior spaces, such as ((~~e.g.,~~))solariums, decks and porches, recreation rooms, dining rooms, living rooms, foyers and lobbies,((~~that are provided with comfortable seating,~~)) and gardens or other outdoor landscaped areas ((~~that are accessible to wheelchairs and walkers) with sufficient accommodations for socialization and meeting with friends and family~~))shall be provided as follows:

a. The total amount of communal area shall equal at least((~~, at a minimum, equal twenty (2)~~)) 10((~~)~~)) percent of the total floor area in assisted living units. In

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calculating the total floor area in assisted living units, all of the area of each ((~~of the individual~~)) unit((~~s~~)), excluding the bathroom, shall be counted, including counters, closets and built-ins((~~,but excluding the bathroom~~));

b. ((~~No s~~))Service areas, including, but not limited to, the facility kitchen, laundry, hallways and corridors, supply closets, operations and maintenance areas, staff areas and offices, and rooms used only for counseling or medical services, shall not be counted as ((~~toward the~~))required communal area((~~requirement~~)); and

c. A minimum of ((~~four hundred (~~))400((~~)~~)) square feet of the required communal area shall be provided as an outdoor((~~s,~~)) area with ((~~no~~))a minimum dimension ((~~less than~~))of ((~~ten (~~))10((~~)~~)) feet. ((~~A departure from the required amount and/or dimension of outdoor communal space may be permitted as part of the design review process, pursuant to Section 23.41.012 A.~~))Outdoor areas provided as required communal area shall be accessible to people with disabilities.

d. Adequate seating for residents and guests shall be provided for required communal areas.

Section 33. Section 23.48.036 of the Seattle Municipal Code, last amended by Ordinance 123668, is amended as follows:

23.48.036 Pet ((~~D~~))daycare ((~~C~~))centers

In addition to the development standards of the zone, pet daycare centers are subject to the following requirements:

A. Pet daycare centers that were established of record before July 31, 2006, may continue notwithstanding nonconformity with development standards, provided the provisions of this Section 23.48.036 are met.

B. The pet daycare center ((~~must~~))shall be permitted by the Public Health—Seattle and King County, as required by ((~~SMC~~))Section 10.72.020.

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C. Facilities for the boarding of animals may occupy no more than 30 percent of the gross floor area of the pet daycare center.

D. Required loading pursuant to Section 23.54.015 may be provided in a public right-of-way if the applicant can demonstrate to the Director, in consultation with the Director of Transportation, that pedestrian circulation or vehicle traffic will not be significantly impacted.

E. Applicants ((~~must~~))shall submit at the time of permit application, written operating procedures, such as those recommended by the American Boarding and Kennel Association (ABKA) or the American Kennel Club (AKC). Such procedures shall be followed for the life of the business and shall prevent animal behavior that impacts surrounding uses, including excessive barking.

F. Violations of this Section 23.48.036((.))

1. The exemption in subsection 25.08.500.A of the Noise Control Ordinance to uses permitted under Chapter 10.72, provisions for pet kennels and similar uses, does not apply to pet daycare centers.

2. When a notice of violation is issued for animal noise, the Director may require the pet daycare center to submit a report from an acoustical consultant that describes potential measures to be taken by the pet daycare center to prevent or mitigate noise impacts. The Director may require measures, including but not limited to: development or modification of operating procedures; cessation of the use of outdoor area(s); closure of windows and doors; reduction in hours of operation; and use of sound attenuating construction or building materials such as insulation and noise baffles. The Director may order the pet daycare center to be closed on a temporary or permanent basis.

Section 34. Section 23.48.038 of the Seattle Municipal Code, last amended by Ordinance 120293, is amended as follows:

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23.48.038 Relocating landmark structures((.))

When an historic landmark structure is relocated, any nonconformities with respect to development standards shall transfer with the relocated structure.

Section 35. Section 23.49.008 of the Seattle Municipal Code, last amended by Ordinance 123649, is amended as follows:

23.49.008 Structure height

The following provisions regulating structure height apply to all property in Downtown zones except the DH1 zone. Structure height for PSM, IDM, and IDR zones is regulated by this Section 23.49.008, and by Sections 23.49.178, 23.49.208, and 23.49.236.

A. Base and ((~~M~~))maximum ((~~H~~))height ((~~L~~))limits((.))

1. Except as otherwise provided in this Section 23.49.008, maximum structure heights for Downtown zones are as designated on the Official Land Use Map.

In certain zones, as specified in this ((~~s~~))Section 23.49.008, the maximum structure height may be allowed only for particular uses or only on specified conditions, or both. Where height limits are specified for portions of a structure that contain specified types of uses, the applicable height limit for the structure is the highest applicable height limit for the types of uses in the structure, unless otherwise specified.

2. Except in the PMM zone, the base height limit for a structure is the lowest of the maximum structure height or the lowest other height limit, if any, that applies pursuant to this Title 23 based upon the uses in the structure, before giving effect to any bonus for which the structure qualifies under this ((~~e~~))Chapter 23.49 and to any special exceptions or departures authorized under this ((~~e~~))Chapter 23.49. In the PMM zone the base height limit is the maximum height permitted pursuant to urban renewal covenants.

3. In zones listed below in this subsection 23.49.008.A.3, the applicable height

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limit for portions of a structure that contain nonresidential and live-work uses is shown as the first figure after the zone designation (except that there is no such limit in DOC1), and the base height limit for portions of a structure in residential use is shown as the first figure following the "/". The third figure shown is the maximum residential height limit. Except as stated in subsection 23.49.008.D, the base residential height limit is the applicable height limit for portions of a structure in use if the structure does not use the bonus available under Section 23.49.015, and the maximum residential height limit is the height limit for portions of a structure in residential use if the structure uses the bonus available under Section 23.49.015:

DOC1 Unlimited/450 unlimited

DOC2 500/300-500

DMC 340/290-400

DMC 240/290-400.

4. A structure in a DMC 340/290-400 zone on a lot comprising a full block that abuts a DOC1 zone along at least one street frontage may gain additional structure height of 30 percent above the maximum residential height limit if the structure uses the bonus available under Section 23.49.015, or 35 percent above 340 feet if that bonus is not used, in either case on the following conditions:

a. Only one tower is permitted on the lot;

b. Any additional floor area above the maximum height limit for nonresidential or live-work use, as increased under this subsection 23.49.008.A.4, is occupied by residential use;

c. The average residential gross floor area and maximum residential floor area of any story in the portion of the tower permitted above the base residential height limit do not exceed the limits prescribed in subsection 23.49.058.D.1;

d. Any residential floor area allowed above the base residential height

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limit under this provision is gained through voluntary agreements to provide low-income or moderate-income housing according to Section 23.49.015;

e. At least 35 percent of the lot area, or a minimum of 25,000 square feet, whichever is greater, is in open space use substantially at street level meeting the following standards, and subject to the following allowances for coverage:

1) The location and configuration of the space shall enhance solar exposure, allow easy access to entrances to the tower serving all tenants and occupants from streets abutting the open space, and allow convenient pedestrian circulation through all portions of the open space. The open space shall be entirely contiguous and physically accessible. To offset the impact of the taller structure allowed, the open space ((~~must~~))shall have frontage at grade abutting sidewalks, and be visible from sidewalks, on at least two streets. The elevation of the space may vary, especially on sloping lots where terracing the space facilitates connections to abutting streets, provided that grade changes are gradual and do not significantly disrupt the continuity of the space, and no part of the open space is significantly above the grade of the nearest abutting street. The Director may allow greater grade changes, as necessary, to facilitate access to transit tunnel stations.

2) Up to 20 percent of the area used to satisfy the open space condition to allowing additional height may be covered by the following features: permanent, freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters; structural overhangs; overhead arcades or other forms of overhead weather protection; and any other features approved by the Director that contribute to pedestrian comfort and active use of the space. The following features within the open space area may count as open space and are not subject to the percentage coverage limit: temporary kiosks and pavilions, public art, permanent seating that is not reserved for any commercial use, exterior stairs and mechanical assists that provide access to public areas and are available for public use, and any similar features approved

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by the Director.

f. Open space used to satisfy the condition to allowing additional height in this ((s))Section 23.49.008 is not eligible for a bonus under Section 23.49.013.

g. Open space used to satisfy the condition to allowing additional height in this ((s))Section 23.49.008 may qualify as common recreation area to the extent permitted by subsection 23.49.011.B and may be used to satisfy open space requirements in subsection 23.49.016.C.1 if it satisfies the standards of that subsection 23.49.016.C.1.

h. No increase in height shall be granted to any proposed development that would result in significant alteration to any designated feature of a landmark structure, unless a certificate of approval for the alteration is granted by the Landmarks Preservation Board.

5. In a DRC zone, the base height limit is 85 feet, except that, subject to the conditions in subsection 23.49.008.A.6:

a. The base height limit is 150 feet if any of the following conditions is satisfied:

1) all portions of a structure above 85 feet contain only residential use; or

2) at least 25 percent of the gross floor area of all structures on a lot is in residential use; or

3) a minimum of 1.5 FAR of retail sales and service or entertainment uses, or any combination thereof, is provided on the lot.

b. For residential floor area created by infill of a light well on a Landmark structure, the base height limit is the lesser of 150 feet or the highest level at which the light well is enclosed by the full length of walls of the structure on at least three sides. For the purpose of this subsection 23.49.008.A.5.b a light well is defined as an inward modulation on a non-street

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facing facade that is enclosed on at least three sides by walls of the same structure, and infill is defined as an addition to that structure within the light well.

6. Restrictions on ((~~D~~))demolition and ((~~A~~))alteration of ((~~E~~))existing ((~~S~~))structures((~~.~~))

a. Any structure in a DRC zone that would exceed the 85 foot base height limit shall incorporate the existing exterior street front facade(s) of each of the structures listed below, if any, located on the lot of that project. The City Council finds that these structures are significant to the architecture, history and character of downtown. The Director may permit changes to the exterior facade(s) to the extent that significant features are preserved and the visual integrity of the design is maintained. The degree of exterior preservation required will vary, depending upon the nature of the project and the characteristics of the affected structure(s).

b. The Director shall evaluate whether the manner in which the facade is proposed to be preserved meets the intent to preserve the architecture, character and history of the Retail Core. If a structure on the lot is a Landmark structure, approval by the Landmarks Preservation Board for any proposed modifications to controlled features is required prior to a decision by the Director to allow or condition additional height for the project. The Landmarks Preservation Board's decision shall be incorporated into the Director's decision. Inclusion of a structure on the list below is solely for the purpose of conditioning additional height under this subsection 23.49.008A.6.b, and shall not be interpreted in any way to prejudge the structure's merit as a Landmark:

Sixth and Pine Building	523 Pine Street
Decatur	1513 ((-))6th Avenue
Coliseum Theater	5th and Pike
Seaboard Building	1506 Westlake Avenue
Fourth and Pike Building	1424 ((-))4th Avenue

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Pacific First Federal Savings	1400 ((-))4th Avenue
Joshua Green Building	1425 ((-))4th Avenue
Equitable Building	1415 ((-))4th Avenue
Mann Building	1411 ((-))3rd Avenue
Olympic Savings Tower	217 Pine Street
Fischer Studio Building	1519 ((-))3rd Avenue
Bon Marche (Macy's)	3rd and Pine
Melbourne House	1511 ((-))3rd Avenue
Former Woolworth's Building	1512 ((-))3rd Avenue

c. The restrictions in this subsection 23.49.008.A.6 are in addition to, and not in substitution for, the requirements of the Landmarks Ordinance, Chapter 25.12.

7. The applicable height limit for a structure is the base height limit plus any height allowed as a bonus under this ((e))Chapter 23.49 and any additional height allowed by special exception or departure, or by subsection 23.49.008.A.4. The height of a structure shall not exceed the applicable height limit, except as provided in subsections 23.49.008.B, 23.49.008.C, and 23.49.008.D.

8. The height of rooftop features, as provided in subsection 23.49.008.D, is allowed to exceed the applicable height limit.

9. On lots in the DMC 85/65-150 zone:

a. A height limit of 85 feet applies to the portions of a structure that contain nonresidential or live-work uses.

b. A base height limit of 65 feet applies to the portions of a structure that contain residential uses.

c. The applicable height limit for portions of a structure that contain residential uses is 85 feet if the applicant qualifies for extra floor area on the lot under Section

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23.49.023 and Chapter 23.58A, the structure has no nonresidential or live-work use above 85 feet, and the structure does not qualify for a higher limit for residential uses under subsection 23.49.008.A.9.d.

d. The applicable height limit is 150 feet if the applicant qualifies for extra floor area on the lot under Section 23.49.023 and Chapter 23.58A; the structure has no nonresidential or live-work use above 85 feet; the lot is at least 40,000 square feet in size and includes all or part of a mid-block corridor that satisfies the conditions of ((~~subs~~))Section 23.58A.((~~016.C.4.d~~))040, except to the extent any waiver of such conditions is granted by the Director; and the standards of Section 23.49.060 are satisfied.

B. Structures located in DMC 240/290-400 or DMC 340/290-400 zones may exceed the maximum height limit for residential use, or if applicable the maximum height limit for residential use as increased under subsection 23.49.008.A.4, by ((~~ten~~))10 percent of that limit, as so increased if applicable, if:

1. the facades of the portion of the structure above the limit do not enclose an area greater than 9,000 square feet, and

2. the enclosed space is occupied only by those uses or features otherwise permitted in this Section 23.49.008 as an exception above the height limit. The exception in this subsection 23.49.008.B shall not be combined with any other height exception for screening or rooftop features to gain additional height.

C. Height in Downtown Mixed Residential (DMR) zones is regulated as follows:

1. A structure that contains only nonresidential or live-work uses may not exceed the lowest height limit established on the Official Land Use Map, except for rooftop features permitted by subsection 23.49.008.D.

2. In DMR zones for which only two height limits are established, only those portions of structures that contain only residential uses may exceed the lower height limit, and

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they may extend to the higher height limit established on the Official Land Use Map.

3. On lots in the DMR/C 65/65-150 zone, the base height limit is 65 feet, and it is the applicable height limit for all structures, except that:

a. The applicable height limit is 85 feet if the applicant qualifies for extra floor area under Section 23.49.023 and Chapter 23.58A, the structure has no nonresidential or live-work use above 65 feet, and the structure does not qualify for a higher height limit under this subsection 23.49.008.C.3.

b. The applicable height limit is 150 feet if the applicant qualifies for extra floor area under Section 23.49.023 and Chapter 23.58A; the structure has no nonresidential or live-work use above 65 feet; the lot includes all or part of a mid-block corridor that satisfies the conditions of ((~~subs~~))Section 23.58A.((~~016.C.4.d~~))040, except to the extent any waiver of such conditions is granted by the Director; and the standards of subsection 23.49.156.B and Section 23.49.163 are satisfied.

4. On lots in the DMR/C 65/65-85 zone, the base height limit is 65 feet, and it is the applicable height limit for all structures, except that the applicable height limit is 85 feet if the applicant qualifies for extra floor area under Section 23.49.023 and Chapter 23.58A and the structure has no nonresidential or live-work use above 65 feet.

***

Section 36. Section 23.49.010 of the Seattle Municipal Code, last amended by Ordinance 122054, is amended as follows:

23.49.010 General requirements for residential uses((~~.~~))

* * *

C. Assisted ((~~L~~))living ((~~F~~))facilities((~~Use and Development Standards.~~))

1. In addition to the requirements of subsection 23.49.010.B, a((~~A~~))ssisted living facilities are((~~shall be~~)) subject to the development standards of the zone where((~~in which~~)) they

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are located, except that((~~as provided below:~~

~~a. Density. Density limits do not apply to assisted living facilities; and~~

~~b. Open Space and Common Recreation Area. Open space and~~)) common recreation area requirements do not apply to assisted living facilities.

2. Other ((~~R~~))requirements((~~.~~))

a. Minimum ((~~U~~))unit ((~~S~~))size. Assisted living units shall be designed to meet the minimum square footage required by WAC 388-110-140.

b. Facility ((~~K~~))kitchen. ((~~There shall be provided a~~))An on-site kitchen that serves ((~~on-site which services~~))the entire assisted living facility is required.

c. Communal ((~~A~~))area. Communal areas that are either interior or exterior spaces, such as(((~~e.g.,~~)) solariums, decks and porches, recreation rooms, dining rooms, living rooms, foyers and lobbies,((~~that are provided with comfortable seating,~~)) and gardens or other outdoor landscaped areas ((~~that are accessible to wheelchairs and walkers) with sufficient accommodations for socialization and meeting with friends and family~~))shall be provided as follows:

(((~~f~~))1) The total amount of communal area shall equal at least ((~~, at a minimum, equal twenty (~~))20((~~)~~)) percent of the total floor area in assisted living units. In calculating the total floor area in assisted living units, all of the area of each((~~of the individual~~)) unit((~~s~~)), excluding the bathroom, shall be counted, including counters, closets and built-ins((~~, but excluding the bathroom~~));

(((~~f~~))2) ((~~No s~~))Service areas, including, but not limited to, the facility kitchen, laundry, hallways and corridors, supply closets, operations and maintenance areas, staff areas and offices, and rooms used only for counseling or medical services, shall not be counted ((~~toward the~~))as required communal area((~~requirement~~)); and

(((~~f~~))3) A minimum of ((~~four hundred (~~))400((~~)~~)) square feet of the

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required communal area shall be provided as an outdoor((s)) area((,)) with ((~~no~~))a minimum dimension((s))of ((~~less than ten (~~))10((~~)~~)) feet. ((~~A departure from the required amount and/or dimension of outdoor communal space may be permitted as part of the design review process, pursuant to Section 23.41.012 A.~~))Outdoor areas provided as required communal area shall be accessible to people with disabilities.

4) Adequate seating for residents and guests shall be provided for required communal area.

Section 37. Section 23.49.011 of the Seattle Municipal Code, last amended by Ordinance 124072, is amended as follows:

23.49.011 Floor area ratio

A. General standards

1. The base and maximum floor area ratio (FAR) for each zone is provided in Table A for 23.49.011.

Table A for 23.49.011
Base and Maximum Floor Area Ratios (FARs)

Zone Designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	20
Downtown Office Core 2 (DOC2)	5	14
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in DMC 65 4.5 in DMC 85 5 in DMC 125, DMC 160, DMC 240/290-400, and DMC 340/290-400 3 in DMC 85/65-150	4 in DMC 65 4.5 in DMC 85 7 in DMC 125, DMC 160, and DMC 240/290-400 10 in DMC 340/290-400 5 in DMC 85/65- 150
Downtown Mixed Residential/Residential (DMR/R)	1 in DMR/R 85/65 1 in DMR/R 125/65 1 in DMR/R 240/65	1 in DMR/R 85/65 2 in DMR/R 125/65 2 in DMR/R 240/65
Downtown Mixed Residential/Commercial (DMR/C)	1 in DMR/C 85/65 1 in DMR/C 125/65	4 in DMR/C 85/65 4 in DMR/C 125/65

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Table A for 23.49.011
Base and Maximum Floor Area Ratios (FARs)

Zone Designation	Base FAR	Maximum FAR
	2 in DMR/C 240/125 2.5 in DMR/C 65/65-85 2.5 in DMR/C 65/65-150	5 in DMR/C 240/125 4 in DMR/C 65/65-85 4 in DMR/C 65/65-150
Pioneer Square Mixed (PSM)	N.A.	N.A.
International District Mixed (IDM)	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150 6 in IDM 150/85-150
International District Residential (IDR)	1	2 if 50((%)) percent or more of the total gross floor area on the lot is in residential use
International District Residential/Commercial (IDR/C)	3, except hotels 6 for hotels**	3, except hotels 6 for hotels**
Downtown Harborfront 1 (DH1)	N.A.	N.A.
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR
Pike Market Mixed (PMM)	7	7

Footnotes: N.A. = Not Applicable.
* In the IDM 150/85-150 zone, hotel uses are subject to the base FAR of 3 FAR.
** Hotel use may be combined with up to 3 FAR of other chargeable floor area, up to a total of 6 FAR.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to this ((e))Chapter 23.49.

a. In DOC1, DOC2, and DMC zones that are located outside of South Downtown, if chargeable floor area above the base FAR is allowed on a lot for development that includes a new structure and the project is located within an adopted Local Infrastructure Project Area, the first increment of chargeable floor area above the base FAR, shown for each zone in Table B for 23.49.011, shall be gained by ((~~making a commitment satisfactory to the Director~~

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~~that the proposed development will earn a LEED Silver rating or meet a substantially equivalent standard approved by the Director as a Type I decision. In these zones outside of South Downtown, no chargeable floor area above the base FAR is allowed for a project that includes chargeable floor area in a new structure unless the applicant makes such a commitment. If such a commitment is made, Section 23.49.020 applies. This subsection 23.49.011.A.2.a shall expire on May 12, 2011~~))acquiring regional development credits pursuant to Section 23.58A.044.

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Table B for 23.49.011	
Zone	**First increment of Far Above the base FAR achieved ((~~through LEED Silver Rating~~))acquisition of regional development credits**
All DOC1 zones	1.0
All DOC2 zones	0.75
DMC 340/290-400	0.50
DMC 125((4)), DMC 16((~~5~~))0, DMC 240/290-400	0.25

b. In DOC1, DOC2, DH2, and DMC zones outside of South Downtown, additional chargeable floor area above the first increment of FAR that exceeds the base FAR may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or 23.49.013, or by the transfer of transferable development rights pursuant to Section 23.49.014, or both, except as otherwise expressly provided in this subsection 23.49.011.A.2. ((~~After the expiration~~))If the requirements of subsection 23.49.011.A.2.a do not apply, the first increment of floor area that exceeds the base FAR shall be zero.

c. ((~~In a DOC1 zone additional chargeable floor area over 17 FAR may be obtained only through the transfer of rural development credits, except as provided below in this subsection 23.49.011.A.2.c. No chargeable floor area shall be allowed under this subsection 23.49.011.A.2.c unless, at the time of the Master Use Permit application for the project proposing such floor area, an agreement is in effect between the City and King County, duly authorized by City ordinance, for the implementation of a Rural Development Credits Program. If no such agreement is in effect, the chargeable floor area above 17 FAR may be obtained according to subsection 23.49.011.A.2.f.~~

~~d.~~))In no event shall the use of bonuses, TDR, or ((~~rural~~))regional development credits, or any combination of them, be allowed to result in chargeable floor area in excess of the maximum as set forth in Table A for 23.49.011, except that a structure on a lot in a

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planned community development pursuant to Section 23.49.036 or a combined lot development pursuant to Section 23.49.041 may exceed the floor area ratio otherwise permitted on that lot, provided the chargeable floor area on all lots included in the planned community development or combined lot development as a whole does not exceed the combined total permitted chargeable floor area.

((e))d. Except as otherwise provided in this subsection 23.49.011.A.2.((e))d or subsections 23.49.011.A.2.((g))f or 23.49.011.A.2.((i))h, and except in South Downtown, not less than ((~~five~~))5 percent of all floor area above the base FAR to be gained on any lot, excluding any floor area gained under subsections 23.49.011.A.2.a, 23.49.011.A.2.((~~k~~))j, and 23.49.011.A.2.((~~l~~))k, shall be gained through the transfer of Landmark TDR, to the extent that Landmark TDR are available. Landmark TDR shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR for sale, at a price per square foot no greater than the total bonus contribution under Section 23.49.012 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in this ((~~s~~))Section 23.49.011 by purchases from private parties, by transfer from an eligible sending lot owned by the applicant, by purchase from the City, or by any combination of the foregoing. This subsection 23.49.011.A.2.((e))d does not apply to any lot in a DMR zone.

((~~f~~))e. Except as otherwise permitted under subsections 23.49.011.A.2.((~~h~~))g, 23.49.011.A.2.((i))h, or 23.49.011.A.2.((~~m~~))l, on any lot outside of South Downtown except a lot in a DMR zone, the total amount of chargeable floor area gained through bonuses under Section 23.49.012, together with any housing TDR and Landmark housing TDR used for the same project, shall equal 75 percent of the amount, if any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of

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((~~i~~))1) the base FAR, as determined under this ((s))Section 23.49.011 and Section 23.49.032 if applicable, plus

((~~ii~~))2) any chargeable floor area gained on the lot pursuant to subsections 23.49.011.A.2.a, ((~~23.49.011.A.2.e,~~))23.49.011.A.2.((~~h~~))g, 23.49.011.A.2.((~~i~~))h, 23.49.011.A.2.((~~k~~))j, and 23.49.011.A.2.((~~l~~))k. Except in South Downtown, at least half of the remaining 25 percent shall be gained by using TDR from a sending lot with a major performing arts facility, to the extent available, and the balance of the 25 percent shall be gained through bonuses under Section 23.49.013 or through TDR other than housing TDR, or both, consistent with this Chapter 23.49. TDR from a sending lot with a major performing arts facility shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering such TDR for sale, at a price per square foot not exceeding the prevailing market price for TDR other than housing TDR, as determined by the Director.

((g))f. In order to gain chargeable floor area on any lot in a DMR zone outside of South Downtown, an applicant may

((~~i~~))1) use any types of TDR eligible under this ((e))Chapter 23.49 in any proportions, or

((~~ii~~))2) use bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for particular types of bonus under Section 23.49.013, or

((~~iii~~))3) combine such TDR and bonuses in any proportions.

((~~h~~))g. On any lot in a DMC zone allowing a maximum FAR of ((~~seven~~))7, in addition to the provisions of subsection 23.49.011.A.2.((~~f~~))e, an applicant may gain chargeable floor area above the first increment of FAR above the base FAR through use of DMC housing TDR, or any combination of DMC housing TDR with floor area gained through other TDR and bonuses as prescribed in subsection 23.49.011.A.2.((~~f~~))e.

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((i))h. If the amount of bonus development sought in any permit application does not exceed 5,000 square feet of chargeable floor area, the Director may permit such floor area to be achieved solely through the bonus for housing and child care.

((j))i. No chargeable floor area above the base FAR shall be granted to any proposed development that would result in significant alteration to any designated feature of a Landmark structure, unless a certificate of approval for the alteration is granted by the Landmarks Preservation Board.

((k))j. On a lot entirely in a DOC1 zone, additional chargeable floor area equal to 1.0 FAR may be permitted above the increment achieved through a commitment as prescribed in subsection 23.49.011.A.2.a, or above the base FAR after expiration of that subsection 23.49.011.A.2.a, on a lot that includes one or more qualifying Landmarks, subject to the following conditions:

1) the structure is rehabilitated to the extent necessary so that all features and characteristics controlled or designated by ordinance pursuant to ((SMC))Chapter 25.12 or Ordinance 102229 are in good condition and consistent with the applicable ordinances and with any certificates of approval issued by the Landmarks Preservation Board, all as determined by the Director of Neighborhoods; and

2) a notice shall be recorded in the King County real estate records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof under the terms of this ((e))Chapter 23.49. For purposes of this Section 23.49.011, a "qualifying Landmark" is a structure that

(((i)))a) has a gross floor area above grade of at least 5,000 square feet;

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(((~~ii~~)))b) is separate from the principal structure or structures existing or to be developed on the lot, except that it may abut and connect with one such structure along one exterior wall;

(((~~iii~~)))c) is subject, in whole or in part, to a designating ordinance pursuant to ((~~SMC~~))Chapter 25.12, or was designated pursuant to Ordinance 102229; and

(((~~iv~~)))d) is on a lot on which no improvement, object, feature or characteristic has been altered or removed contrary to any provision of Chapter 25.12 or any designating ordinance. A qualifying Landmark for which a bonus is allowed under this subsection 23.49.011.A.2.j shall be considered a public benefit feature, but shall not be considered an amenity for purposes of Section 23.49.013. For so long as any of the chargeable floor area allowed under this subsection 23.49.011.A.2.((~~k~~))j remains on the lot, each qualifying Landmark for which such bonus was granted shall remain designated as a Landmark under Chapter 25.12 and the owner shall maintain the exterior and interior of each qualifying Landmark in good condition and repair and in a manner that preserves the features and characteristics that are subject to designation or controls by ordinance, and that maintains compliance with all applicable requirements of federal, state and local laws, ordinances, regulations, and restrictions.

((~~l~~))k. On a lot entirely in a DOC1 zone, as an incentive to maintain diversity in the scale of downtown development, additional floor area equal to 0.5 FAR may be granted above the increment achieved through a commitment as prescribed in subsection 23.49.011.A.2.a, or above the base FAR after expiration of that subsection 23.48.011.A.2.a, on a lot that includes one or more qualifying small structures, subject to the conditions in this subsection 23.49.011.A.2.((~~l~~))k.

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1) A "qualifying small structure" is one that satisfies all of the following standards:

a) the gross floor area of the structure above grade is a minimum of 5,000 square feet and does not exceed 50,000 square feet;

b) the height of the structure is 125 feet or less, not including rooftop features as specified in subsection 23.49.008.D;

c) the structure was not constructed or substantially structurally modified since July 13, 1982; and

d) the structure is not occupied by parking above the ground floor.

2) If the structure is removed from the lot or ceases to be a qualifying small structure, then any development on the portion of the lot previously occupied by the structure, defined by a rectangle enclosing the exterior walls of the structure as they exist at the time the bonus is granted and extended to the nearest street frontage, shall be limited to a maximum floor area of 50,000 square feet for all uses and a maximum height of 125 feet, excluding any rooftop features as specified in subsection 23.49.008.D.

3) A notice shall be recorded in the King County real estate records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof under the terms of this ((e))Chapter 23.49.

4) Bonus floor area under this subsection 23.49.011.A.2.((l))k may not be granted on the basis of a Landmark structure for which bonus floor area is allowed under subsection 23.49.011.A.2.((k))j, but may be allowed on the basis of a different structure or structures that are on the same lot as a Landmark structure for which such bonus floor area is allowed.

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((~~m~~))l. Chargeable floor area in excess of the base FAR in the PSM 85-120 zone may be gained only in accordance with Section 23.49.180.

((~~n~~))m. In IDM, DMR and DMC zones within South Downtown, chargeable floor area in excess of the base FAR may be obtained only by qualifying for floor area bonuses pursuant to Sections 23.58A.024 and 23.49.013, or by the transfer of transferable development rights pursuant to Section 23.49.014, or both, and except as permitted in subsection 23.49.011.A.2.((~~i~~))h, only if the conditions of this subsection 23.49.011.A.2.((~~n~~))m also are satisfied:

1) For a new structure, the applicant makes a commitment, approved by the Director as a Type I decision, that the proposed development will earn a LEED Silver rating or meet a substantially equivalent standard. If such a commitment is made, Section 23.49.020 applies.

2) Seventy-five percent of the chargeable floor area in excess of base FAR shall be gained through bonuses under Section 23.58A.024 or through use of Housing TDR from within South Downtown.

3) Twenty-five percent of the chargeable floor area in excess of base FAR shall be gained by one or any combination of transferable development rights or public open space amenities, subject to the conditions and limits of this Section 23.49.011, Section 23.49.013, and Section 23.49.014:

a) TDR that may be used on a lot in South Downtown are limited to South Downtown Historic TDR, open space TDR from within South Downtown, or any combination of these consistent with this ((~~e~~))Chapter 23.49.

b) Amenities eligible for a bonus on a lot in South Downtown are limited to public open space amenities pursuant to Section 23.49.013.

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3. The Master Use Permit application to establish any bonus development under this subsection 23.49.011.A.3 shall include a calculation of the amount of bonus development sought and shall identify the manner in which the conditions to such bonus development shall be satisfied. The Director shall, at the time of issuance of any Master Use Permit decision approving any such bonus development, issue a Type I decision as to the amount of bonus development to be allowed and the conditions to such bonus development, which decision may include alternative means to achieve bonus development, at the applicant's option, if each alternative would be consistent with this Section 23.49.011 and any other conditions of the permit, including Design Review if applicable.

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Section 38. Section 23.49.023 of the Seattle Municipal Code, was enacted by Ordinance 123589, is amended as follows:

23.49.023((.)) Extra residential floor area and hotel floor area in South Downtown; transferable development potential (TDP); limits on TDP sending sites

A. Zones where extra residential floor area may be allowed. In South Downtown, extra residential floor area, as defined in subsection 23.58A.004.B, is permitted in DMC, DMR, IDM, and IDR zones and in PSM zones except the PSM 100 and PSM 85-120 zones according to this Section 23.49.023 and Chapter 23.58A.

B. Means to achieve extra residential floor area. If the maximum height limit for residential use is 85 feet or lower, the applicant shall use housing bonus residential floor area, as defined in subsection 23.58A.004.B, to achieve all extra residential floor area on the lot. If the maximum height limit for residential use is greater than 85 feet, the applicant shall use housing bonus residential floor area, as defined in subsection 23.58A.004.B, to achieve 60 percent of the total extra residential floor area on the lot. To the extent permitted under the provisions of the

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zone, the applicant shall achieve 40 percent of extra residential floor area through one or more of the following programs:

1. bonus residential floor area for amenities pursuant to Section 23.58A.((~~016~~))040; and/or

2. transfer of transferable residential development potential pursuant to Section 23.58A.((~~018~~))042; and/or

3. bonus residential floor area for contributing structures pursuant to subsection 23.49.023.C.

C. Bonus floor area for contributing structures in IDM and IDR zones. On a lot that is located within an IDM or IDR zone and that includes one or more contributing structures under Section 23.66.032, an amount of floor area up to the equivalent gross floor area within the contributing structure or structures, including floor area below grade that is rehabilitated as part of the structure, but not to exceed 40 percent of the total extra residential floor area to be gained on the lot, is allowed as bonus floor area if all the following conditions are met:

1. No South Downtown Historic TDR or TDP has been previously transferred from the lot of the contributing structure.

2. The structure has been determined to be contributing within no more than three years prior to using the bonus residential floor area under this subsection 23.49.023.C.

3. As a condition to ((~~the~~)) using the bonus residential floor area under this subsection 23.49.023.C, except from a City-owned sending lot, the fee owner of the lot shall execute and record an agreement running with the land, in form and content acceptable to, and accepted in writing by, the Director of Neighborhoods, providing for the rehabilitation and maintenance of the historically significant structure or structures on the lot. The Director may require evidence that each holder of a lien has effectively subordinated the lien to the terms of

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the agreement, and that any holders of interests in the property have agreed to its terms. To the extent that the contributing structure requires restoration or rehabilitation for the long-term preservation of the structure or its historically or architecturally significant features, the Director of Neighborhoods may require, as a condition to acceptance of the necessary agreement, that the owner of the lot apply for and obtain a certificate of approval from the Director of Neighborhoods after review by the International Special Review District Board, as applicable, for the necessary work, or post security satisfactory to the Director of Neighborhoods for the completion of the restoration or rehabilitation, or both.

D. Transferable Development Potential (TDP)((.))

1. Open space TDP may be transferred from a lot in any zone in South Downtown, subject to Section 23.58A.((~~018~~))040, but only to a lot in South Downtown that is eligible to use TDP.

2. South Downtown Historic TDP may be transferred from a lot in any zone within the Pioneer Square Preservation District or the International Special Review District, subject to Section 23.58A.((~~018~~))040, but only to a lot in South Downtown that is eligible to use TDP.

E. Limits on TDP ((~~S~~))sending ((~~S~~))sites((.))

1. Development on any lot from which TDP is transferred is limited pursuant to Section 23.58A.((~~018~~))040, any other provision of this Title 23 notwithstanding.

2. Lot coverage on any lot from which open space TDP is transferred is limited pursuant to ((~~subs~~))Section 23.58A.((~~018.E.3~~))040.

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Section 39. Section 23.50.026 of the Seattle Municipal Code, last amended by Ordinance 124105, is amended as follows:

23.50.026 Structure height in IC zones

A. Except as may be otherwise provided in this Title 23, the maximum structure height in IC zones for all uses is as designated on the Official Land Use Map, Chapter 23.32. Maximum structure height may be increased or reduced as provided in this Section 23.50.026 or Section 23.50.020. An overlay district may increase or reduce the maximum structure height.

B. Water-dependent uses within the Shoreline District are subject to only the height limits of the applicable shoreline environment, Chapter 23.60A.

C. Within the area shown ((~~on~~))in Exhibit A for 23.50.026, areas zoned IC 45 are subject to the following height regulations (See Exhibit A for 23.50.026):

1. Except as provided in subsection 23.50.026.C.2.c, structures with no story at least 15 feet in height are limited to a maximum height of 40 feet.

2. A 65 foot structure height is permitted as a special exception provided that:

a. Provision is made for view corridor(s) looking from Elliott Avenue toward Puget Sound;

1) The location of the view corridor(s) shall be determined by the Director upon consideration of such factors as existing view corridors, the location of street rights-of-way, and the configuration of the lot,

2) The view corridor(s) shall have a width not less than 35 percent of the width of the lot,

3) The minimum width of each required view corridor shall be 30 feet measured at Elliott Avenue West,

4) Measurement, modification or waiver of the view corridor(s) shall be according to Chapter 23.60A Shoreline District measurement regulations. Where a

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waiver under these provisions is granted by the Director, the 65 foot structure height shall still be permitted,

5) Parking for motor vehicles shall not be located in the view corridor unless the area of the lot where the parking would be located is 4 or more feet below the level of Elliott Avenue West;

b. Development shall be located so as to maximize opportunities for views of Puget Sound for residents and the general public; and

c. The structure contains at least two stories at least 15 feet in height; with the exception that no story in an accessory parking structure is required to be at least 15 feet in height.

((~~D. Within the South Lake Union Urban Center:~~

~~1. The maximum structure height in IC zones with 65-foot and 85-foot height limits may be increased to 85 feet and 105 feet, respectively, provided that:~~

~~a. A minimum of two stories in the structure have a floor-to-floor height of at least 14 feet; and~~

~~b. The additional height is used to accommodate mechanical equipment; and~~

~~c. The additional height permitted does not allow more than six stories in IC zones with a 65-foot height limit, or more than seven stories in IC zones with an 85-foot height limit.~~

~~2. The maximum structure height of structures qualifying for additional floor area under Section 23.50.051 is 160 feet.~~))

~~E~~))D. Within an IC 85-160 zone, the first figure shown in the zone designation is the base height limit, which is the height limit for all uses, except for a structure that complies with the conditions to extra floor area specified in ((~~subs~~))Sections 23.50.028 and 23.50.033 on a lot

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that includes extra floor area. Extra floor area means non-residential chargeable floor area allowed in addition to the base FAR under Chapter 23.58A. The second figure is the applicable height limit for all uses, on a lot that includes extra floor area, for a structure that complies with the conditions to extra floor area specified in ((~~subs~~))Sections 23.50.028 and 23.50.033.

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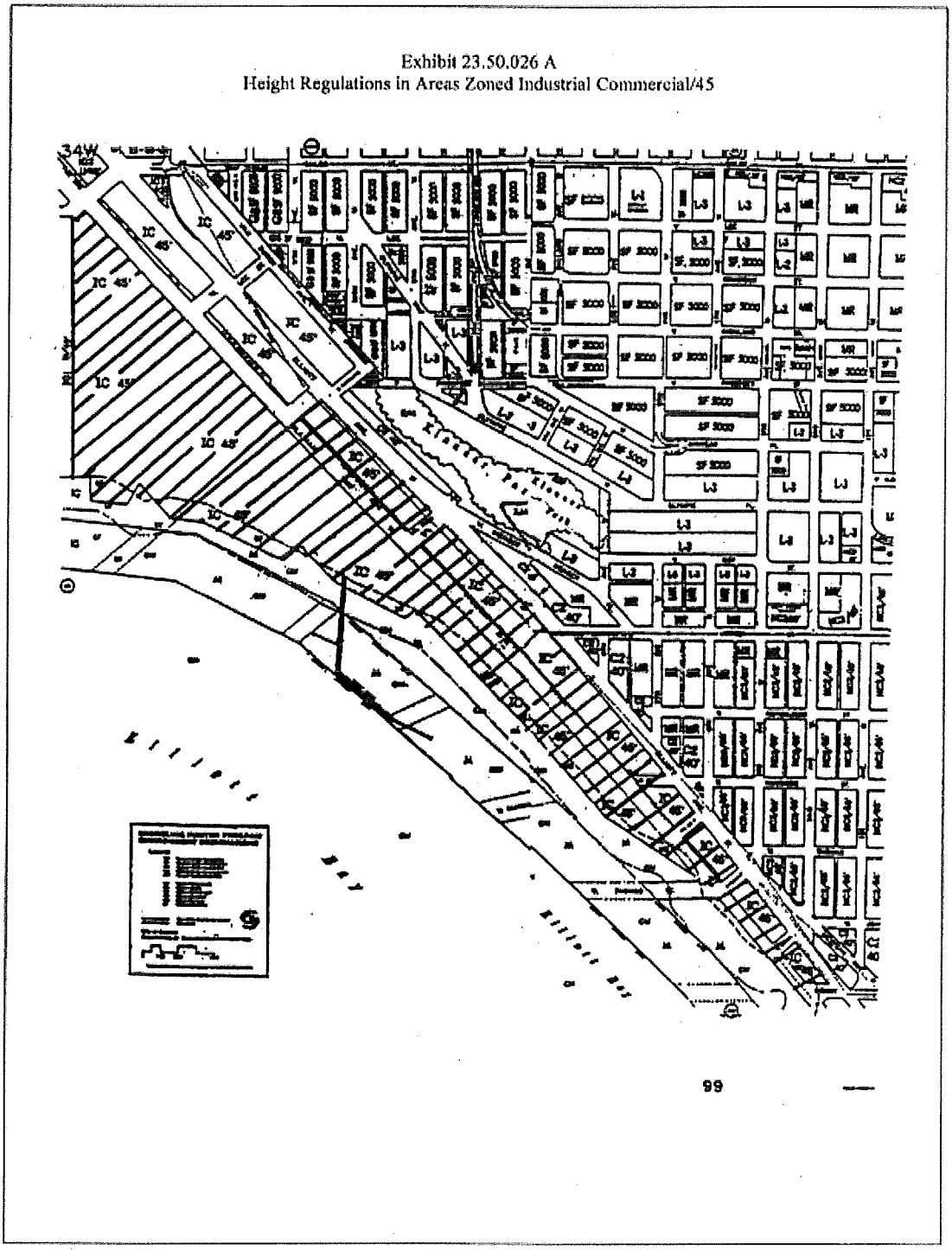
Exhibit A for 23.50.026

Height Regulation in Areas Zoned Industrial Commercial/45



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Section 40. Section 23.50.027 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

23.50.027 Maximum ((~~S~~))size of ((~~N~~))nonindustrial ((~~U~~))use

A. Applicability((~~.~~))

1. Except as otherwise provided in this Section 23.50.027, the maximum size of use limits on gross floor area specified in Table A for 23.50.027 apply to principal uses on a lot, and apply separately to the categories of uses. The total gross floor area occupied by uses limited under Table A for 23.50.027 shall not exceed 2.5 times the area of the lot in an IG1, IG2, IB, or IC zone((~~, or three times the lot area in IC zones with 65-foot or 85-foot height limits in the South Lake Union Urban Center~~)).

2. The combined square footage of any one business establishment located on more than one lot is subject to the size limitations on non-industrial uses specified on Table A for 23.50.027.

3. The maximum size of use limits in Table A for 23.50.027 do not apply to the area identified in Exhibit A for 23.50.027((~~A~~)). In that area no single non-office use listed in Table A for 23.50.027 may exceed 50,000 square feet in size.

((~~4. There is no limit under this Section 23.50.027 on the size of uses in projects that qualify for additional floor area under Section 23.50.051.~~))

~~Table A for 23.50.027~~

~~Size of Use Limits in Industrial Zones~~

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Table A for 23.50.027
Size of use limits in industrial zones

Uses Subject to Size Limits	IG1	IG2	IB	IC Outside the Duwamish MIC	IC Within the Duwamish MIC
Animal Shelters and Kennels*	10,000 sq. ft.	10,000 sq. ft.	75,000 sq. ft.	75,000 sq. ft.	N.S.L., except 75,000 sq. ft. in IC 85-160 zone
Drinking establishments**	3,000 sq. ft.	3,000 sq. ft.	N.S.L.	N.S.L.	N.S.L.
Entertainment*	10,000 sq. ft.	10,000 sq. ft.	75,000 sq. ft.	75,000 sq. ft.	N.S.L., except 75,000 sq. ft. in IC 85-160 zone
Lodging Uses*	10,000 sq. ft.	10,000 sq. ft.	75,000 sq. ft.	75,000 sq. ft.	N.S.L., except 75,000 sq. ft. in IC 85-160 zone
Medical Services*	10,000 sq. ft.	10,000 sq. ft.	75,000 sq. ft.	75,000 sq. ft.	N.S.L., except 75,000 sq. ft. in IC 85-160 zone
Office	10,000 sq. ft.	25,000 sq. ft.	100,000 sq. ft.	N.S.L.	N.S.L.
Restaurants	5,000 sq. ft.	5,000 sq. ft.	N.S.L.	N.S.L.	N.S.L.
Retail Sales, Major Durables	10,000 sq. ft.	25,000 sq. ft.	75,000 sq. ft.	75,000 sq. ft.	N.S.L., except 30,000 sq. ft. in IC 85-160 zone
Sales and Services, Automotive	10,000 sq. ft.	25,000 sq. ft.	75,000 sq. ft.	75,000 sq. ft.	N.S.L.
Sales and	10,000 sq.	25,000 sq. ft.	75,000 sq.	75,000 sq. ft.	N.S.L.,

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Table A for 23.50.027
Size of use limits in industrial zones

Uses Subject to Size Limits	IG1	IG2	IB	IC Outside the Duwamish MIC	IC Within the Duwamish MIC
Services, General	ft.		ft.		except 30,000 sq. ft. in IC 85-160 zone

Key for Table A for 23.50.027
N.S.L. = No Size Limit
* Where permitted under Table A for 23.50.012.
** The size limit for brew pubs applies to that portion of the pub that is not used for brewing purposes.

* * *

Section 41. Section 23.50.028 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

23.50.028 Floor area limits

The applicable floor area ratio (FAR), as provided below, determines the permitted chargeable floor area on a lot, except as expressly otherwise provided.

A. General Industrial 1 and General Industrial 2, Floor Area Ratio. The maximum FAR in IG1 and IG2 zones is 2.5.

B. Industrial Buffer, Floor Area Ratio. The maximum FAR in IB zones is 2.5.

C. Industrial Commercial, Floor Area Ratio. The base and maximum FARs in IC zones are set forth on Table A for 23.50.028.

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Table A for 23.50.028 Floor Area Ratios		
Zone Designation	**Base FAR**	**Maximum FAR**
All IC zones except as otherwise stated in this table	2.5	2.5
((~~IC 65 and IC 85 zones within the South Lake Union Urban Center, except in the area designated in Exhibit 23.50.051A~~	~~3~~	~~3~~
~~IC 65 and IC 85 zones within the portion of the South Lake Union Urban Center designated in Exhibit 23.50.051A~~))	~~3~~	~~7~~[1]
IC 65 and IC 85 zones within the Stadium Transition Area Overlay District	3	3
IC 85-160 zone	2.5 FAR for all permitted uses, except that the combined chargeable floor area of the following uses is limited to 1 FAR or 50,000 square feet, whichever is greater: entertainment uses; lodging uses; medical services; office; restaurant; major durables retail sales; automotive sales and services; religious facilities; and general sales and services.	3.5[1] except that if the total chargeable floor area of uses identified in the base FAR column is greater than 3.5 FAR, that amount of floor area, not to exceed 50,000 square feet, is the maximum FAR.
Footnotes to Table A for 23.50.028 [1] Additional floor area above the base FAR allowed according to subsection 23.50.028.D		

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D. Extra floor area((.))

((~~1. Within a portion of the South Lake Union Urban Center designated in Exhibit 23.50.051A, extra floor area above 3 FAR is allowed pursuant to Section 23.50.051.~~))

((~~2~~))1. In an IC 85-160 zone, extra nonresidential floor area as defined in Section 23.58A.004 may be added above the base FAR up to the maximum FAR allowed by Table A for 23.50.028 for development that satisfies all applicable conditions of Section 23.50.028, Section 23.50.033 and Chapter 23.58A.

a. Twenty-five percent of any extra nonresidential floor area shall be gained through the transfer of transferable development rights pursuant to ((~~subs~~))Section 23.50.053.

b. Seventy-five percent of any extra nonresidential floor area shall be gained as bonus nonresidential floor area pursuant to Section 23.58A.024, or through the transfer of housing TDR under Section 23.50.053, or both.

((~~3~~))2. In an IC 85-160 zone, in addition to satisfying the conditions of subsection 23.50.028.D.((~~2~~))1, for development to exceed the base FAR on a lot that has an area of 50,000 square feet or more, the Director shall make an individual determination of project impacts on the need for pedestrian facilities and complete a voluntary agreement between the property owner and the City to mitigate identified impacts, if any. The Director may consider the following as impact mitigation:

a. Pedestrian walkways on a lot, including through-block connections on through lots, where appropriate, to facilitate pedestrian circulation by connecting structures to each other and abutting streets;

b. Sidewalk improvements, including sidewalk widening, to accommodate increased pedestrian volumes and streetscape improvements that will enhance pedestrian comfort and safety; and

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c. Measures that will contribute to the improvement of pedestrian facilities, such as the following improvements applicable to the vicinity north of South Royal Brougham Way and south of South Charles Street east of 4th Avenue South:

1) Improvements to 6th Avenue South as the primary pedestrian and bicycle corridor connecting new development to the surrounding area and transit facilities;

2) Improvements to facilitate pedestrian wayfinding to and from the Stadium Light Rail Station;

3) Improvements to enhance the pedestrian environment, such as providing overhead weather protection, landscaping, and other streetscape improvements; and

4) Improved pedestrian and bicycle crossing of Airport Way South at 6th Avenue South.

((4))3. In an IC 85-160 zone, in addition to satisfying the conditions of subsections 23.50.028.D.((~~2~~))1((~~,~~)) and 23.50.028.D.((~~3~~))2, if applicable, for development to exceed the base FAR and include 85,000 or more square feet of gross office floor area, the Director shall make an individual determination of project impacts on the need for open space resources. The Director may limit floor area or allow floor area subject to conditions, which may include a voluntary agreement between the property owner and the City to mitigate identified impacts, if any. The Director shall take into account the findings of subsection 23.49.016.A in assessing the demand for open space generated by a typical office project in an area permitting high employment densities.

a. The Director may consider the following as mitigation for open space impacts:

1) Open space provided on-site or off-site, consistent with the provisions in subsection 23.49.016.C, or provided through payment in lieu, consistent with subsection 23.49.016.D, except that in all cases the open space shall be located on a lot in an IC

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85-160 zone that is accessible to the project occupants, and

2) Additional pedestrian space through on-site improvements or streetscape improvements provided as mitigation for project impacts on pedestrian facilities pursuant to subsection 23.50.028.D.3.

b. The Director may determine that open space meeting standards differing from those contained or referred to in subsection 23.49.016.C will mitigate project impacts, based on consideration of relevant factors, including the following:

1) the density or other characteristics of the workers anticipated to occupy the project compared to the presumed office employment population providing the basis for the open space standards applicable under Section 23.49.016; and/or

2) characteristics or features of the project that mitigate the anticipated open space impacts of workers or others using or occupying the project.

E. Exemptions from FAR ((~~C~~))calculations((~~.~~))

1. The following areas are exempt from FAR calculations in all industrial zones:

a. All gross floor area below grade;

b. All gross floor area used for accessory parking, except as provided in subsection 23.50.028.F;

c. All gross floor area located on the rooftop of a structure and used for any of the following: mechanical equipment, stair and elevator penthouses, and communication equipment and antennas; and

d. All gross floor area used for covered rooftop recreational space of a building existing as of December 31, 1998, in an IG1 or IG2 zone, if complying with subsection 23.50.012.D.

((~~2. In addition to areas exempt from FAR calculations in subsection 23.50.028.E.1, within the South Lake Union Urban Center, the following areas are also exempt~~

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~~from FAR calculations:~~

~~a. Gross floor area occupied by mechanical equipment, up to a maximum of 15 percent of the floor area on the lot. The maximum is calculated on the gross floor area of the structure after all other exempt space permitted under this subsection 23.50.028.E is deducted.~~

~~b. The following uses located at street level:~~

~~1) General sales and service uses;~~

~~2) Eating and drinking establishments;~~

~~3) Entertainment uses;~~

~~4) Public libraries; and~~

~~5) Religious facilities.~~

~~3~~))2. In addition to areas exempt from FAR calculations in subsection 23.50.028.E.1, within an IC 85-160 zone, the following exemptions from FAR calculations apply:

a. Three and one-half percent of the total chargeable gross floor area in a structure, as an allowance for mechanical equipment. Calculation of the allowance is based on the remaining gross floor area after all other exempt space permitted in subsection 23.50.028.E is deducted.

b. For structures built prior to ((~~the effective date of this ordinance (introduced as Council Bill 117140)~~))June 2, 2011, the area covered by new or replacement mechanical equipment placed on the roof.

c. All gross floor area for solar collectors and wind-driven power generators.

d. The gross floor area of the following uses located at street level, provided that the conditions of Section 23.50.039 are satisfied:

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1) General sales and service uses;

2) Eating and drinking establishments;

3) Entertainment use;

4) Public libraries;

5) Childcare facilities;

6) Religious facilities; and

7) Automotive sales and service.

((4))3. In addition to areas exempt from FAR calculations in subsection 23.50.028.E.1, within IG1 and IG2 zones, the gross floor area of rooftop recreational space accessory to office use meeting the standards of subsection 23.50.012.D is exempt from FAR calculations.

F. Within ((~~the South Lake Union Urban Center and~~))IC 85-160 zones, gross floor area used for accessory parking within stories that are completely above finished grade is not exempt, except that in an IC 85-160 zone, if the Director finds, as a Type I decision, that locating all parking below grade is infeasible due to physical site conditions such as a high water table, contaminated soils conditions, or proximity to a tunnel, and that the applicant has placed or will place the maximum feasible amount of parking below or partially below grade, the Director may exempt all or a portion of accessory parking that is above finished grade. If any exemption is allowed under this subsection 23.50.028.F, all parking provided above grade shall be subject to the screening requirements of subsection 23.50.038.B.6.

((~~G. Election for Certain Projects. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit for a project in the South Lake Union Urban Center to which the Land Use Code in effect prior to January 20, 2008 applies may, by written election, use the exemptions in subsection 23.50.028.E.2.b, provided that subsection 23.50.028.F also applies.~~))

((~~H~~))G. Mechanical ((~~E~~))equipment. Area covered by mechanical equipment located on

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the roof of a structure, whether enclosed or not, is included as part of the calculation of floor area, unless expressly exempted by an applicable provision of this Section 23.50.028.

Section 42. Section 23.50.051 of the Seattle Municipal Code, last amended by Ordinance 123589, is hereby repealed.

((~~**23.50.051 Additional floor area in certain IC-zoned areas in the South Lake Union Urban Center**~~

~~A. Applicability; General Rules. This Section 23.50.051 applies only to IC zones in the area shown on Exhibit 23.50.051 A. In IC zones in that area, floor area in addition to the base FAR up to the applicable maximum FAR shown in Table A for 23.50.028 is permitted for projects that satisfy all the conditions in this Section 23.50.051. For purposes of applying any section of Chapter 23.48 referred to in this Section 23.50.051, Class 2 Pedestrian Streets are as designated on Exhibit 23.50.051A. As a condition to any floor area above the base FAR, a project must conform to all the provisions of subsections 23.50.051.C through 23.50.051.M of this section, inclusive. As a further condition, any floor area above 4.5 FAR is allowed only to the extent gained in accordance with the bonus and TDR provisions of subsection 23.50.051.N.~~

~~B. Maximum FAR. The maximum chargeable floor area permitted on a lot pursuant to this Section 23.50.051 is 7 FAR.~~

~~C. Alteration of Landmark. No floor area above the base FAR shall be granted to any proposed development that would result in a significant alteration to any designated feature of a Landmark structure, unless a Certificate of Approval for the alteration is granted by the Landmarks Preservation Board.~~

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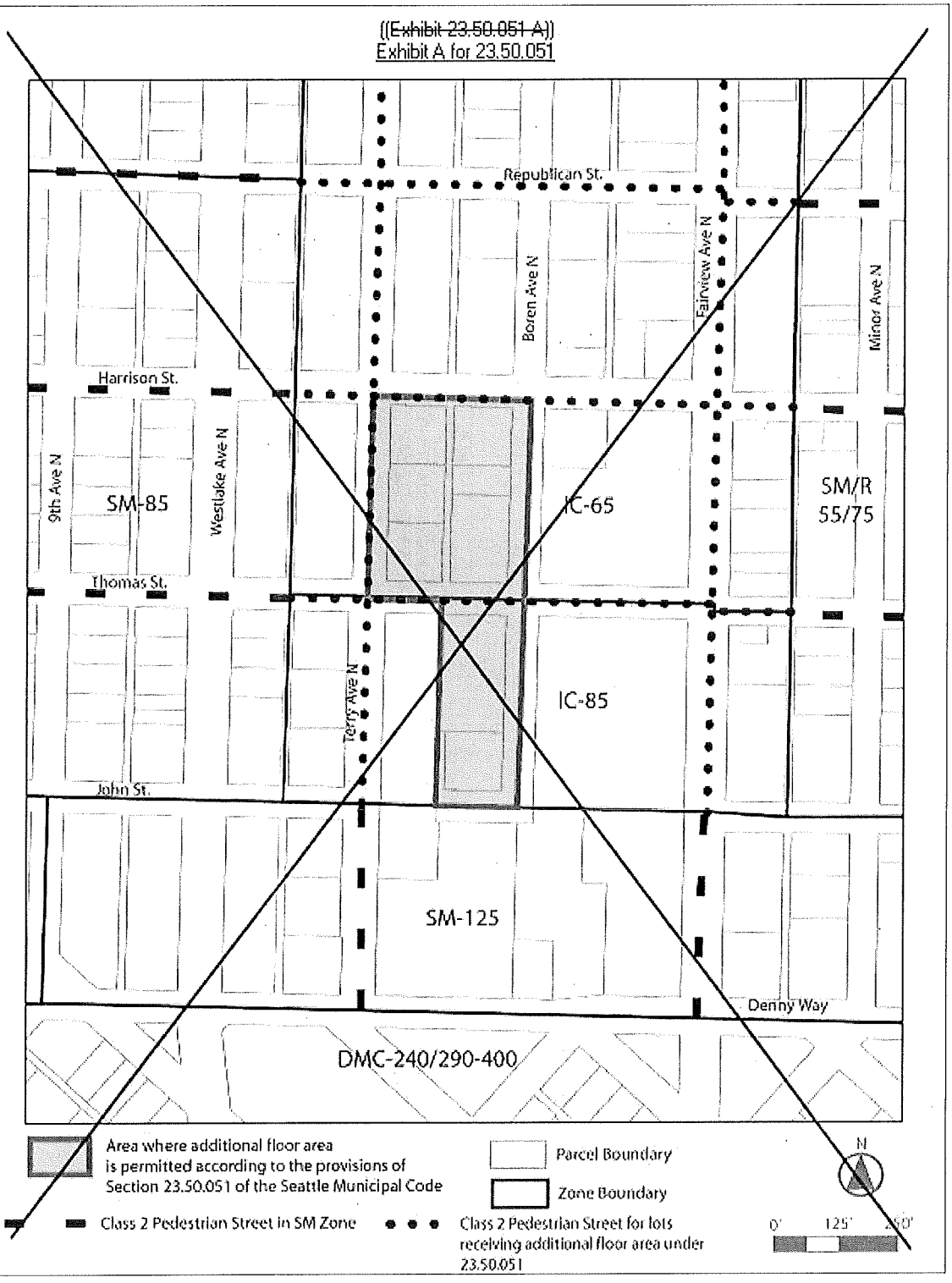
((~~Exhibit 23.50.051 A~~))
Exhibit A for 23.50.051



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~~D. LEED requirement. The applicant will strive to achieve a LEED Gold rating or better and make a commitment acceptable to the Director that the proposed development will earn at least a LEED Silver rating or meet a substantially equivalent standard, and shall demonstrate compliance with that commitment, all in accordance with the provisions of Section 23.49.020.~~

~~E. Upper Level Setback. An upper level setback consistent with subsections B and C of Section 23.48.012 is provided along Thomas Street and Harrison Street for any portion of the structure above forty-five (45) feet in height.~~

~~F. Facades. Each structure satisfies the general facade requirements of Section 23.48.014.~~

~~G. Transparency. Each structure satisfies the transparency and blank facade requirements of Section 23.48.018.~~

~~H. Solid waste and recycling. Each structure satisfies the solid waste and recyclable materials storage space requirements of Section 23.54.040.~~

~~I. Parking and access. Each structure satisfies the parking and loading access requirements of Section 23.48.034. Parking for each structure is subject to the following limitations and requirements:~~

~~(1) Parking is not permitted in stories that are completely above street level unless the parking is separated from the street by other uses:~~

~~(2) Due to physical site conditions such as topographic or geologic conditions, parking is permitted in stories that are partially below street level and partially above street level without being separated from the street by other uses, if:~~

~~a. the street front portion of the parking (excluding garage and loading doors and permitted access to parking) that is at or above street level is screened from view at the street level; and~~

~~b. the street facade is enhanced by architectural detailing, artwork,~~

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~~landscaping, or similar visual interest features.~~

~~J. Screening and Landscaping. Each structure satisfies the NC3 zone screening and landscaping requirements of Section 23.47A.016.~~

~~K. Transportation Management Program. The Master Use Permit application shall include a Transportation Management Program (TMP) consistent with requirements for TMPs in Director's Rule 14-2002. The TMP shall be approved by the Director only if, after consulting with Seattle Department of Transportation, the Director determines that no more than forty (40) percent of trips to and from the project will be made using single-occupant vehicles (SOV).~~

~~1. For purposes of measuring attainment of single-occupant vehicle (SOV) goals contained in the TMP, the number of SOV trips shall be calculated for the p.m. hour in which an applicant expects the largest number of vehicle trips to be made by employees at the site (the p.m. peak hour of the generator).~~

~~2. Compliance with this section does not affect the responsibility of any employer to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.~~

~~L. Energy Management Plan. The Master Use Permit application shall include an energy management plan, approved by the Superintendent of Seattle City Light, containing specific energy conservation or alternative energy generation methods or on-site electrical systems that together can ensure that the existing electrical system can accommodate the projected loads from the project. The Director, after consulting with the Superintendent of Seattle City Light, may condition the approval of the Master Use Permit on the implementation of the energy management plan.~~

~~M. Parking Quantity. For development permitted according to Sec. 23.50.051, the Director shall set a maximum number of parking spaces based on the expected number of employees in the project and the TMP goals for single-occupant vehicle use, with an allowance for additional short-term parking spaces to serve retail uses and visitors.~~

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~~N. Bonus floor area and TDR. A minimum of 75 percent of floor area above 4.5 FAR may be gained only through bonuses under Section 23.50.052. The remaining 25 percent may be gained either through TDR consistent with Section 23.50.053 or bonuses under Section 23.50.052, provided that the condition in subsection 23.50.051.N is satisfied if applicable. The Master Use Permit application to establish any floor area above 4.5 FAR under this section shall include a calculation of the amount of floor area and shall identify the manner in which the conditions to added floor area will be satisfied.~~

~~O. Landmark TDR. If Landmark TDR is available, not less than 5 percent of floor area on a lot above 4.5 FAR shall be gained through the transfer of Landmark TDR. Landmark TDR shall be considered "available" if, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR eligible for use on the lot for sale at a price per square foot no greater than the total bonus contribution under Section 23.50.052 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the condition in this section by purchases of Landmark TDR from private parties, by transfer of Landmark TDR from an eligible sending lot owned by the applicant, by purchase of Landmark TDR from the City, or by any combination of the foregoing.~~))

Section 43. Section 23.50.052 of the Seattle Municipal Code, last amended by Ordinance 122611, is hereby repealed.

((~~**23.50.052 Bonus floor area for housing and child care.**~~

~~A. General Provisions~~

~~1. This Section applies only to projects seeking floor area above four and a half (4.5) FAR pursuant to Section 23.50.051. The purpose of this section is to encourage development in addition to that authorized by basic zoning regulations, provided that portions of certain adverse impacts from the additional development are mitigated. Two (2) impacts from such development are an increased need for housing in the South Lake Union Urban Center to~~

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~~house the families of workers having lower-paid jobs, and an increased need for child care for workers in the South Lake Union Urban Center.~~

~~2. The mitigation may be provided by building the requisite housing or child care facilities (the "performance option"), by making a contribution to be used by the City to build or provide the housing and child care facilities (the "payment option"), or by a combination of the performance and payment options.~~

~~3. For the purposes of this section, chargeable floor area that is earned under the provisions of this section is called "bonus floor area."~~

~~B. Housing and Child Care Bonus. For each square foot of bonus floor area, the applicant shall provide or make payments for both housing and child care in amounts determined as follows:~~

~~1. Housing.~~

~~a. For each square foot of bonus floor area, either 0.15575807 square feet of housing affordable to and serving households with incomes up to 80% of median King County household income based on household size (referred to as the "income limit" in this section), or an alternative voluntary cash contribution of $18.75 for such housing. The Housing Director may adjust the cash contribution alternative, no more frequently than annually, approximately in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982 - 84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that such Director may deem appropriate. The base year for the first such adjustment shall be 2007. Any such adjustment to the cash contribution amounts may be implemented through a rule-making process.~~

~~b. For purposes of this subsection, a housing unit serves households with incomes up to 80% of median King County household income only if all of the following are~~

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~~satisfied for a period of fifty (50) years beginning upon the issuance of a final certificate of occupancy for the housing unit by the Department of Planning and Development:~~

~~(1) For rental units:~~

~~i. The housing unit is used as rental housing solely for households with incomes, at the time of each household's initial occupancy, not exceeding the income limit; and~~

~~ii. The monthly rent charged for the housing unit, together with a reasonable allowance for any basic utilities that are not included in the rent, does not exceed one-twelfth (1/12) of thirty (30) percent of the income limit for the estimated average size of household corresponding to the size of unit, as determined by the Housing Director;~~

~~iii. There are no charges for occupancy other than rent; and~~

~~iv. The housing unit and the structure in which it is located are maintained in decent and habitable condition, including adequate basic appliances, for such fifty (50) year period.~~

~~(2) For homeownership units:~~

~~i. The housing unit is used as homeownership housing solely for households with incomes at the time of each household's initial occupancy, not exceeding the income limit;~~

~~ii. The sales price is restricted so that estimated monthly housing costs, according to a method prescribed or approved by the Housing Director, including mortgage payment, taxes, insurance, and condominium dues, do not exceed 40% of household monthly income at the income limit for the estimated average size of household corresponding to the size of unit as determined by the Housing Director; and~~

~~iii. The housing unit is subject to recorded instruments satisfactory to the Housing Director providing for sales prices on any resale consistent with~~

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~~affordability on the same basis, for such fifty (50) year period.~~

~~e. If housing provided under the performance option is not yet constructed, or is not ready for occupancy, at the time when a cash contribution would be due pursuant to subsection C of this Section if the applicant had elected the cash option, the applicant may commit to complete such housing on terms acceptable to the Housing Director, which terms shall require that within three (3) years of the issuance of the first building permit for the project using the bonus floor area, the applicant shall obtain a final certificate of occupancy for such housing. Any applicant seeking to qualify for bonus floor area based on such housing shall provide to the City, prior to the date when a contribution would be due for the cash option under subsection C of this section, an irrevocable bank letter of credit or other sufficient security approved by the Housing Director, and a related voluntary agreement, so that at the end of the three (3) year period, if the housing does not qualify or is not provided in a sufficient amount to satisfy the terms of this section, the City shall receive (i) a cash contribution for housing in the amount determined pursuant to this section after credit for any qualifying housing then provided, plus (ii) an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from time to time by Bank of America, or its successor, plus three (3) percent per annum, from the date of issuance of the first building permit for the project using the bonus. If and when the City becomes entitled to realize on any such security, the Housing Director shall take appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in the same manner as cash contributions for housing made under this section. In the case of any project proposing to use bonus floor area for which no building permit is required, references to the building permit in this subsection shall mean the master use permit allowing establishment or expansion of the use for which bonus floor area is sought.~~

~~d. The Housing Director shall review the design and proposed management plan for any housing proposed under the performance option to determine whether~~

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~~it will comply with the terms of this section.~~

~~e. The Housing Director is authorized to accept a voluntary agreement for the provision of housing and related agreements and instruments consistent with this section.~~

~~f. It shall be a continuing permit condition, whether or not expressly stated, for each project obtaining bonus floor area based on the provision of housing under this subsection, that the housing units shall continue to satisfy the requirements of this subsection throughout the required fifty (50) year period and that such compliance shall be documented annually to the satisfaction of the Housing Director, and the owner of any project using such bonus floor area shall be in violation of this title if any such housing unit does not satisfy such requirements, or if satisfactory documentation is not provided to the Housing Director, at any time during such period. The Housing Director may provide by rule for circumstances in which housing units may be replaced if lost due to casualty or other causes, and for terms and conditions upon which a cash contribution may be made in lieu of continuing to provide housing units under the terms of this subsection.~~

~~g. Housing units provided to qualify for a bonus should include a range of unit sizes, including units suitable for families with children. The Housing Director is authorized to prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms, in housing provided to qualify for a bonus. The Housing Director shall take into account, in any such rule, estimated distributions of household sizes among households with incomes up to 80% of median King County household income.~~

~~h. Housing units provided to qualify for a bonus shall be located within the South Lake Union Urban Center, except that if the Director, after consultation with the Housing Director, finds that it would be impracticable to provide the housing in the South Lake Union Urban Center within the time specified in this Section, the Director may allow the housing to be provided at one or more other locations within the City from which workers can easily~~

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~~commute by public transit to and from the lot using the bonus floor area.~~

~~i. Housing units provided to qualify for a bonus shall be newly constructed, converted from nonresidential use, or renovated in a residential building that was vacant as of December 1, 2007.~~

~~j. For purposes of this section, "median King County household income" for any household size means the estimated median income among households of that size in King County as most recently published or reported by a source considered reliable by the Housing Director. If such data are not published or reported for a household size, the Housing Director may estimate the median King County household income for that household size by adjusting available data in such manner as the Housing Director shall determine. For purposes of maximum rents or sale prices, if the estimated average household size corresponding to a unit size includes a fraction, the Housing Director shall estimate the median King County household income for that household size by interpolation using the next higher and lower integral household sizes.~~

~~2. Child Care.~~

~~a. For each square foot of bonus floor area allowed under this section, in addition to providing housing or an alternative cash contribution pursuant to subsection B1, the applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents ($3.25), to be administered by the Human Services Department. The Director of the Human Services Department may adjust the alternative cash contribution, no more frequently than annually, approximately in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84=100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that such Director may deem appropriate. The base year for the first such adjustment is 2007. The~~

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~~minimum interior space in the child care facility for each child care slot shall comply with all applicable state and local regulations governing the operation of licensed childcare providers. Child care facility space shall be deemed provided only if the applicant causes the space to be newly constructed or newly placed in child care use after the submission of a permit application for the project intended to use the bonus floor area, except as provided in subsection B2b(6). If any contribution or subsidy in any form is made by any public entity to the acquisition, development, financing or improvement of any child care facility, then any portion of the space in such facility determined by the Director of the Human Services Department to be attributable to such contribution or subsidy shall not be considered as provided by any applicant other than that public entity.~~

~~b. Child care space shall be provided on the same lot as the project using the bonus floor area or on another lot in the South Lake Union Urban Center and shall be contained in a child care facility satisfying the following standards:~~

~~(1) The child care facility and accessory exterior space must be approved for licensing by the State of Washington Department of Social and Health Services and any other applicable state or local governmental agencies responsible for the regulation of licensed childcare providers.~~

~~(2) At least twenty (20) percent of the number of child care slots for which space is provided as a condition of bonus floor area must be reserved for, and affordable to, families with annual incomes at or below the U.S. Department of Housing and Urban Development Low Income Standard for Section 8 Housing based on family size (or, if such standard shall no longer be published, a standard established by the Human Services Director based generally on eighty (80) percent of the median family income of the Metropolitan Statistical Area, or division thereof, that includes Seattle, adjusted for family size). Child care slots shall be deemed to meet these conditions if they serve, and are limited to, (a) children~~

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~~receiving child care subsidy from the City of Seattle, King County or State Department of Social and Health Services, and/or (b) children whose families have annual incomes no higher than the above standard who are charged according to a sliding fee scale such that the fees paid by any family do not exceed the amount it would be charged, exclusive of subsidy, if the family were enrolled in the City of Seattle Child Care Subsidy Program.~~

~~(3) Child care space provided to satisfy bonus conditions shall be dedicated to child care use, consistent with the terms of this section, for twenty (20) years. The dedication shall be established by a recorded covenant, running with the land, and enforceable by the City, signed by the owner of the lot where the child care facility is located and by the owner of the lot where the bonus floor area is used, if different from the lot of the child care facility. The child care facility shall be maintained in operation, with adequate staffing, at least eleven (11) hours per day, five (5) days per week, fifty (50) weeks per year.~~

~~(4) Exterior space for which a bonus is or has been allowed under any other section of this title or under former Title 24 shall not be eligible to satisfy the conditions of this section.~~

~~(5) Unless the applicant is the owner of the child care space and is a duly licensed and experienced child care provider approved by the Director of the Human Services Department, the applicant shall provide to the Director a signed agreement, acceptable to such Director, with a duly licensed child care provider, under which the child care provider agrees to operate the child care facility consistent with the terms of this section and of the recorded covenant, and to provide reports and documentation to the City to demonstrate such compliance.~~

~~(6) One (1) child care facility may fulfill the conditions for a bonus for more than one (1) project if it includes sufficient space, and provides sufficient slots affordable to limited income families, to satisfy the conditions for each such project without any~~

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~~space or child care slot being counted toward the conditions for more than one (1) project. If the child care facility is located on the same lot as one of the projects using the bonus, then the owner of that lot shall be responsible for maintaining compliance with all the requirements applicable to the child care facility; otherwise responsibility for such requirements shall be allocated by agreement in such manner as the Director of the Human Services Department may approve. If a child care facility developed to qualify for bonus floor area by one applicant includes space exceeding the amount necessary for the bonus floor area used by that applicant, then to the extent that the voluntary agreement accepted by the Director of the Human Services Department from that applicant so provides, such excess space may be deemed provided by the applicant for a later project pursuant to a new voluntary agreement signed by both such applicants and by any other owner of the child care facility, and a modification of the recorded covenant, each in form and substance acceptable to such Director.~~

~~c. The Director of the Human Services Department shall review the design and proposed management plan for any child care facility proposed to qualify for bonus floor area to determine whether it will comply with the terms of this section. The allowance of bonus floor area is conditioned upon approval of the design and proposed management plan by the Director. The child care facility shall be constructed consistent with the design approved by such Director and shall be operated for the minimum twenty (20) year term consistent with the management plan approved by such Director, in each case with only such modifications as shall be approved by such Director. If the proposed management plan includes provisions for payment of rent or occupancy costs by the provider, the management plan must include a detailed operating budget, staffing ratios, and other information requested by the Director to assess whether the child care facility may be economically feasible and able to deliver quality services.~~

~~d. The Director of the Human Services Department is authorized to accept a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and~~

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~~related agreements and instruments consistent with this section. The voluntary agreement may provide, in case a child care facility is not maintained in continuous operation consistent with this subsection B2 at any time within the minimum twenty (20) year period, for the City's right to receive payment of a prorated amount of the alternative cash contribution that then would be applicable to a new project seeking bonus floor area. Such Director may require security or evidence of adequate financial responsibility, or both, as a condition to acceptance of an agreement under this subsection.~~

~~C. Cash Option Payments.~~

~~1. Cash payments under voluntary agreements for bonuses shall be made prior to issuance of any building permit after the first building permit for a project, and in any event before any permit for any construction activity other than excavation and shoring is issued, or if the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of any permit or modification allowing for use of such space as bonus floor area.~~

~~2. Such payments shall be deposited in special accounts established solely to fund capital expenditures for child care facilities and housing as set forth in this section, including the City's costs to administer projects, not to exceed 10% of the contributions.~~

~~3. Housing that is funded with cash contributions shall be located within the South Lake Union Urban Center, except that if the Housing Director finds that it would be impracticable to provide the housing in the South Lake Union Urban Center within the time specified for the performance option under this Section or any time limit under applicable law, then the housing may be located at one or more other locations within the City from which workers can easily commute by public transit to and from the lot using the bonus floor area.~~

~~4. The Housing Director may allow contributions of property in lieu of cash payments if the Director finds that the value of the property equals or exceeds cash payment that otherwise would be made, subject to acceptance of any real property by ordinance.~~

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~~D. No Subsidies for Bonused Housing: Exception.~~

~~1. Intent. Housing provided through the bonus system is intended to mitigate a portion of the additional housing needs resulting from increased density, beyond those needs that would otherwise exist, which the City and other governmental and charitable entities attempt to meet through various subsidy programs. Allowing bonus floor area under the performance option for housing that uses such subsidy programs therefore could undermine the intent of this section.~~

~~2. Agreement Concerning Subsidies. The Housing Director may require, as a condition of any bonus floor area for housing under the performance option, that the owner of the lot upon which the housing is located agree not to seek or accept any subsidies, including without limitation those items referred to in subsection D3 of this section, related to the housing, except for any subsidies that may be allowed by the Housing Director under that subsection. The Director may require that such agreement provide for the payment to the City of the value of any subsidies received in excess of any amounts allowed by such agreement.~~

~~3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be earned by providing housing if:~~

~~a. Any person is receiving or will receive with respect to the housing any charitable contributions or public subsidies for housing development or operation, including, but not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle housing loans or grants, county housing funds, State of Washington housing funds, or property tax exemptions except as allowed pursuant to RCW Chapter 84.14, or other special tax treatment; or~~

~~b. Independent of the requirements for the bonus, the housing is or would be subject to any restrictions on the use, occupancy or rents; or~~

~~c. The housing was required to be built by the City of Seattle as a requirement of the purchase and sale of property or for any other purpose.~~

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~~4. Exceptions by Rule. The Housing Director of may provide, by rule promulgated after December 31, 2007, for terms and conditions on which exceptions to the restriction on subsidies in this subsection may be allowed. Such rule may provide that, as a condition to any exception, the Housing Director shall increase the amount of housing floor area per bonus square foot, as set forth in subsection B1 of this section, to an amount that allows credit for only the Director's estimate of the incremental effect, in meeting the City's housing needs for the next fifty (50) years, of the net financial contribution that is being made by the applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or indirectly, from any other source.~~))

Section 44. Section 23.50.053 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

23.50.053 Transfer of development rights ((~~within the South Lake Union Urban Center and~~))within an IC 85-160 zone

((~~A. General Standards for the transfer of development rights to lots in the South Lake Union Urban Center.~~

~~1. In order to achieve a portion of the floor area above five FAR that may be allowed in an IC zone within the South Lake Union Urban Center pursuant to Section 23.50.051, an applicant may use transferable development rights to the extent permitted in Table A for 23.50.053, subject to the limits and conditions in this Chapter 23.50~~

~~Table A for 23.50.053~~

~~Eligibility for TDR Sending and Receiving in IC and SM Zones~~

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Zones	Types of TDR			
	Within-block TDR	Landmark TDR	Arts Facility TDR	Housing TDR
IC	S, R	S, R	S, R	S, R
SM with a mapped height limit lower than 85 feet	X	X	X	X
SM/R	X	X	X	X
SM/85	S	S	S	S
SM/125	S	S	S	S
Key for Table A for 23.50.053 S = Eligible sending lot, if in the South Lake Union Urban Center. R = Eligible receiving lot, if in the area eligible for added floor area under Section 23.50.051 X = Not permitted.				

2. TDR may be transferred as within-block TDR only from a lot to another lot on the same block that is eligible for added floor area under Section 23.50.051, to the extent permitted in Table A for 23.50.053, subject to limits and conditions in this Chapter 23.50.

3. The eligibility of a lot in the South Lake Union Urban Center to be either a sending or receiving lot is regulated by Table A for 23.50.053.

4. TDR eligible to be transferred from a major performing arts facility under subsection 23.49.014.G may be transferred from a Downtown zone to a lot eligible as a receiving site for arts facility TDR under Table A for 23.50.053. No other TDR from a Downtown zone may be used in the South Lake Union Urban Center under this Section 23.50.053.

5. Except as expressly permitted pursuant to this Chapter 23.50, development rights or potential floor area may not be transferred from one lot to another.

6. No permit after the first building permit, and in any event, no permit for any construction activity other than excavation and shoring or for occupancy of existing floor area by any use based upon TDR, will be issued for development that includes TDR until the applicant's possession of TDR is demonstrated to the satisfaction of the Director.

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~~7. For purposes of this Section 23.50.053, the base FAR and maximum FAR are as identified in Table A for 23.50.028, or pursuant to Chapter 23.48, as applicable to the sending lot, in each case not including any additional FAR that may be permitted pursuant to any exception, departure or waiver.~~

~~8. The Director may promulgate rules to implement this section.~~

~~B. Standards for Sending Lots in the South Lake Union Urban Center.~~

~~1. This subsection 23.50.053.B applies to sending lots in the South Lake Union Urban Center. Eligibility as a sending lot for a type of TDR is specified by zone in Table A for 23.50.053.~~

~~a. The maximum amount of floor area that may be transferred from a sending lot in the South Lake Union Urban Center is the amount by which the product of the eligible lot area times the base FAR of the sending lot exceeds the sum of any chargeable floor area on the lot plus any TDR previously transferred from the sending lot.~~

~~b. For purposes of this subsection 23.50.053.B.1, the eligible lot area is the total area of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over one-quarter of the total area of the footprints of all structures on the sending lot.~~

~~2. If TDR are transferred from a sending lot in a zone with a FAR limit that applies to nonresidential uses, the amount of chargeable floor area that may then be built on the sending lot shall be equal to the area of the lot multiplied by the base FAR, minus the total of:~~

~~a. The chargeable floor area on the lot; plus~~

~~b. The amount of chargeable floor area transferred from the lot.~~

~~3. Chargeable floor area allowed above the base FAR under any provisions of this Title 23, or allowed under any exceptions or waivers of development standards, may not be transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the base FAR only to the extent, if any, that:~~

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~~a. TDR were previously transferred to such lot in compliance with the Land Use Code provisions and applicable rules then in effect;~~

~~b. Those TDR, together with the base FAR set forth in subsection 23.48.016.B or in Section 23.50.028, exceed the chargeable floor area on the lot and any additional chargeable floor area for which any permit has been issued or for which any permit application is pending; and~~

~~c. The excess amount of TDR previously transferred to such lot would have been eligible for transfer from the original sending lot under this Section 23.50.053 at the time of their original transfer from that lot.~~

~~4. Landmark structures on sending lots from which Landmark TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board.~~

~~5. Housing on lots from which housing TDR are transferred shall be rehabilitated to the extent required to provide decent, sanitary and habitable conditions, in compliance with applicable codes, and so as to have an estimated minimum useful life of at least 50 years from the time of the TDR transfer, as approved by the Director of Housing. If housing TDR are proposed to be transferred prior to the completion of work necessary to satisfy this subsection 23.50.053.B.5, the Director of Housing may require, as a condition to such transfer, that security be deposited with the City to ensure the completion of such work.~~

~~6. The housing units on a lot from which housing TDR are transferred, and that are committed to low-income housing as a condition to eligibility of the lot as a TDR sending site, shall be generally comparable in their average size and quality of construction to other housing units in the same structure, in the judgment of the Director of Housing, after completion of any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.~~

~~7. Structures on an arts facility TDR site shall be built or rehabilitated to the extent required to be in compliance with applicable codes, and so as to have an estimated~~

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~~minimum useful life of at least 50 years from the time of the TDR transfer.~~

~~C~~))A. General standards for the transfer of transferable development rights to lots in an IC 85-160 zone((~~outside the South Lake Union Urban Center.~~))

1. To achieve extra nonresidential floor area above the base FAR that may be allowed in an IC 85-160 zone pursuant to subsection 23.50.028.D, an applicant may use TDR to the extent permitted under this subsection 23.50.053.((~~C~~))A.

2. South Downtown Historic TDR, open space TDR from zones within South Downtown, and housing TDR eligible to be transferred from a lot under Section 23.49.014 may be transferred from a Downtown zone to a lot eligible as a receiving site in an IC 85-160 zone. No other TDR may be used in an IC 85-160 zone under this Section 23.50.053.

3. Except as expressly permitted pursuant to subsection 23.50.053.((~~C~~))A, development rights or potential floor area may not be transferred to a lot in an IC 85-160 zone.

4. No permit after the first building permit, ((~~and in any event,~~))no permit for any construction activity other than excavation and shoring, ((~~or~~))and no permit for occupancy of existing floor area by any use based upon TDR((~~,~~)) will be issued for development that includes TDR until the applicant's possession of TDR is demonstrated to the satisfaction of the Director.

((~~D. Limit on within-block TDR. Any receiving lot may use TDR from sending lots that are eligible to send TDR solely because they are on the same block as the receiving lot for a maximum of 15 percent of all floor area gained through bonus and TDR on the receiving lot.~~))

((~~E~~))B. Transfer of Transferable Development Rights ((~~D~~))deeds and ((~~A~~))agreements. This subsection 23.50.053.((~~E~~))B applies to sending lots in IC zones, and to the use of TDR on receiving lots in IC zones regardless of whether the TDR are from a sending lot in an IC zone. If TDR from other zones are used on a receiving lot in an IC zone, then the provisions applicable to sending lots in the chapter(s) of this Title 23 for the zone(s) in which the sending lots are located apply.

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1. The fee owners of the sending lot shall execute a deed, and shall obtain the release of the TDR from all liens of record and the written consent of all holders of encumbrances on the sending lot other than easements and restrictions, unless such release or consent is waived by the Director for good cause. The deed shall be recorded in the King County real property records. If TDR are conveyed to the owner of a receiving lot described in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument conveying such lot or the TDR, the TDR shall pass with the receiving lot whether or not a structure using such TDR shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDR previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in or lien on the receiving lot from which the conveyance is made. If the TDR are transferred other than directly from the sending lot to the receiving lot using the TDR, then after the initial transfer, all subsequent transfers also shall be by deed, duly executed, acknowledged and recorded, each referring by King County recording number to the prior deed.

2. Any person may purchase any TDR that are eligible for transfer by complying with the applicable provisions of this Section 23.50.053, whether or not the purchaser is then an applicant for a permit to develop real property. Any purchaser of such TDR (including any successor or assignee) may use such TDR to obtain floor area above the applicable base on a receiving lot to the extent such use of TDR is permitted under the Land Use Code provisions in effect on the date of vesting, under applicable law, of such person's rights with respect to the issuance of permits for development of the project intended to use such TDR. The Director may require, as a condition of processing any permit application using TDR or for the release of any security posted in lieu of a deed for TDR to the receiving lot, that the owner of the receiving lot demonstrate that the TDR have been validly transferred of record to the receiving lot, and that such owner has recorded in the real estate records a notice of the filing of such permit

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application, stating that such TDR are not available for retransfer.

3. For transfers of Landmark TDR, the owner of the sending lot shall execute and record an agreement in form and content acceptable to the Landmarks Preservation Board providing for the restoration and maintenance of the historically significant features of the structure or structures on the lot.

((~~4. For transfers of arts facility TDR from an arts facility TDR site, the owner of the sending lot shall execute and record an agreement in form and content acceptable to the Director of the Office of Arts and Cultural Affairs providing for the construction, improvement and/or maintenance of structure(s) on the lot and the use of the arts facility sending site for at least 50 years by one or more non-profit organizations dedicated to the creation, display, performance or screening of art by or for members of the general public. Such agreements shall commit to improvements, maintenance, limits on occupancy and other measures to maintain the long-term use of the structure(s) for artistic activities consistent with the definition of arts facility TDR site and acceptable to the Director of the Office of Arts and Cultural Affairs.~~))

((~~5~~))4. For transfers of housing TDR, the owner of the sending lot shall execute and record an agreement, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director ((~~of the Office~~))of Housing for good cause, to provide for the maintenance of the required housing on the sending lot for a minimum of 50 years. Such agreement shall commit to limits on rent and occupancy consistent with the definition of housing TDR site and acceptable to the Director of Housing.

((~~6~~))5. A deed conveying TDR may require or permit the return of the TDR to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDR to a receiving lot shall remain effective so long as any portion of any structure for which a permit was issued based upon such transfer remains on the receiving lot; and

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b. The City shall not be required to recognize any return of TDR unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDR back to the sending lot and any lien holders have released any liens thereon.

((~~7~~))6. Any agreement governing the use or development of the sending lot shall provide that its covenants or conditions shall run with the land and shall be specifically enforceable by ((~~T~~))the City of Seattle.

((~~F~~))C. Time of ((~~D~~))determination of TDR Eligible for ((~~T~~))transfer. The eligibility of a sending lot to transfer TDR, and the amount transferable from a sending lot, shall be determined as of the date of transfer from the sending lot and shall not be affected by the date of any application, permit decision or other action for any project seeking to use such TDR.

((~~G~~))D. Use of ((~~P~~))previously ((~~T~~))transferred TDR by ((~~N~~))new ((~~P~~))projects. Any project using TDR according to applicable limits on TDR in this Section((~~s 23.50.051 and~~)) 23.50.053 may use TDR that were transferred from the sending lot consistent with the provisions of this Title 23 in effect at the time of such transfer.

((~~H~~))E. Rules. The Director may promulgate rules to implement this Section 23.50.053.

Section 45. Section 23.57.005 of the Seattle Municipal Code, last amended by Ordinance 120928, is amended as follows:

23.57.005 Permitted and prohibited locations((~~.~~))

A. Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, Neighborhood Commercial 1, 2 and 3, and ((~~the~~))Seattle ((~~Caseade~~))Mixed zones((~~.~~))

1. New major communication utilities ((~~Shall be~~))are prohibited.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

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3. The following activities ((~~shall be~~))are permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new accessory communication devices or new minor communication utilities to an existing tower ((~~shall be~~))is permitted outright, except as follows: No more than a total of ((~~fifteen (~~))15((~~)~~)) horn and dish antennas ((~~which~~))that are over ((~~four(~~))4((~~)~~)) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in ((~~S~~))subsection 23.57.008.((-))G, showing that all of the existing ((~~fifteen (~~))15((~~)~~)) horn and dish antennas over ((~~four(~~))4((~~)~~)) feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

B. Commercial 1 and 2 ((~~Z~~))zones((~~-~~))

1. New ((~~M~~))major ((~~C~~))communication ((~~U~~))utilities((~~-~~))

a. Single-occupant major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to the development standards in Section 23.57.008.

b. Shared-use major communication utilities may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities ((~~shall be~~))are permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new accessory communication devices or new minor communication utilities to an existing

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tower ((~~shall be~~))is permitted outright, except as follows: No more than a total of ((~~fifteen~~ ~~(~~))15((~~)~~)) horn and dish antennas ((~~which~~))that are over ((~~four(~~))4((~~)~~)) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in ((~~S~~))subsection 23.57.008.((~~-~~))G, showing that all of the existing ((~~fifteen (~~))15((~~)~~)) horn and dish antennas over ((~~four(~~))4((~~)~~)) feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

C. Downtown ((~~Z~~))zones((~~-~~))

1. In Pioneer Square Mixed, International District Mixed, International District Residential and Pike Market Mixed Zones, new major communication utilities ((~~shall be~~))are prohibited.

2. In all other downtown zones, establishment or physical expansion of major communication utilities may be permitted, whether single-occupant or shared, by Administrative Conditional Use under the evaluation criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

3. The following activities ((~~shall be~~))are permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new accessory communication devices or new minor communication utilities to an existing tower ((~~shall be~~))is permitted outright, except as follows: No more than a total of ((~~fifteen~~ ~~(~~))15((~~)~~)) horn and dish antennas ((~~which~~))that are over ((~~four(~~))4((~~)~~)) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in ((~~S~~))subsection 23.57.008.((~~-~~))G, showing that all of the existing ((~~fifteen (~~))15((~~)~~)) horn and dish antennas over ((~~four(~~))4((~~)~~)) feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

D. Industrial ((~~Z~~))zones((~~-~~))

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Establishment or physical expansion of major communication utilities, whether single-occupant or shared, may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and the development standards in Section 23.57.008. The following activities ((~~shall be~~))are permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new accessory communication devices or new minor communication utilities to an existing tower ((~~shall be~~))is permitted outright, except as follows: No more than a total of ((~~fifteen (~~))15((~~)~~)) horn and dish antennas ((~~which~~))that are over ((~~four(~~))4((~~)~~)) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in ((~~S~~))subsection 23.57.008.((-))G, showing that all of the existing ((~~fifteen (~~))15((~~)~~)) horn and dish antennas over ((~~four(~~))4((~~)~~)) feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

Section 46. Section 23.57.008 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.57.008 Development standards((~~.~~))

A. In Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, Neighborhood Commercial, and Seattle ((~~Cascade~~))Mixed zones, physical expansion of a major communication utility may be permitted only when:

1. The expanded facility will be a shared-use utility, and another broadcaster has contracted to relocate its transmitter to the expanded facility; and

2. A different existing tower of similar size in the immediate vicinity will be removed within six ((~~(6)~~))months of issuance of the certificate of occupancy.

B. Access to sites containing major communication utilities ((~~shall be~~))is restricted to authorized personnel by fencing or other means of security. This fencing or other barrier shall be

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incorporated into the landscaping and/or screening to reduce visual impact of the facility.

C. Setbacks and ((~~L~~))landscaping((~~,~~))

1. Major communication utility structures, including accessory structures, shall be set back at least ((~~twenty (~~))20((~~)~~)) feet from all lot lines.

2. ((~~Landscaping in t~~))The required setback shall be landscaped as follows:

a. A ((~~five(~~))5((~~)-~~)) foot deep setback measured perpendicular to the ((~~property~~))lot lines shall be planted with ground cover.

b. The area between ((~~five(~~))5((~~)~~)) feet and ((~~ten (~~))10((~~)~~)) feet in from all lot lines shall be planted with continuous vegetation consisting of bushes.

c. The area between ((~~ten (~~))10((~~)~~)) feet and ((~~twenty (~~))20((~~)~~)) feet in from all lot lines shall be planted with view-obscuring vegetation consisting of evergreen hedges((~~,~~)) and evergreen trees ((~~which are~~))a minimum of ((~~ten (~~))10((~~)~~)) feet tall at the time of planting and ((~~are~~))expected to reach at least ((~~thirty (~~))30((~~)~~)) feet at maturity.

d. All landscaping shall conform to the Director's Rule on Landscape Standards.

3. Exceptions to ((~~L~~))landscaping and ((~~S~~))setback ((~~R~~))requirements((~~,~~))

a. The setback requirement of subsection 23.57.008.C.1 may be reduced for any particular frontage of the utility site which is adjacent to, or across a street or alley from, a commercially zoned lot and the Director finds that an alternate plan for screening and landscaping would result in the same screening and mitigation of visual impacts as would result from the provision of the requirements of subsections 23.57.008.C.1 and 23.57.008.C.2, and would result in an appearance compatible with the commercial area. Alternative screening devices could include decorative walls, fences, or murals. The screening may be provided by a structure if the appearance is compatible with the commercial area and if it results in the screening of the base of the transmission tower from adjacent uses.

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b. The setback and landscaping requirements of subsection 23.57.008.C shall not apply when the lot is adjacent to, or across a street or alley from, an industrially zoned lot.

c. Landscaping requirements of subsection 23.57.008.C.2 may be waived or reduced if the distance from the ((~~property~~))lot line to the structure is far enough to substantially diminish the impact of the height of the structure or if the topography or existing vegetation provides a visual barrier comparable to the requirements of subsection 23.57.008.C.2.

D. The maximum height limit for all major communication utilities is ((~~shall be one thousand one hundred (~~))1,100((~~)~~)) feet above mean sea level. These structures are also subject to Chapter 23.64, Airport Height District. Accessory structures are subject to the height limits of the zone.

E. The applicant shall use material, shape, color and lighting to minimize to the greatest extent practicable the visual impact, as long as these measures are not inconsistent with the requirements of the Federal Aviation Administration.

F. The applicant shall submit and follow a construction and maintenance plan to control or eliminate off-site impacts from construction or maintenance debris and icefall. This plan shall include a requirement to notify residents and business owners on properties immediately adjacent to or across a street or alley from the site when maintenance work such as sandblasting or painting is to occur.

G. When a horn or dish antenna over ((~~four(~~))4((~~)~~)) feet in any dimension is proposed to be added to an existing tower ((~~which~~))that already contains ((~~fifteen (~~))15((~~)~~)) such antennas, per Section 23.57.003 or Section 23.57.005, the applicant ((~~must~~))shall submit copies of Federal Communications Commission licenses for auxiliary broadcast service, showing that all of the existing ((~~fifteen (~~))15((~~)~~)) horn and dish antennas ((~~which~~))that are over ((~~four(~~))4((~~)~~)) feet in any dimension, plus any proposed additional such horn or dish antenna, are accessory to the

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communication utility.

H. Equipment shelters and other accessory structures shall comply with the development standards of this ((s))Section 23.57.008 whether or not physical expansion, as defined in Section 23.84A.006, is proposed.

Section 47. Section 23.57.012 of the Seattle Municipal Code, last amended by Ordinance 123564, is amended as follows:

23.57.012 Commercial zones

A. Uses ((P))permitted ((O))outright((.))

1. In Neighborhood Commercial, Commercial, and ((the))Seattle((Cascade)) Mixed zones, minor communication utilities other than freestanding transmission towers and accessory communication devices are((shall be)) permitted outright when meeting the height limit of the zone as modified by subsection 23.57.012.C((of this section)).

2. Minor communication utilities that do not meet the height limit of the zone are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses ((P))permitted by ((A))administrative ((C))conditional ((U))use. In Neighborhood Commercial, Commercial, and ((the))Seattle ((Cascade))Mixed zones, an ((A))administrative ((C))conditional ((U))use shall be required for the establishment or expansion of a free standing transmission tower, regardless of height, and for minor communication utilities and accessory communication devices that exceed the height limit of the underlying zone as modified by subsection 23.57.012.C((of this section)). Approval shall be pursuant to the following criteria, as applicable:

1. The proposal ((shall))does not result in a significant change in the pedestrian or retail character of the commercial area.

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2. If the minor communication utility is proposed to exceed the zone height limit as modified by subsection 23.57.012.C((~~of this section~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.

3. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller, less obtrusive utilities, shall be considered.

C. Development standards((.))

1. Location and height. Facilities in special review, historic, and landmark districts are subject to the standards of Section 23.57.014. On sites that are not in special review, historic, or landmark districts, antennas may be located on the rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, subject to the height limits in subsections 23.57.012.C.1.a and 23.57.012.C.1.b, as limited by subsection 23.57.012.C.1.c((.)) below:

a. Utilities and devices located on a rooftop of a building nonconforming as to height may extend up to 15 feet above the height of the building legally existing as of the effective date of ((~~Ordinance 120928.~~[1]))September 23, 2002.

b. Utilities and devices located on a rooftop of a building that conforms to the height limit may extend up to 15 feet above the zone height limit or above the highest portion of a building, whichever is less.

c. Any height above the underlying zone height limit permitted under subsections 23.57.012.C.1.a and 23.57.012.C.1.b, shall be allowed only if the combined total

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coverage by communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in ((~~S~~))subsection 23.47A.012.C.4, does not exceed 20 percent of the total rooftop area, or 25 percent of the rooftop area if mechanical equipment is screened.

d. The following rooftop areas shall not be counted towards amenity area requirements:

1) The area 8 feet from and in front of a directional antenna and the area 2 feet from and in back of a directional antenna.

2) The area within 8 feet in any direction from an omnidirectional antenna.

3) Such other areas in the vicinity of paging facilities as determined by the Seattle-King County Health Department after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

2. Access and ((~~S~~))signage. Access to minor communication utilities and transmitting accessory communication devices is((~~shall be~~)) restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. Height of ((~~A~~))amateur ((~~R~~))radio ((~~T~~))tower. The maximum height of an amateur radio tower is((~~shall be no more than~~)) 50 feet above grade in zones ((~~where~~))with a ((~~the~~))maximum height limit ((~~is~~))of 50 feet or less. Cages and antennas may extend to a maximum additional 15 feet. In zones with a maximum permitted height over 50 feet, the height above grade of the amateur radio tower shall not exceed the maximum height limit of the zone.

4. Visual ((~~I~~))impacts. All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio

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towers, shall meet the standards set forth in Section 23.57.016.

5. Reception ((~~W~~))window ((~~O~~))obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this ((s))Section 23.57.012, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, the Director may grant a waiver from the development standards of this ((s))Section 23.57.012 and Section 23.57.016, subject to the following criteria:

a. The applicant shall demonstrate that obstruction of the reception window is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to reception window obstruction.

b. The applicant shall use material, shape and color to minimize visual impact.

Section 48. Subsection A of Section 23.58A.002 of the Seattle Municipal Code, last amended by Ordinance 123770 is amended as follows:

23.58A.002 Scope of chapter; general rules

A. This ((e))Chapter 23.58A contains rules for((~~workforce housing and other~~)) incentive programs in areas for which the provisions of the zone specifically refer to this ((e))Chapter 23.58A or in zones having an incentive zoning suffix. ((~~This chapter does not apply to Downtown zones, except in South Downtown.~~)) The provisions in this ((e))Chapter 23.58A specify conditions under which extra floor area may be allowed, as exceptions to the otherwise applicable floor area or base height limit, or both, subject to the maximum limits stated in the provisions of the zone and to all other applicable requirements and approvals. Nothing in this ((e))Chapter 23.58A authorizes allowance of extra floor area, or the construction or use of any structure, contrary to any other provisions of this Title 23 or Title 25. ((~~Projects~~))Developments

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for which extra floor area is sought may be subject to conditions under other chapters and titles of ((~~this Code~~))the Seattle Municipal Code, including without limitation conditions imposed pursuant to Chapter 25.05, Environmental Policies and Procedures.

***

Section 49. A new Section 23.58A.003 of the Seattle Municipal Code is added as follows:

23.58A.003 Affordable housing incentive programs: purpose and findings

A. Purpose. The provisions of this Chapter 23.58A that relate to affordable housing are intended to implement affordable housing incentive programs authorized by RCW 36.70A.540, as it may be amended.

B. State law controlling. In case of any irreconcilable conflict with the terms of this Chapter 23.58A related to an affordable housing incentive program, the provisions of RCW 36.70A.540, as amended, shall supersede and control.

C. Findings

1. Pursuant to the authority of RCW 36.70A.540, the City finds that higher income levels are needed to address local housing market conditions throughout the city. The terms of the affordable housing incentive program in this Chapter 23.58A take into account that, for affordable housing not receiving public subsidies, the higher income levels specified in the definition of "income-eligible households" in this Chapter 23.58A, rather than the levels stated for renter and owner occupancy program purposes in the definition of "low-income households" in RCW 36.70A.540, are needed to address local housing market conditions..

2. The "general area of the development for which a bonus or incentive is provided" under RCW 36.70A.540 is deemed to be the Seattle city limits for all development within the Seattle city limits.

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Section 50. Section 23.58A.004 of the Seattle Municipal Code, last amended by Ordinance 123589 is amended as follows:

23.58A.004 Definitions

A. Scope and ((~~A~~))applicability((~~.~~))

1. General ((~~R~~))rule. The terms set forth in quotations in this ((~~s~~))Section 23.58A.004, when used in this ((~~e~~))Chapter 23.58A, have the meanings set forth in this ((~~s~~))Section 23.58A.004 unless the context otherwise requires.

2. Definitions in Chapter 23.84A. Definitions in this ((~~e~~))Chapter 23.58A or in the applicable provisions of the zone supersede any definitions of the same terms in Chapter 23.84A for purposes of the provisions of this ((~~e~~))Chapter 23.58A, unless specified otherwise in this ((~~e~~))Chapter 23.58A.

B. Defined ((~~T~~))terms - General((~~.~~))

"Affordable housing" means a unit or units of ((~~low-income~~))housing provided as a condition to bonus floor area that are affordable to and reserved solely for "income-eligible households".

***

"Bonus nonresidential floor area" means extra nonresidential floor area allowed pursuant to ((~~any~~))the bonus provisions in subchapters III and V of this Chapter 23.58A. It does not include extra floor area gained through TDR.

"Bonus residential floor area" means extra residential floor area allowed pursuant to the bonus provisions in subchapters II and V of this Chapter 23.58A. ((~~It includes, without limitation, housing bonus residential floor area.~~))It does not include extra floor area gained through TDP.

***

"Income-eligible households" means:

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1. In the case of rental housing units, households with incomes no higher than the lower of

((~~f~~))a((~~)~~)). eighty percent of median income as defined in Section 23.84A.025; or

((~~f~~))b((~~)~~)). the maximum level permitted for rental housing by RCW 36.70A.540 as in effect when the agreement for the housing to serve as ((~~low-income~~))affordable housing is executed.

2. In the case of owner-occupied((~~occupancy~~)) housing units, households with incomes no higher than the lesser of

((~~f~~))a((~~)~~)). median income, as defined in Section 23.84A.025, or

((~~f~~))b((~~)~~)). the maximum level permitted for owner-occupied housing by RCW 36.70A.540 as in effect when the agreement for the housing to serve as ((~~low-income~~))affordable housing is executed.

((~~"Landmark TDP" means TDP transferred from, or transferable from, a Landmark TDP site.~~

~~"Landmark TDP site" means a lot, in an area where the applicable provisions of the zone permit Landmark TDP to be transferred from a lot, that includes one or more structures designated wholly or in part as a landmark under Chapter 25.12 or its predecessor ordinance, if the owner of the landmark has executed and recorded an agreement acceptable in form and content to the Landmarks Preservation Board, providing for the restoration and maintenance of the historically significant features of the structure, and which lot includes no other structure that is not accessory to one or more of such structures.~~))

***

((~~Low-income housing" means a unit or units of housing affordable to and occupied by "income-eligible households," provided as a condition to bonus floor area~~

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~~"Net bonus residential floor area" means gross square footage of "housing bonus residential floor area," multiplied by an efficiency factor of 80 percent.~~))

((~~"Open space TDP" means TDP transferred from, or transferable from, a lot based on its status as an open space TDP site.~~

~~"Open space TDP site" means a lot, in an area where the provisions of the zone permit open space TDP to be transferred from a lot, that satisfies the applicable standards for an open space TDP site in this Chapter 23.58A and the provisions of the zone to the extent that an exception from those standards has not been granted.~~))

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((~~"TDP" or "transferable development potential" means base residential floor area that may be transferred from one lot to another pursuant to provisions of the zone that refer to this Chapter 23.58A, measured in square feet.~~

~~"TDP, South Downtown Historic" means TDP transferred from, or transferable from, a lot based on its status as a South Downtown Historic TDP site.~~

~~"TDP Site, South Downtown Historic" means a lot within the Pioneer Square Preservation District or the International Special Review District that satisfies the conditions to be a sending lot for South Downtown Historic TDP under Section 23.58A.018.~~))

Section 51. Section 23.58A.012 of the Seattle Municipal Code, last amended by Ordinance 123589, is amended as follows:

23.58A.012 Methods to achieve extra residential floor area

((~~All or a percentage of the extra residential floor area on a lot shall be housing bonus residential floor area pursuant to Section 23.58A.014.~~))The method to achieve extra residential floor area shall be as provided in the provisions of the underlying zone. If the underlying zone does not provide methods to achieve extra residential floor area, the methods shall be((~~Unless otherwise expressly provided in the provisions of the zone~~)):

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A. If the maximum height limit for residential use is 85 feet or ((~~lower~~))less, all extra residential floor area shall be housing bonus residential floor area pursuant to Section 23.58A.014.

B. If the maximum height limit for residential use is higher than 85 feet, the applicant shall use housing bonus residential floor area pursuant to Section 23.58A.014 to achieve at least 60 percent of the total extra residential floor area on the lot, and, to the extent permitted under the provisions of the zone or this ((~~subchapter II of~~))Chapter 23.58A, may use ((~~other~~))bonus residential floor area for amenities pursuant to Section 23.58A.((~~016~~))040 or transfer of ((~~residential~~))transferable development potential pursuant to Section 23.58A.((~~018~~))042, or both, for the balance of the extra residential floor area.

Section 52. Section 23.58A.013 of the Seattle Municipal Code, last amended by Ordinance 123209, is repealed.

~~((23.58A.013 -Affordable housing incentive programs: purpose and findings.~~

~~A. Purpose; Scope of provisions; State Law Controlling. The provisions of this subchapter 23.58A related to housing bonus residential floor area are intended to implement affordable housing incentive programs authorized by RCW 36.70A.540, as it may be amended. In case of any irreconcilable conflict between the terms of this subchapter 23.58A related to housing bonus residential floor area and the authority granted in RCW 36.70A.540, as it may be amended, the provisions of RCW 36.70A.540, as it may be amended, shall supersede and control. Unless the context otherwise clearly requires, references to RCW 36.70A.540 in this subchapter 23.58A mean that section as in effect on the date as of which the provisions of this title apply to the application for a use permit for the project using the bonus floor area.~~

~~B. Findings. Pursuant to the authority of RCW 36.70A.540, the City finds that the higher income levels specified in the definition of "income-eligible households" in Section 23.58A.004, rather than those stated in the definition of "low-income households" in RCW 36.70A.540, are~~

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~~needed to address local housing market conditions throughout the City.~~))

Section 53. Section 23.58A.014 of the Seattle Municipal Code, last amended by Ordinance 123770 is amended as follows:

23.58A.014 Bonus residential floor area for affordable housing((.))

A. Scope; ((~~G~~))general ((~~R~~))rule. This ((~~s~~))Section 23.58A.014 applies to bonus residential floor area for affordable housing allowed on lots for which applicable sections of this ((~~t~~))Title 23 expressly refer to this ((~~c~~))Chapter 23.58A. To obtain b((~~B~~))onus residential floor area for affordable housing, ((~~may be allowed when~~))the applicant ((~~qualifies by using~~))may use the performance option, the payment option, or a combination of these options, in accordance with this ((~~s~~))Section 23.58A.014 and subject to the provisions of the zone. However, where the maximum allowable height under the applicable provisions of the zone is 85 feet or less, the applicant may only use the performance option.

B. Performance ((~~O~~))option((.))

1. Amount of affordable housing. An applicant using the performance option shall provide ((~~low-income~~))affordable housing with a gross floor area at least equal to the greatest of

(((~~1~~))a((~~)~~)). ((~~17.5~~))Fourteen percent of the ((~~net~~))gross bonus residential floor area obtained through the performance option, except that an applicant may elect to provide ((~~low-income~~))affordable housing equal to ((~~10~~))8 percent of the ((~~net~~))gross bonus residential floor area obtained through the performance option if the housing is affordable to, and restricted to occupancy by, households with incomes no higher than 50((~~%~~)) percent of median income as defined by Section 23.84A.025; or

(((~~1~~))b((~~)~~)). Three hundred net residential square feet; or

(((~~1~~))c((~~)~~)). any minimum floor area specified in the provisions of the zone.

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The percentage of ((~~net~~))gross bonus residential floor area obtained through the performance option to be provided as ((~~low-income~~))affordable housing may be reduced by the Council below ((~~17.5~~))14 percent of the ((~~net~~))gross bonus residential floor area to no less than ((~~15~~))12 percent of the ((~~net~~))gross bonus residential floor area as a Type V decision on an official land use map amendment or text amendment when the Council determines that the reduction is needed to accomplish Comprehensive Plan goals and policies or to reflect economic conditions of the area. Applicants may provide ((~~low-income~~))affordable housing as part of the ((~~project~~))development using extra floor area, or by providing or contributing to ((~~a low-income~~))affordable housing ((~~project~~))at another location, subject to requirements in subsection 23.58A.014.B.((~~5 of this section~~))8 and approval in writing by the Director of Housing prior to issuance of any permit after the first building permit for the development using the bonus residential floor area and before any permit for any construction activity other than excavation and shoring for the development using the bonus residential floor area is issued.

2. Agreement. The City and the affordable housing owner shall enter into an agreement specifying the affordable housing requirements under this subsection 23.58A.014.B. This agreement shall be executed and recorded prior to issuance and as a condition to issuance of any permit after the first building permit for the development using the bonus residential floor area and before any permit for any construction activity other than excavation and shoring for the development using the bonus residential floor area is issued.

3. Duration. Affordable housing shall serve only income-eligible households for a minimum period of 50 years from the later of the date when the agreement between the housing owner and the City((~~, as referenced in subsection 23.58A.014.B.5,~~)) is recorded, or the date when the affordable housing becomes available for occupancy as determined by the City.

4. Unit size and distribution. Affordable housing shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the

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number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

5. Additional standards for rental housing. For rental housing((,)):

a. monthly rent((~~shall be limited so that housing costs~~)), including ((~~rent and~~))basic utilities, shall not exceed 30 percent of the income limit for the unit ((~~under this section~~)), all as determined by the Director of Housing, for a minimum period of 50 years((.)); and

b. the housing owner shall submit a report to the Office of Housing annually that documents how the affordable housing meets the terms of the recorded agreement.

6. Additional standards for owner-occupied housing. For owner-occupied housing, the initial sale price of the unit and subsequent sale prices upon resale of the unit during the 50-year affordability period shall be restricted to an amount determined by the Director of Housing to be affordable to an income-eligible household, such that the annualized housing payment for the unit does not exceed 35 percent of the annual income of an income-eligible household, adjusted by the household size expected to occupy the unit based on the number of bedrooms. The method to determine the sale price of the unit, subject to approval by the Director of Housing, includes mortgage principal and interest payments as calculated by prevailing interest rates, real estate taxes, insurance, homeowner association dues and any other housing cost deemed reasonable by the Director of Housing, and requirements relating to down-payment amount and homebuyer contributions. The unit shall be subject to recorded instruments satisfactory to the Director of Housing providing for sale prices on any resale consistent with the affordability restriction on the same basis for a minimum period of 50 years.((~~shall not exceed an amount determined by the Director of Housing to be consistent with affordable housing for an~~

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~~income-eligible household with the average family size expected to occupy the unit based on the number of bedrooms, and the units shall be subject to recorded instruments satisfactory to the Director of Housing providing for sales prices on any resale consistent with affordability on the same basis for at least 50 years.~~

~~3. Affordable housing shall be provided in a range of sizes consistent with RCW 36.70A.540. The affordable housing shall comply with all requirements of RCW 36.70A.540.~~

~~4.~~))7. Additional standards for on-site performance. If the affordable housing is ((~~developed~~))provided within the ((~~project~~))development using the bonus residential floor area((~~:~~

~~a. The affordable housing must serve income-eligible households for the minimum time period referred to in this section.~~

~~b. T~~)), the affordable housing shall be completed and ready for occupancy at or before the time when a certificate of occupancy is issued for any other units in the((~~project~~)) development using the bonus residential floor area, and as a condition to any right of the applicant to such a certificate of occupancy.

((~~5.~~))8. Additional standards for off-site performance. If the affordable housing is not ((~~being developed~~))provided within the ((~~project~~))development using the bonus residential floor area, it may be provided off-site according to the following standards:

a. ((~~Proposals for affordable housing at a location other than within the project using the bonus floor area are subject to approval by the Director of Housing. Approval requires a determination by the Director of Housing that the affordable housing will (1) be located within the same neighborhood where the development using the bonus residential floor area is located, except as otherwise provided in subsection 23.58A.014.B.5.b; (2) provide a public benefit; and (3) be more affordable than market rents or sale prices, as applicable, for housing in the neighborhood in which the affordable housing is located.~~

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~~b. If~~)) Development that uses bonus residential floor area within the South Lake Union Urban Center must provide off-site affordable housing within the South Lake Union Urban Center. Outside the South Lake Union Urban Center, the applicant shall demonstrate((~~s~~)) to the satisfaction of the Director of Housing that the off-site affordable housing is located within the same urban center or village as the development using the bonus residential floor area or within 1 mile of the development using the bonus residential floor area or that it is infeasible for the off-site affordable housing to be located within ((~~the same neighborhood where the development using the bonus residential floor area is located, then (1) the Director of Housing may allow the affordable housing to be provided elsewhere within the Seattle city limits, which is deemed within the general area of the development using the bonus residential floor area in accordance with RCW 36.70A.540, provided that the affordable housing is~~))this area. If the affordable housing is not located within the same urban center or village as the development using the bonus residential floor area or within 1 mile of the development using the bonus residential floor area, it shall be:

1) located within Seattle city limits and within 0.5 mile of a light rail or bus rapid transit station((~~,~~)); or

((~~(~~))2) if the applicant demonstrates that providing the affordable housing in such a location is also infeasible, then the Director of Housing may allow the affordable housing to be provided within the Seattle city limits and within 0.25 mile of a bus or streetcar stop.

((~~c. The affordable housing must serve income-eligible households for the minimum time period referred to in this section pursuant to an agreement between the housing owner and the City.~~

~~d. The agreement required by subsection 23.58A.014.B.5.c must be executed and recorded prior to issuance, and as a condition to issuance, of the first building~~

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~~permit for the project using the bonus residential floor area, and in any event before any permit for any construction activity other than excavation and shoring is issued.~~

~~e.~~))b. The applicant shall provide to the City an irrevocable letter of credit, or other sufficient security approved by the Director of Housing, prior to issuance and as a condition of issuance of any permit after the first building permit for the development using the bonus residential floor area and before any permit for any construction activity((~~,~~)) other than for ((~~grading~~))excavation and shoring((~~,~~)) for the ((~~project using the bonus residential floor area~~))development is issued, unless completion of the affordable housing has already been documented to the satisfaction of the Director of Housing and the affordable housing is subject to recorded restrictions satisfactory to the Director of Housing. The letter of credit or other security shall be in an amount equal to the Payment Option amount calculated according to provisions in subsection 23.58A.014.C, plus an amount equal to interest on such payment. The Director of Housing is authorized to adopt, by rule, terms and conditions of such security including the amount of security and rate of annual interest, conditions on which the City shall have a right to draw on the letter of credit or other security, and terms should the City become entitled to realize on any such security.((~~, at the rate equal to the prime rate quoted by Bank of America or its successor at the time the letter of credit or other security is provided, plus 3 percent per annum, from the date of issuance of the first building permit, other than for excavation and shoring, for the project using the bonus residential floor area. The letter of credit or other security shall be on terms such that when a certificate of occupancy is issued for the project using the bonus residential floor area, or on any earlier date 30 days before the letter of credit or other security will expire, if the required quantity of affordable housing is not completed and ready for occupancy or the affordable housing is not all subject to a recorded agreement sufficient to satisfy the terms of this Section 23.58A.014, the City shall have a right to draw on the letter of credit or other security. If and when the City becomes entitled to realize on~~

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~~any such security, the Director of Housing shall take appropriate steps to collect the amount calculated pursuant to the Payment Option provisions in subsection 23.58A.014.C of this section (after allowing credit for any affordable housing then provided and accepted by the Director of Housing), with interest for the period and at the rate determined pursuant to this subsection, and the amounts realized, net of any costs to the City, shall be used in the same manner as cash payments for housing made under this section. To the extent the City receives payment through a letter of credit or other security, the obligation of the applicant to provide affordable housing will be deemed satisfied and the applicant shall be deemed to have elected the payment option. The applicant shall not be entitled to any refund based on later completion of affordable housing.~~))

((~~f~~))c. Any failure of the affordable housing to satisfy the requirements of this subsection 23.58A.014.B shall not affect the right to maintain or occupy the bonus residential floor area if((~~If~~)) the Director of Housing certifies to the Director that either:

((~~f~~))1) the applicant has provided the City with a letter of credit or other sufficient security pursuant to subsection 23.58A.014.B.((~~5.e~~))8.b; or

((~~f~~))2) there have been recorded one or more agreements or instruments satisfactory to the Director of Housing providing for occupancy and affordability restrictions on affordable housing with the minimum floor area determined under this Section 23.58A.014, all affordable housing ((~~have~~))has been completed, and the affordable housing is on a different lot from the bonus residential floor area or ((~~are~~))is in one or more condominium units separate from the bonus residential floor area under condominium documents acceptable to the Director of Housing((~~, then any failure of the affordable housing to satisfy the requirements of subsection 23.58A.014.B shall not affect the right to maintain or occupy the bonus residential floor area~~)).

((~~g~~))d. Unless and until the Director of Housing shall certify as set forth in ((~~clause (1) or (2) of~~))subsection 23.58A.014.B.((~~5.f~~))8.c, it shall be a continuing permit

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condition, whether or not expressly stated, for each ((~~project~~))development obtaining bonus residential floor area based on the provision of housing to which this ((~~s~~))Section 23.58A.014 applies, that the affordable housing shall be maintained in compliance with the terms of this Section 23.58A.014 and any applicable provisions of the zone, as documented to the satisfaction of the Director of Housing.

((6))9. ((~~No~~))Limits on subsidies for ((~~bonused~~))affordable housing((~~; Exception.~~))

a. ((~~The Director of Housing may require, as a condition of any bonus residential floor area under the performance option, that the owner of the lot upon which the affordable housing is located agree not to seek or accept any subsidies, including without limitation those items referred to subsection 23.58A.014.B.6.b.1, related to housing, except for any subsidies that may be allowed by the Director of Housing under subsection 23.58A.014.B.6.d. The Director may require that such agreement provide for the payment to the City, for deposit in an appropriate subfund or account, of the value of any subsidies received in excess of any amounts allowed by such agreement.~~

~~b. In general, and except as may be otherwise required by applicable federal or state law,~~))Except as allowed in subsections 23.58A.014.B.9.b and 23.58A.014.B.9.c, no bonus residential floor area may be earned by providing affordable housing if:

1) Any person is receiving or will receive with respect to the affordable housing any charitable contributions or public subsidies for ((~~housing~~))development or operation, including, but not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle housing loans or grants, county housing funds, and State of Washington housing funds; or

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2) The housing is or would be, independent of the requirements for the bonus residential floor area and Chapter 5.73, subject to any restrictions on the income of occupants, rents or sale prices.

((e))b. For the purpose of this subsection 23.58A.014.B.((6))9, the qualification for and use of property tax exemptions pursuant to Chapter 5.73 ((SMC)), or any other program implemented pursuant to RCW ((Chapter))84.14((RCW)), does not constitute a subsidy((,)) and any related conditions regarding incomes, rent or sale prices do not constitute restrictions.

((d))c. As an exception to ((the restrictions on subsidies))subsection 23.58A.014.B.9.a, the Director of Housing may allow the building or buildings in which the affordable housing is located to be financed in part with subsidies based on the determination that:

(((c)))1) the total amount of affordable housing is at least 300 net residential square feet greater than the amount otherwise required through the performance option under this ((s))Section 23.58A.014;

(((c)))2) the public benefit of the affordable housing ((net of any subsidies)), as measured through an economic analysis, exceeds the amount of the payment-in-lieu that would otherwise be paid by at least the value of any subsidies; and

(((c)))3) the subsidies being allowed would not be sufficient to leverage private funds for production of the affordable housing, under restrictions as required for the performance option, without additional City subsidy in an amount greater than the payment-in-lieu amount that would otherwise be paid.

((7. The Director of Housing is authorized to accept and execute agreements and instruments to implement this Section 23.58A.014. Issuance of the certificate of occupancy for

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~~the project using the bonus residential floor area may be conditioned on such agreements and instruments.~~))

((~~8~~))10. ((~~The housing owner, in the case of rental housing, shall provide annual reports and pay an annual monitoring fee to the Office of Housing for each affordable housing unit,~~))Fees shall be paid by the applicant and owner of affordable housing to the Department of Planning and Development and the Office of Housing as specified under Chapter 22.900G. ((~~In the case of affordable housing for owner-occupancy, the applicant shall pay an initial monitoring fee to the Office of Housing as specified under Chapter 22.900G, and the recorded resale restrictions shall include a provision requiring payment to the City, on any sale or other transfer of a unit after the initial sale, of a fee in the amount of $500, to be adjusted in proportion to changes in the consumer price index from 2008 to the year in which the sale or transfer is made, for the review and processing of documents to determine compliance with income and affordability restrictions.~~))

C. Payment option. The payment option is available only where the maximum height for residential use under the provisions of the zone is more than 85 feet and only if the Director determines that the payment achieves a result equal to or better than providing the affordable housing on-site and the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed; or for development of a single purpose commercial structure in zones with an incentive zoning suffix. The amount of the in lieu payment made at the time specified in subsection 23.58A.014.C.2 shall be based on the payment amount that is in effect when vesting of a Master Use Permit occurs under Section 23.76.026.

1. Amount of payments.

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a. Except as provided in subsection 23.58A.014.C.1.b, ((~~In~~)) in lieu of all or part of the performance option, an applicant may pay to the City $((~~18.94~~)) 15.15 per square foot of ((~~net~~)) gross bonus residential floor area.

b. In the South Lake Union Urban Center, in lieu of all or part of the performance option, an applicant may pay to the City $21.68 per square foot of gross bonus residential floor area. On July 1, 2014 and on the same day annually thereafter the in-lieu payment amount in this subsection 23.58A.014.C.1.b shall automatically adjust in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, from the time the in-lieu payment was established or last adjusted.

2. Timing of payments. Cash payments shall be made prior to issuance((~~,~~)) and as a condition to issuance((~~,~~)) of any ((~~building~~))permit after the first building permit for a ((~~project~~))development((~~,~~)) and ((~~in any event~~))before any permit for any construction activity other than excavation and shoring is issued, unless the applicant elects in writing to defer payment. If the applicant elects to defer payment, then the issuance of any certificate of occupancy for the ((~~project~~))development shall be conditioned upon payment of the full amount of the cash payment determined under this Section 23.58A.014, plus an interest factor equal to that amount multiplied by the increase, if any, in the Consumer Price Index, All Urban Consumers, West Region, All Items, 1982-84=100, as published monthly, from the last month prior to the date when payment would have been required if deferred payment had not been elected, to the last month for which data are available at the time of payment. If the index specified in this subsection 23.58A.014.C.2 is not available for any reason, the Director shall select a substitute cost of living index. In no case shall the interest factor be less than zero.

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3. Deposit and use of payments. Cash p((~~P~~))ayments in lieu of affordable housing shall be deposited in a special account established solely to support the development of ((~~low-income~~)) housing for income-eligible households as defined in this ((~~e~~))Chapter 23.58A. Earnings on balances in the special account shall accrue to that account. The Director of Housing shall use cash payments and any earnings thereon to support the development of ((~~low-income~~))housing for income-eligible households in any manner now or hereafter permitted by RCW 36.70A.540((~~, including renter or owner housing for income-eligible households~~)). Uses of funds may include the City's costs to administer ((~~projects~~))housing for income-eligible households, not to exceed 10 percent of the payments into the special account. ((~~Affordable h~~))Housing for income-eligible households funded wholly or in part with cash payments shall be located ((~~within eligible areas~~))within the Seattle city limits((~~, which is deemed the general area of the development using the bonus residential floor area in accordance with RCW 36.70A.540~~)). ((~~Eligible areas shall be prioritized in the following order: (1) within the same neighborhoods where the developments using the bonus residential floor area are located; (2) within 0.5 mile of light rail or bus rapid transit stations; and (3) within 0.25 mile of a bus or streetcar stop.~~))

D. If a Master Use Permit application includes establishment of bonus residential floor area and the proposed development entails demolition of a building containing four or more dwelling units occupied as rental housing within 18 months prior to that Master Use Permit application, then the amount of ((~~low-income~~))affordable housing to be provided under subsection 23.58A.014.B.1 is increased by the number of units within the building or buildings to be demolished that were rented to tenants who received or are eligible to receive a tenant relocation assistance payment under Chapter 22.210. The additional ((~~low-income~~))affordable housing is subject to the following requirements:

1. For the first 50 ((~~calendar~~))years of operation, the ((~~low-income~~))affordable housing shall be affordable to households with incomes at or below 50 percent of median income as defined by Section 23.84A.025.

2. A cash payment in lieu of the additional ((~~low-income~~))affordable housing is not permitted.

3. If the additional ((~~low-income~~))affordable housing is not being provided in the ((~~project~~))development using the bonus residential floor area, the additional((~~low-income~~)) affordable housing units shall be completed, ((~~and~~))including issuance of a certificate of occupancy((~~shall be issued~~)), within three years from the time when a certificate of occupancy is issued for any units in the ((~~project~~))development seeking bonus residential floor area, except that the Director may extend the time for completion if the Director finds that:

(((~~a~~)))a. The failure to complete the ((~~low-income~~))affordable housing is due to circumstances beyond the applicant's control;

(((~~b~~)))b. The applicant has been acting and may reasonably be expected to continue to act in good faith and with due diligence; and

(((~~c~~)))c. The ((~~low-income~~))affordable housing will be completed within a reasonable time.

E. The Director and the ((~~Housing~~))Director of Housing are authorized jointly to adopt rules to interpret and implement the provisions of this ((~~s~~))Section 23.58A.014.

Section 54. Section 23.58A.016 of the Seattle Municipal Code, last amended by Ordinance 123589, is repealed.

((~~23.58A.016 - Bonus residential floor area for amenities~~

~~A. Findings. The City Council finds that:~~

~~1. Amenities, including public open space, are an important aspect of livability in areas targeted in the Comprehensive Plan for concentrated housing and employment growth. To~~

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~~address this need, the Comprehensive Plan establishes goals for the amount and distribution of open space. These goals are consistent with national standards developed to assist communities with planning to provide adequate open space serving specified population needs.~~

~~2. Projects that add density will increase demand for public open space. If additional public open space is voluntarily provided to offset additional demand, the impacts on available open space resources will be mitigated.~~

~~3. The average amount of public open space, including breathing room open space, needed to accommodate residential development is at least 0.14 square feet of open space per gross square foot of residential floor area in a project.~~

~~B. Voluntary agreements for amenities. Where expressly permitted by the provisions of the zone, an applicant may achieve bonus residential floor area in part through a voluntary agreement for provision of amenities to mitigate impacts of the project, subject to the limits in this chapter.~~

~~1. Amenities that may be provided for bonus residential floor area include:~~

~~a. neighborhood open space,~~

~~b. green street setbacks on lots abutting designated green streets,~~

~~c. mid-block corridor, and~~

~~d. residential hillside terrace.~~

~~2. The amenities listed in subsection 23.58A.016.B.1 are referred to as "open space amenities" in this Section 23.58A.016. Mitigation of impacts identified in subsection 23.58A.016.A above may be achieved by the performance option, by the payment option, or by a combination of the performance and payment options.~~

~~C. Performance option.~~

~~1. General provisions.~~

~~a. An applicant electing to use the performance option shall provide the~~

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~~amenity on the same lot as the development using the bonus floor area, except to the extent a combined lot development is expressly permitted by the provisions of the zone. The maximum area of any amenity or combination of amenities provided on a lot eligible for a bonus is established in this subsection 23.58A.016.C and may be further limited by Section 23.58A.012 or the provisions of the zone. Open space amenities must meet the standards of this subsection 23.58A.016.C in order to qualify for bonus residential floor area, except as may be authorized by the Director under subsection 23.58A.016.C.4. An open space amenity may also qualify as a required residential amenity to the extent permitted by the provisions of the zone.~~

~~b. Amenities in Downtown zones in South Downtown.~~

~~1) In Downtown zones in South Downtown, in order to qualify for bonus residential floor area, amenity features must satisfy the eligibility conditions of the Downtown Amenity Standards, except as provided in subsection C.1.b.2), and shall be consistent with the guidelines of the Downtown Amenity Standards.~~

~~2) The Director may allow departures from the eligibility conditions of the Downtown Amenity Standards as a Type I decision, if the applicant demonstrates that the amenity better achieves the intent of the Downtown Amenity Standards for that amenity feature, and that the departure is consistent with any applicable criteria for allowing the particular type of departure in the Downtown Amenity Standards.~~

~~3) The Director may condition the approval of an amenity as provided in the Downtown Amenity Standards.~~

~~2. Maximum open space amenity for bonus. Unless otherwise specified in the provisions of the zone, the amount of open space amenity for which bonus residential floor area may be allowed shall not exceed the lesser of the amount required to mitigate the impact created by the total bonus residential floor area in the project, or 15,000 square feet. For purposes of this Section 23.58A.016, the amount of open space required to mitigate that impact is 0.14 square~~

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~~feet of open space amenity per square foot of bonus residential floor area, unless the Director determines, as a Type I decision, that a different ratio applies based on consideration of one or both of the following:~~

~~a. the overall number or density of people anticipated to use or occupy the structure(s) in which bonus residential floor area will be located, in relation to the total floor area of the structure(s), is different from the density level of approximately 1.32 persons per 1,000 gross square feet, which was used to establish the ratio in subsection 23.58A.016.C, such that a different amount of open space is needed to mitigate the project impacts;~~

~~b. characteristics or features of the project mitigate the impacts that the anticipated population using or occupying the structure(s) in which bonus residential floor area will be located would otherwise have on open space needs.~~

~~3. Bonus Ratio. Neighborhood amenities may be used to gain bonus residential floor area according to the following ratios and subject to the limits of this Section 23.58A.016:~~

~~a. For a neighborhood open space, 7 square feet of bonus residential floor area per 1 square foot of qualifying neighborhood open space area (7:1).~~

~~b. For a green street setback, 5 square feet of bonus residential floor area per 1 square foot of qualifying green street setback area (5:1).~~

~~c. For a mid-block corridor, 7 square feet of bonus residential floor area per 1 square foot of qualifying mid-block corridor area (7:1).~~

~~d. For a residential hillside terrace, 5 square feet of bonus residential floor area per 1 square foot of qualifying residential hillside terrace area (5:1).~~

~~4. Standards for open space amenities. The following standards apply to all open space amenities identified in this subsection 23.58A.016.C.4 except as otherwise specifically stated in this subsection 23.58A.016.C.4 or in the provisions of the zone.~~

~~a. Public Access.~~

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~~1) Public access for open space amenities in Downtown zones is regulated pursuant to subsection 23.58A.016.C.1.b.~~

~~2) Open space amenities not in Downtown zones must be open to the public, without charge, each day of the year for a minimum of ten hours each day for a neighborhood open space and 24 hours each day of the year for a green street setback. The hours of public access identified above shall be during daylight hours, unless there are insufficient daylight hours, in which case the open space shall also be open during nighttime hours for the balance of the hours the open space is to remain open. Public access may be limited temporarily during hours that are otherwise required to be open to the public for necessary maintenance or for reasons of public safety.~~

~~3) Within the open space, property owners, tenants and their agents shall allow members of the public to engage in activities allowed in the public sidewalk environment, except that those activities that would require a street use permit if conducted on the sidewalk may be excluded or restricted. Free speech activities such as hand billing, signature gathering, and holding signs, all without obstructing access to the space, any building, or other adjacent features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed. While engaged in allowed activities, members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others unless the space is being closed to the general public consistent with this subsection 23.58A.016.C. No parking, storage or other use may be established on or above the surface of the open space except as provided in subsection 23.58A.016.C.4.b.6. Use by motor vehicles of open space for which bonus residential floor area is granted is not permitted. The open space shall be identified clearly with the City's public open space logo on a plaque placed at a visible location at each street entrance providing access to the amenity. The plaque shall indicate, in letters legible to passersby, the nature of the bonus amenity, its availability for~~

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~~general public access, and additional directional information as needed.~~

~~b. Standards for Neighborhood Open Space.~~

~~1) Neighborhood open space in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.016.C.1.b.~~

~~2) Neighborhood open space not in Downtown zones used to qualify for bonus floor area must meet the conditions in this subsection 23.58A.016.C.4.b.2), unless an exception is granted by the Director as a Type I decision, based on the Director's determination that, relative to the strict application of the standards, the exception will result in improved public access and use of the space or a better integration of the space with surrounding development.~~

~~a) The open space must be improved in compliance with the applicable provisions of this Section 23.58A.016. The open space must consist of one continuous area with a minimum of 3,000 square feet and a minimum horizontal dimension of 10 feet.~~

~~b) A minimum of 35 percent of the open space must be landscaped with grass, ground cover, bushes and/or trees.~~

~~c) Either permanent or movable seating in an amount equivalent to 1 lineal foot for every 200 square feet of open space shall be available for public use during hours of public access.~~

~~d) The open space shall be located and configured to maximize solar exposure to the space, allow easy access from streets or other abutting public spaces, including access for persons with disabilities, and allow convenient pedestrian circulation through all portions of the open space. The open space must have a minimum frontage of 30 feet at grade abutting a sidewalk, and be visible from sidewalks on at least one street.~~

~~e) The open space shall be provided at ground level, except~~

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~~that in order to provide level open spaces on steep lots, some separation of multiple levels may be allowed, provided they are physically and visually connected.~~

~~f) Up to 20 percent of the open space may be covered by elements accessory to public use of the open space, including: permanent, freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters; structural overhangs; overhead arcades or other forms of overhead weather protection; and any other features approved by the Director that contribute to pedestrian comfort and active use of the space. The following elements within the open space area may count as open space and are not subject to the percentage coverage limit: temporary kiosks and pavilions, public art, permanent seating that is not reserved for any commercial use, exterior stairs and mechanical assists that provide access to public areas and are available for public use, and any similar features approved by the Director. Seating or tables, or both, may be provided and reserved for customers of restaurants or other uses abutting the open space, but the area reserved for customer seating shall not exceed 15 percent of the open space area or 500 square feet, whichever is less.~~

~~e. Standards for Green street setbacks.~~

~~1) Green street setbacks in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.016.C.1.b.~~

~~2) Green street setbacks not in Downtown zones shall meet the following standards:~~

~~a) Where permitted by the provisions of the zone, bonus residential floor area may be gained for green street setbacks by development on lots abutting those street segments that are listed or shown as green streets in the provisions of the zone.~~

~~b) A green street setback must be provided as a setback from a lot line abutting a designated green street. The setback must be continuous for the length of the frontage of the lot abutting the green street, and a minimum of 50 percent of the setback~~

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~~area eligible for a bonus shall be landscaped. The area of any driveways in the setback area is not included in the bonusable area. For area eligible for a bonus, the average setback from the abutting green street lot line shall not exceed 10 feet, with a maximum setback of 15 feet. The design of the setback area shall allow for public access, such as access to street level uses in abutting structures or access to areas for seating. The Director may grant an exception to the standards in this subsection 23.58A.016.C.4.c as a Type I decision, based on the Director's determination that the exception is consistent with a green street concept plan, if one exists, established in accordance with DR 11-2007, or a successor rule.~~

~~d. Standards for Mid-Block Corridor. Mid-block corridors used to qualify for bonus floor area in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.016.C.1.b.~~

~~e. Standards for Residential Hillside Terrace. A residential hillside terrace used to qualify for bonus floor area in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.016.C.1.b.~~

~~f. Declaration. If open space is to be provided for purposes of obtaining bonus residential floor area, the owner(s) of the lot using the bonus residential floor area, and of the lot where the open space is provided, if different, shall execute and record a declaration and voluntary agreement in a form acceptable to the Director identifying the bonus amenities; acknowledging that the right to develop and occupy a portion of the gross floor area on the lot using the bonus residential floor area is based upon the long-term provision and maintenance of the open space and that development is restricted in the open space; and committing to provide and maintain the open space.~~

~~g. Identification.~~

~~1) Amenities in Downtown zones in South Downtown shall meet the identification conditions of the Downtown Amenity Standards.~~

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~~2) Open space amenities not in Downtown zones shall be identified clearly with the City's public open space logo on a plaque placed at a visible location at each street entrance providing access to the amenity. The plaque shall indicate, in letters legible to passersby, the nature of the bonus amenity, its availability for general public access, and additional directional information as needed.~~

~~h. Duration; Alteration. Except as provided for in this subsection 23.58A.016.C.4.h, the owners of the lot using the bonus residential floor area and of the lot where the open space amenity is located, if different, including all successors, shall provide and maintain the open space amenities for which bonus residential floor area is granted, in accordance with the applicable provisions of this Section 23.58A.016, for as long as the bonus residential floor area gained by the open space amenities exists. An open space amenity for which bonus residential floor area has been granted may be altered or removed only to the extent that either or both of the following occur, and alteration or removal may be further restricted by the provisions of the zone and by conditions of any applicable permit:~~

~~1) The bonus residential floor area permitted in return for the specific open space amenity is removed or converted to a use for which bonus residential floor area is not required under the provisions of the zone; or~~

~~2) An amount of bonus residential floor area equal to that allowed for the open space amenity that is to be altered or removed is provided through alternative means consistent with the provisions of the zone and provisions for allowing bonus residential floor area in this Chapter 23.58A.~~

~~D. Payment option.~~

~~1. There is no payment in lieu option for open space amenities other than neighborhood open space.~~

~~2. Payment in lieu of providing neighborhood open space.~~

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~~a. In lieu of all or part of the performance option for neighborhood open space, an applicant may pay to the City an amount determined pursuant to this subsection if the Director determines, as a Type I decision, that the payment will contribute to public open space improvements abutting the lot or in the vicinity; that the improvements will meet the additional need for open space caused by the project and are feasible within a reasonable time; and that the applicant agrees to the specific improvements or to the general nature and location of the improvements.~~

~~b. The amount of the payment is determined by multiplying the number of square feet of land that would be provided as neighborhood open space, by the sum of an estimated land value per square foot based on recent transactions in the area and an average square foot cost for open space improvements. The dollar amount per square foot shall be determined by the Director based on any relevant information submitted by the applicant, and any other data related to land values and costs that the Director considers reliable.~~

~~c. Cash payments shall be made prior to issuance, and as a condition to issuance, of the first building permit for a project, and in any event before any permit for any construction activity other than excavation and shoring is issued.~~

~~d. Any payment in lieu of providing neighborhood open space shall be deposited in a dedicated fund or account solely to support acquisition or development of public open space within 0.25 mile of the lot using the bonus floor area, or within another area prescribed by the provisions of the zone, or at another location where the applicant and the Director agree that it will mitigate the direct impacts of the project, and the payment shall be expended within five years of receipt for such purposes.~~))

Section 55. Section 23.58A.018 of the Seattle Municipal Code, last amended by Ordinance 123589, is repealed.

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((~~**23.58A.018 - Transfer of residential development potential**~~

~~A. Scope and Applicability.~~

~~1. This Section 23.58A.018 contains rules for transfer of residential development potential to lots in areas for which other provisions of this Title 23 specifically refer to provisions of this Section 23.58A.018. The provisions of this Section 23.58A.018 are subject to the applicable provisions of the zone.~~

~~2. Whether a lot may be eligible as a TDP sending site is determined by the provisions of the zone in which the lot is located. To be eligible as a sending lot for a specific category of TDP defined in this Chapter 23.58A, the lot must satisfy the applicable conditions of this Section 23.58A.018 except to the extent otherwise expressly stated in the provisions of the zone. Whether a lot is eligible as a TDP receiving lot, and whether the lot may receive TDP from another lot, and what categories of TDP the lot may receive, are determined by the provisions of the zone. The transfer of TDP and use of TDP on any receiving lot is subject to the limits and conditions in this Chapter 23.58A, the provisions of the zone, and all other applicable provisions of this title.~~

~~B. TDP Required Before Construction. No permit after the first building permit, and in any event, no permit for any construction activity other than excavation and shoring, and no permit for occupancy of existing floor area by any use based upon TDP, will be issued for development that includes TDP until the applicant's possession of TDP is demonstrated to the satisfaction of the Director.~~

~~C. General Standards for Sending Lots.~~

~~1. TDP Calculation. The maximum amount of floor area that may be transferred is the amount by which the base residential floor area of the sending lot exceeds the sum of:~~

~~a. any nonexempt residential floor area existing on the sending lot; plus~~

~~b. any existing floor area of uses accessory to nonexempt residential uses,~~

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~~except to the extent that floor area is exempt from floor area limits under the provisions of the zone; plus~~

~~c. any TDP previously transferred from the sending lot.~~

~~2. Floor Area Limit After Transfer. Except as provided in subsection 23.58A.018.C.3, after TDP is transferred from a sending lot the amount of residential floor area that may then be established on the sending lot, other than floor area exempt from limits on residential floor area under the provisions of the zone, shall be equal to the base residential floor area, plus any net amount of TDP previously transferred to that lot, minus the total of (a) the existing residential floor area on the lot, plus (b) the amount of TDP transferred from the lot.~~

~~3. Sending Lot in Zone Without Base Residential FAR. If TDP are sent from a sending lot in a zone without a base residential FAR limit, the maximum residential floor area that may then be established on the sending lot shall be equal to the excess, if any, of~~

~~a. the total residential floor area that could have been built on the sending lot under the base height limit consistent with applicable development standards as determined by the Director had no TDP been transferred, less~~

~~b. the sum of~~

~~1) the existing residential floor area on the lot; plus~~

~~2) the amount of TDP that was transferred from the lot.~~

~~D. Standards for Landmark TDP Sending Lots. Landmark structures on sending lots from which Landmark TDP is transferred shall be rehabilitated and maintained as required by the Landmarks Preservation Board.~~

~~E. Standards for Open Space TDP Sites. The following standards apply unless provisions of the zone state otherwise:~~

~~1. General conditions. Open space TDP sites must meet the conditions of the subsection 23.58A.018.E.1, unless an exception is granted by the Director:~~

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~~a. Each portion of the open space shall be accessible from each other portion of the open space without leaving the open space.~~

~~b. The open space shall have a minimum area of 5,000 square feet.~~

~~c. The open space shall be directly accessible from the sidewalk or another public open space, including access for persons with disabilities.~~

~~d. The open space shall be at ground level, except that in order to provide level open spaces on steep lots, some separation of multiple levels may be allowed, provided they are physically and visually connected.~~

~~e. No more than 20 percent of the open space may be occupied by any above grade structures.~~

~~f. A minimum of 35 percent of the open space must be landscaped with grass, ground cover, bushes, or trees.~~

~~g. Either permanent or movable seating in an amount equivalent to 1 lineal foot for every 200 square feet of open space shall be available for public use during hours of public access.~~

~~h. The open space shall be located and configured to maximize solar exposure to the space, allow easy access from streets or other abutting public spaces, including access for persons with disabilities, and allow convenient pedestrian circulation through all portions of the open space.~~

~~i. The lot shall be located a minimum of 0.25 mile from the closest lot approved by the Director as a separate open space TDP site, unless the lot is abutting another TDP site and is designed to integrate with the other TDP site.~~

~~j. The open space shall be open to the public, without charge, each day of the year for a minimum of ten hours each day during daylight hours, unless there are insufficient daylight hours, in which case the open space shall also be open during nighttime hours for the~~

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~~balance of the hours the open space is to remain open. Public access may be limited temporarily during hours that are otherwise required to be open to the public for necessary maintenance or for reasons of public safety.~~

~~k. Within the open space, property owners, tenants and their agents shall allow members of the public to engage in activities allowed in the public sidewalk environment, except that those activities that would require a street use permit if conducted on the sidewalk may be excluded or restricted. Free speech activities such as hand billing, signature gathering, and holding signs, all without obstructing access to the space, any building, or other adjacent features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed. While engaged in allowed activities, members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others unless the space is being closed to the general public consistent with this subsection 23.58A.018.E.1.k.~~

~~l. The open space shall be identified clearly with the City's public open space logo on a plaque placed at a visible location at each street entrance providing access to the amenity. The plaque shall indicate, in letters legible to passersby, the nature of the bonus amenity, its availability for general public access, and additional directional information as needed.~~

~~m. Unless the open space will be in public ownership, the applicant shall make adequate provision to ensure the permanent maintenance of the open space.~~

~~2. Special exception for open space TDP sites. The Director may grant, or grant with conditions, an exception to the standards for open space TDP sites in this subsection 23.58A.018.E and any applicable Director's Rule(s), as a special exception pursuant to Chapter 23.76, Procedures for Master Use Permit and Council Land Use Decisions. In determining whether to grant, grant with conditions, or deny a request for special exception under this~~

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~~subsection 23.58A.018.E.2, the Director shall consider:~~

~~a. the extent to which the exception would result in an open space TDP site that better meets the intent of the provisions of this subsection 23.58A.018.E; and~~

~~b. the extent to which the exception would allow the design of the open space to take advantage of unusual site characteristics or conditions in the surrounding area, such as views and relationship to surroundings.~~

~~3. After any TDP is transferred from an open space TDP site, lot coverage by structures shall be permanently limited to 20 percent, or any greater amount that was allowed as a special exception prior to the transfer, and no development shall be permitted that would be inconsistent with the standards under which it was approved as an open space TDP sending site.~~

~~F. Standards and Limits for TDP Sending Lots in South Downtown. This subsection 23.58A.018.F applies to TDP sending lots in South Downtown, in addition to the general provisions in this Section 23.58A.018.~~

~~1. Limit on Open Space TDP. The maximum amount of open space TDP that may be transferred from a sending lot is the amount by which three times the lot area exceeds the total gross floor area of all uses on the lot.~~

~~2. South Downtown Historic TDP.~~

~~a. Only lots in the Pioneer Square Preservation District or the International Special Review District may qualify as sending lots for South Downtown Historic TDP.~~

~~b. In order to be eligible to send South Downtown Historic TDP, a lot must contain a structure that includes at least 5,000 gross square feet in above-grade floor area and has been finally determined to be a contributing structure under Section 23.66.032 within no more than three years prior to the recording of the deed conveying the TDP from the sending lot.~~

~~c. Contributing structures on a sending lot from which South Downtown~~

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~~Historic TDP are transferred shall be rehabilitated and maintained in accordance with an agreement pursuant to subsection 23.58A.018.I.3.~~

~~d. South Downtown Historic TDP shall not be transferred from a lot from which South Downtown Historic TDR have been transferred or from a lot on which any bonus floor area has been established based on the presence of a contributing structure.~~

~~3. Limit on Combined TDR and TDP. A cumulative combination of TDR and TDP exceeding a total of six times the lot area may not be transferred from any lot.~~

~~G. Time of Determination of TDP Eligible for Transfer. The eligibility of a sending lot to transfer TDP, and the amount transferable from a sending lot, shall be determined as of the date of transfer from the sending lot and shall not be affected by the date of any application, permit decision or other action for any project seeking to use the TDP.~~

~~H. Reservation in Deed. Any TDP eligible for transfer may instead be reserved in the conveyance of title to an eligible sending lot, by the express terms of the deed or other instrument of conveyance reserving a specified amount of TDP, provided that an instrument acceptable to the Director is recorded binding the lot to the terms and conditions for eligibility to send TDP under this Section 23.58A.018. Any TDP so reserved shall be considered transferred from that lot and later may be conveyed by deed without participation of the owner of the lot.~~

~~I. TDP Deeds and Agreements.~~

~~1. The fee owners of the sending lot shall execute a deed, and shall obtain the release of the TDP from all liens of record and the written consent of all holders of encumbrances on the sending lot other than easements and restrictions, unless the requirement for a release or consent is waived by the Director for good cause. The deed shall be recorded in the King County real property records. If TDP is conveyed to the owner of a receiving lot described in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument conveying the lot or the TDP, the TDP shall pass with the receiving lot whether or not~~

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~~a structure using the TDP shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDP previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in or lien on the receiving lot from which the conveyance is made. If the TDP is transferred other than directly from the sending lot to the receiving lot using the TDP, then after the initial transfer, all subsequent transfers also shall be by deed, duly executed, acknowledged and recorded, each referring by King County recording number to the prior deed.~~

~~2. Any person may purchase any TDP that is eligible for transfer by complying with the applicable provisions of this Section 23.58A.018, whether or not the purchaser is then an applicant for a permit to develop real property or is the owner of any potential receiving lot. Any purchaser of the TDP (including any successor or assignee) may use the TDP to obtain floor area above the applicable base height limit or base floor area limit on a receiving lot to the extent that use of TDP is permitted under the Land Use Code provisions applicable with respect to the issuance of permits for development of the project intended to use the TDP. The Director may require, as a condition of processing any permit application using TDP or for the release of any security posted in lieu of a deed for TDP to the receiving lot, that the owner of the receiving lot demonstrate that the TDP has been validly transferred of record to the receiving lot, and that the owner has recorded in the real estate records a notice of the filing of such permit application, stating that the TDP is not available for retransfer.~~

~~3. As a condition to the effective transfer of Landmark TDP or South Downtown Historic TDP, except from a City-owned sending lot, the fee owner of the sending lot shall execute and record an agreement running with the land, in form and content acceptable to, and accepted in writing by, the Director of Neighborhoods, providing for the rehabilitation and maintenance of the historically significant or other relevant features of the structure or structures on the lot and acknowledging the restrictions on future development resulting from the transfer.~~

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~~The Director may require evidence that each holder of a lien has effectively subordinated the lien to the terms of the agreement, and that any holders of interests in the property have agreed to its terms. To the extent that a Landmark structure on the sending lot, or a contributing structure on a sending lot in a special review district, the presence of which is a condition to eligibility to transfer TDP under the provisions of the zone, requires restoration or rehabilitation for the long-term preservation of the structure or its historically or architecturally significant features, the Director of Neighborhoods may require, as a condition to acceptance of the necessary agreement, that the owner of the sending site apply for and obtain a certificate of approval from the Landmarks Preservation Board, or from the Director of Neighborhoods after review by the Pioneer Square Preservation Board or International Special Review District Board, as applicable, for the necessary work, or post security satisfactory to the Director of Neighborhoods for the completion of the restoration or rehabilitation, or both~~))

Section 56. Section 23.58A.022 of the Seattle Municipal Code, last amended by Ordinance 123589 is amended as follows:

23.58A.022 Methods to achieve extra nonresidential floor area

((~~A. All or a percentage of the extra nonresidential floor area on a lot shall be housing and child care bonus nonresidential floor area pursuant to Section 23.58A.024, or housing TDR, or a combination of the foregoing unless otherwise expressly provided in the provisions of the zone.~~))The method to achieve extra nonresidential floor area shall be as provided in the provisions of the underlying zone. If the underlying zone does not provide methods to achieve extra nonresidential floor area, the methods shall be:

((~~B~~))A. If the maximum height limit for nonresidential use is 85 feet or less, all extra nonresidential floor area shall be housing and child care bonus nonresidential floor area pursuant to Section 23.58A.024, or housing TDR pursuant to Section 23.58A.042, or ((~~any combination of~~))both.

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((~~C~~))B. If the maximum height limit for nonresidential use is greater than 85 feet, the applicant shall use housing and child care bonus nonresidential floor area pursuant to Section 23.58A.024, or housing TDR pursuant to Section 23.58A.042, or ((~~any combination thereof~~))both, to achieve 75 percent of total extra nonresidential floor area on the lot, and, to the extent permitted under the provisions of the zone and this ((~~sube~~))Chapter 23.58A, shall use ((~~other~~))bonus nonresidential floor area for amenities pursuant to Section 23.58A.040, or TDR pursuant to Section 23.58A.042, or both, for the balance of the extra nonresidential floor area.

Section 57. Section 23.58A.023 of the Seattle Municipal Code, last amended by Ordinance 123589, is repealed.

~~((23.58A.023 - Affordable housing incentive programs: purpose and findings~~

~~A. Purpose; Scope of Provisions; State Law Controlling. The provisions of this Chapter 23.58A related to housing and child care bonus nonresidential floor area, except to the extent they relate to child care, are intended to implement affordable housing incentive programs authorized by RCW 36.70A.540, as it may be amended. In case of any irreconcilable conflict between the terms of this Chapter 23.58A related to the housing bonus and child care bonus nonresidential floor area, except to the extent they relate to child care, and the authority granted in RCW 36.70A.540, as it may be amended, the provisions of RCW 36.70A.540, as it may be amended, shall supersede and control. Unless the context otherwise clearly requires, references to RCW 36.70A.540 in this subchapter mean that section as in effect on the date as of which the provisions of this title apply to the application for a use permit for the project using the bonus floor area.~~

~~B. Findings. Pursuant to the authority of RCW 36.70A.540, the City finds that the higher income levels specified in the definition of "income-eligible households" in Section 23.58A.004, rather than those stated in the definition of "low-income households" in RCW 36.70A.540, are~~

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~~needed to address local housing market conditions throughout the city for purposes of affordable housing incentive programs implemented through this subchapter.~~))

Section 58. Section 23.58A.024 of the Seattle Municipal Code, last amended by Ordinance 123589 is amended as follows:

23.58A.024 Bonus nonresidential floor area for ((~~low-income~~))affordable housing and child care

A. Scope; ((~~G~~))general ((~~R~~))rule. This Section 23.58A.024 applies to bonus nonresidential floor area for affordable housing and child care allowed on lots for which applicable sections of this Title 23 expressly refer to this Chapter 23.58A. To obtain b((~~B~~))onus nonresidential floor area for affordable housing and child care, ((~~may be allowed if~~))the applicant ((~~qualifies by using~~))may use the performance option, the payment option, or a combination of these options, in accordance with this Section 23.58A.024 and subject to the provisions of the zone.

B. Performance ((~~O~~))option for housing((~~.~~))

1. ((~~Housing.~~

~~a.~~))Amount of affordable housing. An applicant using the housing performance option shall provide affordable housing ((~~serving income-eligible households in an amount~~))with a gross floor area at least equal to 15.6 percent of gross bonus nonresidential floor area obtained ((~~under~~))through the performance option((~~pursuant to this Section 23.58A.024.~~

~~b. An applicant may provide low-income housing as part of the project using extra floor area or by providing or contributing to a low-income housing project at another location, subject to the requirements in subsection 23.58A.024.B.1.e and subject to approval of the low-income housing project in writing by the Director of Housing prior to issuance of the first building permit for the development using the bonus nonresidential floor area~~)).

2. Agreement. The City and the affordable housing owner shall enter into an

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agreement specifying the affordable housing requirements under this subsection 23.58A.024.B. This agreement shall be executed and recorded prior to issuance and as a condition to issuance of any permit after the first building permit for the development using the bonus nonresidential floor area and before any permit for any construction activity other than excavation and shoring for the development is issued.

((~~c. The low-income~~))3. Duration. Affordable housing shall serve only income-eligible households for a minimum period of 50 years from the later of the date when the agreement between the housing owner and the City((~~, as required by subsection 23.58A.024.B.1.e.3 and described in subsection 23.58A.024.B.1.e, if applicable,~~)) is recorded, or the date when the ((~~low-income~~))affordable housing becomes available for occupancy as determined by the City.

4. Unit size and distribution. Affordable housing shall be provided in a range of sizes comparable to those units that are available to other residents. To the extent practicable, the number of bedrooms in affordable units must be in the same proportion as the number of bedrooms in units within the entire development. The affordable units shall generally be distributed throughout the development and have substantially the same functionality as the other units in the development.

5. Additional standards for rental housing. For rental housing((~~,~~)):

a. monthly rent((~~shall be limited so that housing costs~~)), including ((~~rent and~~))basic utilities, shall not exceed 30 percent of the income limit for ((~~income-eligible households~~))the unit, all as determined by the Director of Housing, for a minimum period of 50 years((~~,~~)); and

b. the housing owner shall submit a report to the Office of Housing annually that documents how the affordable housing meets the terms of the recorded agreement.

6. Additional standards for owner-occupied housing. For owner-occupied

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housing, the initial sale price of the unit and subsequent sale prices upon resale of the unit during the 50-year affordability period shall be restricted to an amount determined by the Director of Housing to be affordable to an income-eligible household, such that the annualized housing payment for the unit does not exceed 35 percent of the annual income of an income-eligible household, adjusted by the household size expected to occupy the unit based on the number of bedrooms. The method to determine the sale price of the unit, subject to approval by the Director of Housing, includes mortgage principal and interest payments as calculated by prevailing interest rates, real estate taxes, insurance, homeowner association dues and any other housing cost deemed reasonable by the Director of Housing, and requirements relating to down-payment amount and homebuyer contributions. The unit shall be subject to recorded instruments satisfactory to the Director of Housing providing for sale prices on any resale consistent with the affordability restriction on the same basis for a minimum period of 50 years.((~~shall not exceed an amount determined by the Director of Housing to be consistent with low-income housing for an income-eligible household with the average family size expected to occupy the unit based on the number of bedrooms, and the units shall be subject to recorded instruments satisfactory to the Director of Housing providing for sales prices on any resale consistent with affordability on the same basis for at least 50 years. The low-income housing shall be provided in a range of sizes consistent with RCW 36.70A.540 and shall comply with all requirements of RCW 36.70A.540.~~))

((~~d.~~))7. Additional standards for on-site performance. If the ((~~low-income~~)) affordable housing is ((~~developed~~))provided within the ((~~project~~))development using the bonus nonresidential floor area((~~:~~

~~1) The low-income housing must serve income-eligible households for the minimum time period referred to in this Section 23.58A.024.~~

~~2) T~~)), the ((~~low-income~~))affordable housing shall be completed and ready for occupancy at or before the time when a certificate of occupancy is issued for any

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chargeable floor area in the ((~~project~~))development using the bonus nonresidential floor area, and as a condition to any right of the applicant to such a certificate of occupancy.

((~~e.~~))8. Additional standards for off-site performance. If the((~~low-income~~)) affordable housing is not ((~~being developed~~))provided within the ((~~project~~))development using the bonus nonresidential floor area, it may be provided off-site according to the following standards:

((~~1) Proposals for low-income housing are subject to approval by the Director of Housing. Approval requires a determination by the Director of Housing that the low-income housing will (a) be located within the same neighborhood where the project using the bonus nonresidential floor area is located, except as otherwise provided in subsection 23.58A.024.B.1.e.2; (b) provide a public benefit; and (c) be more affordable than market rents or sale prices, as applicable, for housing in the neighborhood in which the low-income housing is located.~~

~~2) If~~))a. Developments that use bonus nonresidential floor area with the South Lake Union Urban Center shall provide off-site affordable housing within the South Lake Union Urban Center. Outside of the South Lake Union Urban Center, the applicant shall demonstrate((~~s~~)) to the satisfaction of the Director of Housing that the off-site affordable housing is located within the same urban center or village as the development using the bonus residential floor area or within one mile of the development using the bonus nonresidential floor area or that it is infeasible for the off-site ((~~low-income~~))affordable housing to be located within ((~~the same neighborhood where the development using the bonus nonresidential floor area is located, then (a) the Director of Housing may allow the low-income housing to be provided elsewhere within the Seattle city limits, which is deemed the general area of the development using the bonus nonresidential floor area in accordance with RCW 36.70A.540, provided that the low-income housing is~~))this area. If the affordable housing is not located within the same urban center or

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village as the development using the bonus residential floor area or within one mile of the development using the bonus nonresidential floor area, it shall be located either:

1) within the Seattle city limits and within 0.5 mile of a light rail or bus rapid transit station((~~on a route serving the neighborhood where the development using the bonus nonresidential floor area is located,~~)); or (((~~b~~)))

2) if the applicant demonstrates that providing the ((~~low-income~~))affordable housing in such a location is also infeasible, then the Director of Housing may allow the ((~~low-income~~))affordable housing to be provided in the city within the Seattle city limits and within 0.25 mile of a bus or streetcar stop.

((~~3) The low-income housing must be committed to serve income-eligible households for the minimum time period referred to in this Section 23.58A.024 pursuant to an agreement between the housing owner and the City, and any agreements with other parties that the Director of Housing finds necessary.~~

~~4) The agreement required by subsection 23.58A.024.B.1.c.3 must be executed and recorded prior to issuance, and as a condition to issuance, of the first building permit for the project using the bonus nonresidential floor area, and in any event before any permit for any construction activity other than excavation and shoring is issued.~~

~~5)~~))b. The applicant shall provide to the City an irrevocable letter of credit, or other sufficient security approved by the Director of Housing, prior to and as a condition of issuance of any permit after the first building permit for the development using the bonus nonresidential floor area and before any permit for construction activity((~~,~~)) other than ((~~grading~~))excavation and shoring((~~, for the project using the bonus nonresidential floor area~~)) is issued, unless completion of the ((~~low-income~~))affordable housing has already been documented to the satisfaction of the Director of Housing and the ((~~low-income~~))affordable housing is subject to recorded restrictions satisfactory to the Director of Housing. The letter of credit or other

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security shall be in an amount equal to the payment option amount calculated according to provisions in subsection 23.58A.024.((C))D, plus an amount equal to interest on such payment. The Director of Housing is authorized to adopt, by rule, terms and conditions of such security including the amount of security and rate of annual interest, conditions on which the City shall have a right to draw on the letter of credit or other security, and terms should the City become entitled to realize on any such security.((~~amount, at the rate equal to the prime rate quoted by Bank of America or its successor at the time the letter of credit or other security is provided, plus three percent per annum, from the date of issuance of the first building permit, other than for excavation and shoring, for the project using the bonus nonresidential floor area. The letter of credit or other security shall be on terms such that when a certificate of occupancy is issued for the project using the bonus n onresidential floor area, or on any earlier date 30 days before the letter of credit or other security will expire, if the required quantity of low-income housing is not completed and ready for occupancy or the low-income housing is not all subject to a recorded agreement sufficient to satisfy the terms of this Section 23.58A.024, the City shall have a right to draw on the letter of credit or other security. If and when the City becomes entitled to realize on any such security, the Director of Housing shall take appropriate steps to collect the amount calculated pursuant to the payment option provisions in subsection 23.58A.024.C (after allowing credit for any low-income housing then provided and accepted by the Director of Housing) with interest for the period and at the rate determined pursuant to this subsection 23.58A.024.B.1.e.5, and the amounts realized, net of any costs to the City, shall be used in the same manner as cash payments for housing made under this Section 23.58A.024. To the extent the City receives payment through a letter of credit or other security, the obligation of the applicant to provide low-income housing will be deemed satisfied and the applicant shall be deemed to have elected the payment option. The applicant shall not be entitled to any refund based on later completion of low-income housing.~~

~~6~~))c. Any failure of the affordable housing to satisfy the requirements of this subsection 23.58A.024.B shall not affect the right to maintain or occupy the bonus nonresidential floor area ((~~f~~))if the Director of Housing certifies to the Director that either:

1) (((~~a~~)))the applicant has provided the City with a letter of credit or other sufficient security pursuant to subsection 23.58A.024.B((~~.1.e.5~~)).8.b; or

2) (((~~b~~)))there have been recorded one or more agreements or instruments satisfactory to the Director of Housing providing for occupancy and affordability restrictions on ((~~low-income~~))affordable housing with the minimum floor area determined under this Section 23.58A.024, all ((~~low-income~~))affordable housing has been completed, and the ((~~low-income~~))affordable housing is on a different lot from the bonus nonresidential floor area or is in one or more condominium units separate from the bonus development under condominium documents acceptable to the Director of Housing((~~, then any failure of the low-income housing to satisfy the requirements of this subsection 23.58A.024.B.1 shall not affect the right to maintain or occupy the bonus nonresidential floor area~~)).

((~~7~~)))d. Unless and until the Director of Housing ((~~shall certify~~))certifies as set forth in ((~~clause (a) or (b) of~~))subsection 23.58A.024.B.((~~1.e.6~~))8.c, it shall be a continuing permit condition, whether or not expressly stated, for each ((~~project~~))development obtaining bonus nonresidential floor area based on the provision of housing to which this Section 23.58A.024 applies, that the ((~~low-income~~))affordable housing shall be maintained in compliance with the terms of this Section 23.58A.024 and any applicable provisions of the zone, as documented to the satisfaction of the Director of Housing.

((~~f~~))9. ((~~No~~))Limits on subsidies for ((~~bonused~~))affordable housing((~~; Exception.~~))

((~~1) The Director of Housing may require, as a condition of any bonus nonresidential floor area under the performance option, that the owner of the lot upon~~

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~~which the low-income housing is located agree not to seek or accept any subsidies, including without limitation those items referred to subsection 23.58A.024.B.1.f.2, related to housing, except for any subsidies that may be allowed by the Director of Housing under that subsection 23.58A.024.B.1.f.2. The Director may require that such agreement provide for the payment to the City, for deposit in an appropriate subfund or account, of the value of any subsidies received in excess of any amounts allowed by such agreement.~~

~~2) In general, and except as may be otherwise required by applicable federal or state law,~~))

a. Except as allowed in subsection 23.58A.014.B.9.b and 23.58A.014.B.9.c, no bonus nonresidential floor area may be earned by providing affordable housing if:

((~~a~~)))1) Any person is receiving or will receive with respect to the affordable housing any charitable contributions or public subsidies for housing development or operation, including, but not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle housing loans or grants, county housing funds, and State of Washington housing funds; or

((~~b~~)))2) The housing is or would be, independent of the requirements for the bonus nonresidential floor area and Chapter 5.73, subject to any restrictions on the income of occupants, rents or sale prices.

((~~3~~)))b. For the purpose of this subsection 23.58A.024.B((~~.1.f~~)).9, the qualification for and use of property tax exemptions pursuant to ((~~SMC~~))Chapter 5.73, or any other program implemented pursuant to RCW ((~~Chapter~~))84.14, does not constitute a subsidy((~~,~~)) and any related conditions regarding incomes, rent or sale prices do not constitute restrictions.

((~~4~~)))c. As an exception to ((~~the restriction on subsidies~~))subsection 23.58A.024.B.9.a.1, the Director of Housing may allow the building or buildings in which the

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((~~low-income~~))affordable housing is located to be financed in part with subsidies based on the determination that:

(((~~a~~)))1) the total amount of ((~~low-income~~))affordable housing is at least 300 net residential square feet greater than the amount otherwise required through the performance option under this ((~~s~~))Section 23.58A.024;

(((~~b~~)))2) the public benefit of the ((~~low-income~~))affordable housing((~~net of any subsidies~~)), as measured through an economic analysis, exceeds the amount of the payment-in-lieu that would otherwise be paid by at least the value of any subsidies; and

(((~~c~~)))3) the subsidies being allowed would not be sufficient to leverage private funds for production of the ((~~low-income~~))affordable housing, under restrictions as required for the performance option, without additional City subsidy in an amount greater than the payment-in-lieu amount that would otherwise be paid.

((~~g. The Director of Housing is authorized to accept and execute agreements and instruments to implement this Section 23.58A.024. Issuance of the certificate of occupancy for the project using the bonus nonresidential floor area may be conditioned on such agreements and instruments.~~

~~h. The housing owner, in the case of rental housing, shall provide annual reports and pay an annual monitoring fee to the Office of Housing for each low-income housing unit. In the case of low-income housing for owner-occupancy, the applicant shall pay an initial monitoring fee to the Office of Housing as specified under Chapter 22.900G, and the recorded resale restrictions shall include a provision requiring payment to the City, on any sale or other transfer of a unit after the initial sale, of a fee in the amount of $500, to be adjusted in proportion to changes in the consumer price index from 2008 to the year in which the sale or transfer is made, for the review and processing of documents to determine compliance with income and affordability restrictions.~~))

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10. Fees shall be paid by the applicant and owner of affordable housing to the Department of Planning and Development and the Office of Housing as specified under Section 22.900G.015.

((~~2~~))C. Performance option for ((~~C~~))child ((~~C~~))care((~~.~~))

((~~a~~))1. For each square foot of nonresidential bonus floor area allowed under this Section 23.58A.024, in addition to providing housing pursuant to subsection 23.58A.024.B or an alternative cash contribution pursuant to subsection ((~~23.58A.024.B.1 or~~))23.58A.024.((~~C~~))D, an applicant using the child care performance option shall provide fully improved child care facility space sufficient for 0.000127 of a child care slot. The minimum interior space in the child care facility for each child care slot shall comply with all applicable state and local regulations governing the operation of licensed childcare providers. Child care facility space shall be deemed provided only if the applicant causes the space to be newly constructed or newly placed in child care use after the submission of a permit application for the ((~~project~~))development intended to use the bonus floor area, except as provided in subsection 23.58A.024.((~~B.2.c.6~~))C.3.f. If any contribution or subsidy in any form is made by any public entity to the acquisition, development, financing or improvement of any child care facility, then any portion of the space in such facility determined by the Human Services Director to be attributable to such contribution or subsidy shall not be considered as provided by any applicant other than that public entity.

((~~b~~))2. Child care space shall be provided on the same lot as the ((~~project~~))development using the bonus nonresidential floor area, or on another lot within a distance of 0.25 mile of the ((~~project~~))development using the bonus nonresidential floor area.

((~~c~~))3. Child care space shall be contained in a child care facility satisfying the following standards:

((~~1~~))a. The child care facility and accessory exterior space ((~~must~~))shall be approved for licensing by the State of Washington Department of Early Learning and any

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other applicable state or local governmental agencies responsible for the regulation of licensed child care providers.

((~~2~~))b. At least 20 percent of the number of child care slots for which space is provided as a condition of bonus nonresidential floor area ((~~must~~))shall be reserved for, and affordable to, families with annual incomes at or below the U.S. Department of Housing and Urban Development Low Income Standard for Section 8 Housing based on family size ((~~(~~))or, if such standard shall no longer be published, a standard established by the Human Services Director based generally on 80 percent of the median family income of the Metropolitan Statistical Area, or division thereof, that includes Seattle, adjusted for family size((~~)~~)). Child care slots shall be deemed to meet these conditions if they serve, and are limited to,

1)(((~~a~~)) children receiving child care subsidy from the City of Seattle, King County or State Department of Early Learning, ((~~and/~~))or

2)(((~~b~~))) children whose families have annual incomes no higher than the above standard who are charged according to a sliding fee scale such that the fees paid by any family do not exceed the amount it would be charged, exclusive of subsidy, if the family were enrolled in the City of Seattle Child Care Assistance Program.

((~~3~~)))c. Child care space provided to satisfy bonus conditions shall be dedicated to child care use, consistent with the terms of this Section 23.58A.024, for 20 years. The dedication shall be established by a recorded covenant, running with the land, and enforceable by the City, signed by the owner of the lot where the child care facility is located, or the long-term lessee of the child care space under terms acceptable to the Human Services Director, and by the owner of the lot where the bonus floor area is used, if different from the lot of the child care facility. The child care facility shall be maintained in operation, with adequate staffing, at least 11 hours per day, five days per week, and 50 weeks per year.

((~~4~~)))d. Space for which a bonus is or has been allowed under any other

section of this Title 23 or under former Title 24 shall not be eligible to satisfy the conditions of this ((s))Section 23.58A.024.

((~~5~~)))e. Unless the applicant is the owner of the child care space and is a duly licensed and experienced child care provider approved by the Human Services Director, the applicant shall provide to ((~~such~~))the Human Services Director a signed agreement, acceptable to ((~~such~~))the Human Services Director, with a duly licensed child care provider, under which the child care provider agrees to operate the child care facility consistent with the terms of this Section 23.58A.024 and of the recorded covenant, and to provide reports and documentation to the City to demonstrate such compliance.

((~~6~~)))f. One child care facility may fulfill the conditions for a bonus for more than one ((~~project~~))development if it includes sufficient space, and provides sufficient slots affordable to limited income families, to satisfy the conditions for each such((~~project~~)) development without any space or child care slot being counted toward the conditions for more than one ((~~project~~))development. If the child care facility is located on the same lot as one of the ((~~projects~~))developments using the bonus, then the owner of that lot shall be responsible for maintaining compliance with all the requirements applicable to the child care facility; otherwise responsibility for such requirements shall be allocated by agreement in such manner as the Human Services Director may approve. If a child care facility developed to qualify for bonus floor area by one applicant includes space exceeding the amount necessary for the bonus floor area used by that applicant, then to the extent that the voluntary agreement accepted by the Human Services Director from that applicant so provides, such excess space may be deemed provided by the applicant for a later ((~~project~~))development pursuant to a new voluntary agreement signed by both such applicants and by any other owner of the child care facility, and a modification of the recorded covenant, each in form and substance acceptable to ((~~such~~))the Human Services Director.

((d))4. The Human Services Director shall review the design and proposed management plan for any child care facility proposed to qualify for bonus floor area to determine whether it will comply with the terms of this Section 23.58A.024. The allowance of bonus floor area is conditioned upon approval of the design and proposed management plan by ((~~such~~))the Human Services Director. The child care facility shall be constructed consistent with the design approved by ((~~such~~))the Human Services Director and shall be operated for the minimum 20 year term consistent with the management plan approved by ((~~such~~))the Human Services Director, in each case with only such modifications as shall be approved by ((~~such~~))the Human Services Director. If the proposed management plan includes provisions for payment of rent or occupancy costs by the provider, the management plan ((~~must~~))shall include a detailed operating budget, staffing ratios, and other information requested by ((~~such~~))the Human Services Director to assess whether the child care facility may be economically feasible and able to deliver quality services.

((e))5. The Human Services Director is authorized to accept a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and related agreements and instruments consistent with this Section 23.58A.024. The voluntary agreement may provide, in case a child care facility is not maintained in continuous operation consistent with this subsection 23.58A.024.((~~B.2~~))C at any time within the minimum 20 year period, for the City's right to receive payment of a prorated amount of the alternative cash contribution that then would be applicable to a new ((~~project~~))development seeking bonus nonresidential floor area, with any adjustments for changes in costs that the Human Services Director may deem appropriate. The Human Services Director may require security or evidence of adequate financial responsibility, or both, as a condition to acceptance of an agreement under this subsection 23.58A.024.((~~B.2~~))C. Review and approval of any proposed facilities, plans or other matters by the Human Services Director is in the interest of the City and the general public and not for the particular benefit of any persons or class, and shall not constitute any assurance to any

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person that any facility or its operations will satisfy any health, safety or other standards or criteria.

((~~C~~))D. Payment ((~~O~~))option((~~.~~))

1. Amount of payments. The amount of the in lieu payment made at the time specified in subsection 23.58A.024.D.2 shall be based on the payment amount that is in effect when vesting of a Master Use Permit occurs under Section 23.76.026.

a. Except as provided in subsection 23.58A.024.D.1.b, in lieu of all or part of the performance option for ((~~low-income~~))affordable housing, an applicant may provide a cash contribution to the City of $18.75 per gross square foot of bonus nonresidential floor area, if the Director of Housing determines that the payment achieves a result equal to or better than providing the low-income housing on-site and the payment does not exceed the approximate cost of developing the same number and quality of housing units that would otherwise be developed. In lieu of all or part of the performance option for child care, the applicant may provide a cash contribution to the City of $3.25 per gross square foot of bonus nonresidential floor area to be used for child care facilities, to be administered by the Human Services Department.

b. Affordable housing and child care in the South Lake Union Urban Center.

1) In lieu of all or part of the performance option for affordable housing an applicant may provide a cash contribution to the City for affordable housing according to the following schedule:

a) From the effective date of Council Bill 117603 to December 31, 2013, $20.82 per gross square foot of bonus nonresidential floor area;

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b) From January 1, 2014 to June 30, 2014, $22.88 per gross square foot of bonus nonresidential floor area;

c) July 1, 2014 to June 30, 2015, the sum of $24.95 per gross square foot of bonus nonresidential floor area plus the product of $24.95 per gross square foot of bonus nonresidential floor area times the 2013 annual average change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index; and

d) On July 1, 2015 and on the same day annually thereafter the in-lieu payment amount in this subsection 23.58A.024.D.1.b.1 shall automatically adjust in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, from January 1, 2014, or the time the in-lieu payment was last adjusted, whichever is later.

2) In lieu of all or part of the performance option for child care, an applicant may provide a cash contribution to the City to be used for child care facilities, to be administered by the Human Services Department, according to the following schedule:

a) From the effective date of Council Bill 117603 to December 31, 2013, $3.61 per gross square foot of bonus nonresidential floor area;

b) From January 1, 2014 to June 30, 2014, $3.97 per gross square foot of bonus nonresidential floor area;

c) July 1, 2014 to June 30, 2015, the sum of $4.32 per gross square foot of bonus nonresidential floor area plus the product of $4.32 per gross square foot of bonus nonresidential floor area times the 2013 annual average change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index; and

d) On July 1, 2015 and on the same day annually thereafter the in-lieu payment amount in this subsection 23.58A.024.D.1.b.2 shall automatically adjust in proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, from January 1, 2014, or the time the in-lieu payment was last adjusted, whichever is later.

2. Timing of payments. Cash payments shall be made prior to issuance((,)) and as a condition to issuance((,)) of any ((~~building~~))permit after the first building permit for a ((~~project~~))development using the bonus nonresidential floor area((,)) and ((~~in any event~~))before any permit for any construction activity other than excavation and shoring is issued.

3. Deposit and use of payments. Cash p((~~P~~))ayments in lieu of ((~~low-income~~))affordable housing and child care facilities shall be deposited in special accounts established solely to support the development of ((~~low-income~~))housing for income-eligible households and child care facilities. Earnings on balances in the special accounts shall accrue to those accounts.

a. The Director of Housing shall use cash payments in lieu of ((~~low-income~~))affordable housing and any earnings thereon to support the development of ((~~low-~~

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~~income~~))housing for income-eligible households in any manner now or hereafter permitted by RCW 36.70A.540((~~, including renter or owner housing for income-eligible households~~)). Uses of funds may include the City's costs to administer ((~~projects~~))the housing for income-eligible households, not to exceed ((~~ten~~))10 percent of the payments into the special accounts. ((~~Low-income h~~))Housing for income-eligible households funded wholly or in part with cash payments shall be located ((~~within eligible areas~~))within the Seattle city limits. ((~~Eligible areas shall be prioritized in the following order: (1) within the same neighborhoods where the developments using the bonus nonresidential floor area are located; (2) within 0.5 mile of a light rail station or bus rapid transit station on a route serving the neighborhoods where the developments using the bonus nonresidential floor area are located; and (3) within 0.25 mile of a bus or streetcar stop on a route serving the neighborhoods where the developments using the bonus nonresidential floor area are located.~~))

b. The Human Services Director shall use cash payments in lieu of child care and any earnings thereon to support the development or expansion of child care facilities within 0.5 mile of the ((~~project~~))development using the bonus nonresidential floor area, or in another location, consistent with an applicable voluntary agreement, where the child care facility addresses the additional need created by that ((~~project~~))development. Child care facilities supported with cash payments may be publicly or privately owned, and if privately owned shall be committed to long-term use as child care under such agreements or instruments as the Human Services Director ((~~shall determine are~~))deems appropriate. The Human Services Director shall require that child care facilities supported with cash payments and their operators satisfy applicable licensing requirements, and may require compliance with other provisions applicable to child care facilities provided under the performance option, with such modifications as the Human Services Director deems appropriate.

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((4))E. The Director and the Director of Housing are authorized jointly to adopt rules to interpret and implement the provisions of this ((~~subs~~))Section 23.58A.024((~~.C, in addition to rules that may be adopted by the Director of Housing independently as authorized in this Section 23.58A.024~~)).

Section 59. Section 23.58A.026 of the Seattle Municipal Code, last amended by Ordinance 123770 is amended as follows:

23.58A.026 Application of floor area limits in zones with an incentive zoning suffix

In zones with an incentive zoning suffix, extra floor area may be allowed in addition to the maximum gross floor area allowed by the FAR limit indicated by the incentive zoning suffix. All extra floor area shall be considered extra residential floor area regardless of the use. Extra floor area may be gained up to the maximum non-exempt gross floor area allowed by the FAR limit of the applicable Commercial or Multifamily zone. For single purpose commercial structures in zones with an incentive zoning suffix, extra floor area may be allowed when the applicant qualifies by using the performance option or the payment option in accordance with Section((~~s~~)) 23.58A.014, or a combination of these options. ((~~Subchapter II~~))The provisions of this Chapter 23.58A under which applicants may gain extra residential floor area shall apply.

Section 60. A new Subchapter V is added to Chapter 23.58A of the Seattle Municipal Code, which includes new Section 23.58A.040 as follows:

Subchapter V Provisions for Extra Residential and Nonresidential Floor Area

23.58A.040 Bonus floor area for open space amenities

A. Findings. The City Council finds that:

1. Amenities, including public open space, are an important aspect of livability in areas targeted in the Comprehensive Plan for concentrated housing and employment growth. To address this need, the Comprehensive Plan establishes goals for the amount and distribution of open space. These goals are consistent with national standards developed to assist communities

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with planning to provide adequate open space serving specified population needs.

2. Developments that add density will increase demand for public open space. If additional public open space is voluntarily provided to offset additional demand, the impacts on available open space resources will be mitigated.

3. Within Highrise zones, the average amount of public open space, including breathing room open space, needed to accommodate residential development is at least 0.14 square feet of open space per gross square foot of residential floor area in a development.

B. Voluntary agreements for amenities. Where expressly permitted by the provisions of the zone, an applicant may achieve bonus floor area in part through a voluntary agreement for provision of amenities to mitigate impacts of the development, subject to the limits in this Chapter 23.58A.

1. Except where limited in the provisions of the zone, amenities that may be provided for bonus floor area include:

a. neighborhood open space;

b. green street setbacks on lots abutting designated green streets;

c. green street improvements;

d. mid-block corridor; and

e. hillside terrace.

2. The amenities listed in subsection 23.58A.040.B.1 are referred to as "open space amenities" in this Section 23.58A.040. Mitigation of impacts identified in subsection 23.58A.040.A may be achieved by providing the amenity on the same lot as the development using the bonus floor area or, for green street improvements, in the right-of-way within two blocks of the development using the bonus floor area (the performance option), by a payment-in-lieu of providing the amenity on- or off-site (payment option), or both.

3. Amenities provided as part of street vacations may not be counted as amenities

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for the purpose of achieving extra floor area.

C. Performance option

1. General provisions

a. An applicant electing to use the performance option shall provide the amenity on the same lot as the development using the bonus floor area, except to the extent a combined lot development is expressly permitted by the provisions of the zone and except for green street improvements that shall be provided within two blocks of the lot. The maximum area of any amenity or combination of amenities provided on a lot eligible for a bonus is established in this subsection 23.58A.040.C and may be further limited by Sections 23.58A.012, 23.58A.022, or the provisions of the zone. Open space amenities shall meet the standards of this subsection 23.58A.040.C in order to qualify for bonus floor area, except as may be authorized by the Director under subsection 23.58A.040.C.4. An open space amenity may also qualify as a required residential amenity to the extent permitted by the provisions of the zone.

b. Amenities in Downtown zones in South Downtown

1) In Downtown zones in South Downtown, in order to qualify for bonus residential floor area, amenity features shall satisfy the eligibility conditions of the Downtown Amenity Standards, except as provided in subsection 23.58A.040.C.1.b.2, and shall be consistent with the guidelines of the Downtown Amenity Standards.

2) The Director may allow departures from the eligibility conditions of the Downtown Amenity Standards, as a Type I decision, if the applicant demonstrates that the amenity better achieves the intent of the Downtown Amenity Standards for that amenity feature, and that the departure is consistent with any applicable criteria for allowing the particular type of departure in the Downtown Amenity Standards.

3) The Director may condition the approval of an amenity as provided in the Downtown Amenity Standards.

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2. Bonus ratio. Unless otherwise specified in the provisions of the zone, amenities may be used to gain bonus floor area according to the following ratios and subject to the limits of this Section 23.58A.040:

a. For a neighborhood open space, 7 square feet of bonus floor area per 1 square foot of qualifying neighborhood open space area (7:1).

b. For a green street setback, 5 square feet of bonus floor area per 1 square foot of qualifying green street setback area (5:1).

c. For a green street improvement, 5 square feet of bonus floor area per 1 square foot of qualifying green street improvement area (5:1).

d. For a mid-block corridor, 7 square feet of bonus floor area per 1 square foot of qualifying mid-block corridor area (7:1).

e. For a residential or nonresidential hillside terrace, 5 square feet of bonus floor area per 1 square foot of qualifying hillside terrace area (5:1).

3. Maximum open space amenity in Highrise zone. In the Highrise zone, the amount of open space amenity for which bonus floor area may be allowed shall not exceed the lesser of the amount required to mitigate the impact created by the total bonus residential floor area in the development, or 15,000 square feet. For purposes of this Section 23.58A.040, the amount of open space required to mitigate that impact in the Highrise zone is 0.14 square feet of open space amenity per square foot of bonus residential floor area, unless the Director determines, as a Type I decision, that a different ratio applies based on consideration of one or both of the following:

a. the overall number or density of people anticipated to use or occupy the structure in which bonus floor area will be located, in relation to the total floor area of the structure, is different from the density level of approximately 1.32 persons per 1,000 residential gross square feet, which was used to establish the ratio in subsection 23.58A.040.C, such that a

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different amount of open space is needed to mitigate the impacts of development;

b. characteristics or features of the development mitigate the impacts that the anticipated population using or occupying the structure in which bonus floor area will be located would otherwise have on open space needs.

4. Standards for open space amenities. The following standards apply to open space amenities, except as otherwise specifically stated in the provisions of the zone.

a. Public access

1) Public access for open space amenities in Downtown zones is regulated pursuant to subsection 23.58A.040.C.1.b.

2) Except for green street improvements, open space amenities not in Downtown zones shall be open to the public, without charge, each day of the year for a minimum of ten hours each day for a neighborhood open space and 24 hours each day of the year for a green street setback. The hours of public access identified above shall be during daylight hours, unless there are insufficient daylight hours, in which case the open space shall also be open during nighttime hours for the balance of the hours the open space is to remain open. Public access may be limited temporarily during hours that are otherwise required to be open to the public for necessary maintenance or for reasons of public safety.

3) Within the open space, property owners, tenants and their agents shall allow members of the public to engage in activities allowed in the public sidewalk environment, except that those activities that would require a street use permit if conducted on the sidewalk may be excluded or restricted. Free speech activities such as hand billing, signature gathering, and holding signs, all without obstructing access to the space, any building, or other adjacent features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed. While engaged in allowed activities, members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment

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of the space by others unless the space is being closed to the general public consistent with this subsection 23.58A.040.C. No parking, storage or other use may be established on or above the surface of the open space except as provided in subsection 23.58A.040.C.4.b.2.f. Use by motor vehicles of open space for which bonus floor area is granted is not permitted. The open space shall be identified clearly with the City's public open space logo on a plaque placed at a visible location at each street entrance providing access to the amenity. The plaque shall indicate, in letters legible to passersby, the nature of the bonus amenity, its availability for general public access, and additional directional information as needed.

b. Standards for neighborhood open space

1) Neighborhood open space in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.040.C.1.b.

2) Neighborhood open space not in Downtown zones used to qualify for bonus floor area shall meet the conditions in this subsection 23.58A.040.C.4.b.2, unless an exception is granted by the Director as a Type I decision, based on the Director's determination that, relative to the strict application of the standards, the exception will result in improved public access and use of the space or a better integration of the space with surrounding development.

a) The open space shall comply with the applicable provisions of this Section 23.58A.040. The open space shall consist of one continuous area with a minimum of 3,000 square feet and a minimum horizontal dimension of 10 feet.

b) A minimum of 35 percent of the open space shall be landscaped with grass, ground cover, bushes and/or trees.

c) Either permanent or movable seating in an amount equivalent to 1 lineal foot for every 200 square feet of open space shall be available for public use during hours of public access.

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d) The open space shall be located and configured to maximize solar exposure to the space, allow easy access from streets or other abutting public spaces, including access for persons with disabilities, and allow convenient pedestrian circulation through all portions of the open space. The open space shall have a minimum frontage of 30 feet at grade abutting a sidewalk, and be visible from sidewalks on at least one street.

e) The open space shall be provided at ground level, except that in order to provide level open spaces on steep lots, some separation of multiple levels may be allowed, provided they are physically and visually connected.

f) Up to 20 percent of the open space may be covered by elements accessory to public use of the open space, including: permanent, freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters; structural overhangs; overhead arcades or other forms of overhead weather protection; and any other features approved by the Director that contribute to pedestrian comfort and active use of the space. The following elements within the open space area may count as open space and are not subject to the percentage coverage limit: temporary kiosks and pavilions, public art, permanent seating that is not reserved for any commercial use, exterior stairs and mechanical assists that provide access to public areas and are available for public use, and any similar features approved by the Director. Seating or tables, or both, may be provided and reserved for customers of restaurants or other uses abutting the open space, but the area reserved for customer seating shall not exceed 15 percent of the open space area or 500 square feet, whichever is less.

c. Standards for green street setbacks

1) Green street setbacks in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.040.C.1.b.

2) Green street setbacks in Downtown zones outside South Downtown are regulated pursuant to Section 23.49.013.

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3) Green street setbacks not in Downtown zones shall meet the following standards:

a) Where permitted by the provisions of the zone, bonus floor area may be gained for green street setbacks by development on lots abutting those street segments that are listed or shown as green streets in the provisions of the zone.

b) A green street setback shall be provided as a setback from a lot line abutting a designated green street. The setback shall be continuous for the length of the frontage of the lot abutting the green street, and a minimum of 50 percent of the setback area eligible for a bonus shall be landscaped. The area of any driveways in the setback area is not included in the bonusable area. For area eligible for a bonus, the average setback from the abutting green street lot line shall not exceed 10 feet, with a maximum setback of 15 feet. The design of the setback area shall allow for public access, such as access to street level uses in abutting structures or access to areas for seating. The Director may grant an exception to the standards in this subsection 23.58A.040.C.4.c.3.b as a Type I decision, based on the Director's determination that the exception is consistent with a green street concept plan, if one exists, established in accordance with Directors Report DR 11-2007, or a successor rule.

d. Standards for green street improvement. Green street improvements used to qualify for bonus floor area shall be located on a designated green street and shall meet the standards of a city-approved streetscape concept plan or other design document approved by the Director.

e. Standards for mid-block corridor. Mid-block corridors used to qualify for bonus floor area in Downtown zones in South Downtown are regulated pursuant to subsection 23.58A.040.C.1.b.

f. Standards for hillside terrace. A hillside terrace used to qualify for bonus floor area in South Lake Union or in Downtown zones in South Downtown are regulated

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pursuant to subsection 23.58A.040.C.1.b.

g. Declaration. If open space is to be provided for purposes of obtaining bonus floor area, the owners of the lot using the bonus floor area, and of the lot where the open space is provided, if different, shall execute and record a declaration and voluntary agreement in a form acceptable to the Director identifying the bonus amenities; acknowledging that the right to develop and occupy a portion of the gross floor area on the lot using the bonus floor area is based upon the long-term provision and maintenance of the open space and that development is restricted in the open space; and committing to provide and maintain the open space.

h. Identification

1) Open space amenities in Downtown zones in South Downtown shall meet the identification conditions of the Downtown Amenity Standards.

2) Open space amenities not in Downtown zones shall be identified clearly with the City's public open space logo on a plaque placed at a visible location at each street entrance providing access to the amenity. The plaque shall indicate, in letters legible to passersby, the nature of the bonus amenity, its availability for general public access, and additional directional information as needed.

i. Duration; alteration. Except as provided for in this subsection 23.58A.040.C.4.i, the owners of the lot using the bonus floor area and of the lot where the open space amenity is located, if different, including all successors, shall provide and maintain the open space amenities for which bonus floor area is granted, in accordance with the applicable provisions of this Section 23.58A.040, for as long as the bonus floor area gained by the open space amenities exists. An open space amenity for which bonus floor area has been granted may be altered or removed only to the extent that either or both of the following occur, and alteration or removal may be further restricted by the provisions of the zone and by conditions of any applicable permit:

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1) The bonus floor area permitted in return for the specific open space amenity is removed or converted to a use for which bonus floor area is not required under the provisions of the zone; or

2) An amount of bonus floor area equal to that allowed for the open space amenity that is to be altered or removed is provided through alternative means consistent with the provisions of the zone and provisions for allowing bonus floor area in this Chapter 23.58A.

D. Payment option

1. There is no payment in lieu option for open space amenities other than neighborhood open space.

2. Payment in lieu of providing neighborhood open space

a. In lieu of all or part of the performance option for neighborhood open space, an applicant may pay to the City an amount determined pursuant to this subsection 23.58A.040.D if the Director determines that the payment will contribute to public open space improvements abutting the lot or in the vicinity; that the improvements will meet the additional need for open space caused by the development and are feasible within a reasonable time; and that the applicant agrees to the specific improvements or to the general nature and location of the improvements.

b. The amount of the payment is determined by multiplying the number of square feet of land that would be provided as neighborhood open space, by the sum of an estimated land value per square foot based on recent transactions in the area and an average square foot cost for open space improvements. The dollar amount per square foot shall be determined by the Director based on any relevant information submitted by the applicant, and any other data related to land values and costs that the Director considers reliable.

c. Cash payments shall be made prior to issuance and as a condition to

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issuance of any permit after the first building permit for a development and before any permit for any construction activity other than excavation and shoring is issued.

d. Any payment in lieu of providing neighborhood open space shall be deposited in a dedicated fund or account solely to support acquisition or development of public open space within 0.25 mile of the lot using the bonus floor area, or within another area prescribed by the provisions of the zone, or at another location where the applicant and the Director agree that it will mitigate the direct impacts of the development, and the payment shall be expended within five years of receipt for such purposes.

Section 61. A new Subchapter V is added to Chapter 23.58A of the Seattle Municipal Code, which includes new Section 23.58A.042 as follows:

23.58A.042 Transferable development potential (TDP) and rights (TDR)

A. Scope and applicability

1. This Section 23.58A.042 contains rules for TDP and TDR when their transfer or use is authorized by other provisions of this Title 23 that specifically refer to provisions of this Chapter 23.58A.

2. Whether a lot may be eligible as a TDP or TDR sending site is determined by the provisions of the zone in which the lot is located. To be eligible as a sending lot for a specific category of TDP or TDR defined in this Chapter 23.58A, the lot shall satisfy the applicable conditions of this Section 23.58A.042 and definitions in Chapter 23.84A except to the extent otherwise expressly stated in the provisions of the zone. Whether a lot is eligible as a TDP or TDR receiving lot, whether the lot may receive TDP or TDR from another lot, and what categories of TDP or TDR the lot may receive are determined by the provisions of the zone. The transfer and use of TDP or TDR on any receiving lot are subject to the limits and conditions in this Chapter 23.58A, the provisions of the zone, and all other applicable provisions of this Title 23.

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B. General standards for sending lots

1. TDP calculation. The maximum amount of TDP floor area that may be transferred from a sending lot is the amount by which the residential floor area allowed under the base floor area ratio, or floor area that could be allowed under the base residential height as determined by the Director if no base residential floor area exists, exceeds the sum of:

a. any nonexempt floor area existing on the sending lot; plus

b. any TDP or TDR previously transferred from the sending lot.

2. TDR calculation. The maximum amount of TDR floor area that may be transferred from a sending lot is the amount by which the nonresidential floor area allowed under the base floor area ratio of the sending lot exceeds the sum of:

a. any nonexempt floor area existing on the sending lot; plus

b. any TDP or TDR previously transferred from the sending lot.

3. Floor area limit after transfer. After TDP or TDR is transferred from a sending lot, the total amount of residential and nonresidential floor area that may then be established on the sending lot, other than floor area exempt from limits on floor area under the provisions of the zone, shall be as follows:

a. The amount of residential floor area that may be established shall be the base residential floor area, or floor area that could be allowed under the base residential height as determined by the Director if no base residential floor area exists, plus any net amount of TDP previously transferred to that lot, minus the total of the existing nonexempt floor area on the lot and the amount of TDP or TDR transferred from the lot; and

b. The amount of nonresidential floor area that may be established shall be the base nonresidential floor area, plus any net amount of TDR previously transferred to that lot, minus the total of the existing nonexempt floor area on the lot and the amount of TDP or TDR transferred from the lot.

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C. Standards for Landmark TDP or TDR sending lots. Landmark structures on sending lots from which Landmark TDP or TDR is transferred shall be rehabilitated and maintained as required by the Landmarks Preservation Board.

D. Standards for open space TDP or TDR sending sites. The following standards apply unless provisions of the zone state otherwise:

1. General conditions. Open space TDP or TDR sites shall meet the following conditions, unless an exception is granted by the Director through subsection 23.58A.042.D.2:

a. Each portion of the open space shall be accessible from each other portion of the open space without leaving the open space.

b. The open space shall have a minimum area of 5,000 square feet.

c. The open space shall be directly accessible from the sidewalk or another public open space, including access for persons with disabilities.

d. The open space shall be at ground level, except that in order to provide level open spaces on steep lots, some separation of multiple levels may be allowed, provided they are physically and visually connected.

e. No more than 20 percent of the open space may be occupied by any above grade structures.

f. A minimum of 35 percent of the open space shall be landscaped with grass, ground cover, bushes, and/or trees.

g. Either permanent or movable seating in an amount equivalent to 1 lineal foot for every 200 square feet of open space shall be available for public use during hours of public access.

h. The open space shall be located and configured to maximize solar exposure to the space, allow easy access from streets or other abutting public spaces, including access for persons with disabilities, and allow convenient pedestrian circulation through all

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portions of the open space.

i. The lot shall be located a minimum of 0.25 mile from the closest lot approved by the Director as a separate open space TDP or TDR site, unless the lot is abutting another TDP or TDR site and is designed to be integrated with the other TDP or TDR site.

j. The open space shall be open to the public, without charge, each day of the year for a minimum of ten hours each day during daylight hours, unless there are insufficient daylight hours, in which case the open space shall also be open during nighttime hours for the balance of the hours the open space is to remain open. Public access may be limited temporarily during hours that are otherwise required to be open to the public for necessary maintenance or for reasons of public safety.

k. Within the open space, property owners, tenants and their agents shall allow members of the public to engage in activities allowed in the public sidewalk environment, except that those activities that would require a street use permit if conducted on the sidewalk may be excluded or restricted. Free speech activities such as hand billing, signature gathering, and holding signs, all without obstructing access to the space, any building, or other adjacent features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed. While engaged in allowed activities, members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others unless the space is being closed to the general public consistent with subsection 23.58A.042.D.1.j.

l. The open space shall be identified clearly with the City's public open space logo on a plaque placed at a visible location at each street entrance providing access to the amenity. The plaque shall indicate, in letters legible to passersby, the nature of the bonus amenity, its availability for general public access, and additional directional information as needed.

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m. Unless the open space will be in public ownership, the applicant shall make adequate provision to ensure the permanent maintenance of the open space.

2. Special exception for open space TDP or TDR sites. The Director may grant, or grant with conditions, an exception to the standards for open space TDP or TDR sites in this subsection 23.58A.042.D and any applicable Director's Rules, as a special exception pursuant to Chapter 23.76, Procedures for Master Use Permit and Council Land Use Decisions. In determining whether to grant, grant with conditions, or deny a request for special exception under this subsection 23.58A.042.D.2, the Director shall consider:

a. the extent to which the exception would result in an open space TDP or TDR site that better meets the intent of the provisions of this subsection 23.58A.042.D; and

b. the extent to which the exception would allow the design of the open space to take advantage of unusual site characteristics or conditions in the surrounding area, such as views and relationship to surroundings.

3. After any TDP or TDR is transferred from an open space TDP or TDR site, lot coverage by structures shall be permanently limited to 20 percent, or any greater amount that was allowed as a special exception prior to the transfer, and no development shall be permitted that would be inconsistent with the standards under which it was approved as an open space TDP or TDR sending site.

E. Standards for Housing TDR sending lots

1. Housing on lots from which housing TDR is transferred shall be rehabilitated to the extent required to provide decent, sanitary and habitable conditions, in compliance with applicable codes, and so as to have an estimated minimum useful life of at least 50 years from the time of the TDR transfer, as approved by the Director of Housing. If housing TDR is proposed to be transferred prior to the completion of work necessary to satisfy this subsection

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23.58A.042.E, the Director of Housing may require, as a condition to such transfer, that security be deposited with the City to ensure the completion of such work.

2. The housing units on a lot from which housing TDR is transferred, and that are committed to affordable housing as a condition to eligibility of the lot as a TDR sending site, shall be generally comparable in their average size and quality of construction to other housing units in the same structure, in the judgment of the Director of Housing, after completion of any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.

3. For transfers of housing TDR, the owner of the sending lot shall execute and record an agreement, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director ((~~of the Office~~))of Housing for good cause, to provide for the maintenance of the required housing on the sending lot for a minimum of 50 years. Such agreement shall commit to limits on rent and occupancy consistent with the definition of housing TDR site and acceptable to the Director of Housing.

F. Standards for TDP sending lots in South Downtown. This subsection 23.58A.042.F applies to TDP sending lots in South Downtown, in addition to the general provisions in this Section 23.58A.042.

1. Limit on open space TDP. The maximum amount of open space TDP that may be transferred from a sending lot is the amount by which three times the lot area exceeds the total gross floor area of all uses on the lot.

2. South Downtown Historic TDP

a. Only lots in the Pioneer Square Preservation District or the International Special Review District may qualify as sending lots for South Downtown Historic TDP.

b. In order to be eligible to send South Downtown Historic TDP, a lot shall contain a structure that includes at least 5,000 gross square feet in above-grade floor area

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and has been finally determined to be a contributing structure under Section 23.66.032 within no more than three years prior to the recording of the deed conveying the TDP from the sending lot.

c. Contributing structures on a sending lot from which South Downtown Historic TDP is transferred shall be rehabilitated and maintained in accordance with an agreement pursuant to subsection 23.58A.042.J.3.

d. South Downtown Historic TDP shall not be transferred from a lot from which South Downtown Historic TDR has been transferred or from a lot on which any bonus floor area has been established based on the presence of a contributing structure.

3. Limit on combined TDR and TDP. A cumulative combination of TDR and TDP exceeding a total of six times the lot area may not be transferred from any lot.

G. TDP or TDR required before construction. No permit after the first building permit, no permit for any construction activity other than excavation and shoring, and no permit for occupancy of existing floor area by any use based upon TDP or TDR will be issued for development that includes TDP or TDR until the applicant's possession of TDP or TDR is demonstrated to the satisfaction of the Director.

H. Time of determination of TDP or TDR eligible for transfer. The eligibility of a sending lot to transfer TDP or TDR, and the amount transferable from a sending lot, shall be determined as of the date of transfer from the sending lot and shall not be affected by the date of any application, permit decision or other action for any development seeking to use the TDP or TDR.

I. Reservation in deed. Any TDP or TDR eligible for transfer may be reserved in the conveyance of title to an eligible sending lot, by the express terms of the deed or other instrument of conveyance reserving a specified amount of TDP or TDR, provided that an instrument acceptable to the Director is recorded binding the lot to the terms and conditions for eligibility to send TDP or TDR under this Section 23.58A.042. Any TDP or TDR so reserved

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shall be considered transferred from that lot and later may be conveyed by deed without participation of the owner of the lot.

J. TDP or TDR deeds and agreements

1. The fee owners of the sending lot shall execute a deed and shall obtain the release of the TDP or TDR from all liens of record and the written consent of all holders of encumbrances on the sending lot other than easements and restrictions, unless the requirement for a release or consent is waived by the Director for good cause. The deed shall be recorded in the King County real property records. If TDP or TDR is conveyed to the owner of a receiving lot described in the deed, the TDP or TDR shall pass with the receiving lot, whether or not a structure using the TDP or TDR shall have been permitted or built prior to any conveyance of the receiving lot, unless otherwise expressly stated in the deed or any subsequent instrument conveying the lot or the TDP or TDR. Any subsequent conveyance of TDP or TDR previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in or lien on the receiving lot from which the conveyance is made. If the TDP or TDR is transferred other than directly from the sending lot to the receiving lot using the TDP or TDR, then after the initial transfer, all subsequent transfers also shall be by deed, duly executed, acknowledged and recorded, each referring by King County recording number to the prior deed.

2. Any person may purchase any TDP or TDR that is eligible for transfer by complying with the applicable provisions of this Section 23.58A.042, whether or not the purchaser is then an applicant for a permit to develop real property or is the owner of any potential receiving lot. Any purchaser of the TDP or TDR (including any successor or assignee) may use the TDP or TDR to obtain floor area above the applicable base height limit or base floor area limit on a receiving lot to the extent that use of TDP or TDR is permitted under the Land Use Code provisions applicable with respect to the issuance of permits for development of the development intended to use the TDP or TDR. The Director may require, as a condition of

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processing any permit application using TDP or TDR or for the release of any security posted in lieu of a deed for TDP or TDR to the receiving lot, that the owner of the receiving lot demonstrate that the TDP or TDR has been validly transferred of record to the receiving lot, and that the owner has recorded in the real estate records a notice of the filing of such permit application, stating that the TDP or TDR is not available for retransfer.

3. As a condition to the effective transfer of Landmark TDP or TDR or South Downtown Historic TDP, except from a City-owned sending lot, the fee owner of the sending lot shall execute and record an agreement running with the land, in form and content acceptable to, and accepted in writing by, the Director of Neighborhoods, providing for the rehabilitation and maintenance of the historically significant or other relevant features of the structure or structures on the lot and acknowledging the restrictions on future development resulting from the transfer. The Director may require evidence that each holder of a lien has effectively subordinated the lien to the terms of the agreement, and that any holders of interests in the property have agreed to its terms. To the extent that a Landmark structure on the sending lot, or a contributing structure on a sending lot in a special review district requires restoration or rehabilitation for the long-term preservation of the structure or its historically or architecturally significant features, the Director of Neighborhoods may require, as a condition to acceptance of the necessary agreement, that the owner of the sending site apply for and obtain a certificate of approval from the Landmarks Preservation Board, or from the Director of Neighborhoods after review by the Pioneer Square Preservation Board or International Special Review District Board, as applicable, for the necessary work, or post security satisfactory to the Director of Neighborhoods for the completion of the restoration or rehabilitation, or both.

Section 62. A new Subchapter V is added to Chapter 23.58A of the Seattle Municipal Code, which includes new Section 23.58A.044 as follows:

23.58A.044 Regional Development Credits Program

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A. Scope and applicability. This Section 23.58A.044 contains standards for acquiring regional development credits when use of the credits is authorized by other Title 23 provisions.

B. Process. To achieve extra floor area by acquiring regional development credits, applicants shall acquire and extinguish certified regional development credits that originate from property located in King, Pierce, or Snohomish counties according to the standards of this Section 23.58A.044.

C. Initial Ratios. Except as provided in subsection 23.58A.044.C, applicants shall receive either an amount of extra residential floor area listed in Table A for 23.58A.044 or an amount of extra nonresidential floor area listed in Table B for 23.58A.044 for each regional development credit acquired and extinguished.

Table A for 23.58A.044
Regional Development Credit Exchange Ratios - Residential

County of Origin	Type of Credit	Square Feet per Credit
King	Agricultural credit	1,640
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,500
Pierce	Agricultural credit	420
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	860
Snohomish	Agricultural credit	980
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	860

Table B for 23.58A.044

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Regional Development Credit Exchange Ratios - Nonresidential		
County of Origin	**Type of Credit**	**Square Feet per credit**
King	Agricultural credit	1,120
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,030
Pierce	Agricultural credit	290
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	590
Snohomish	Agricultural credit	670
	Forest credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	590

D. Exchange Ratios after first 200 credits extinguished. When the first 200 regional development credits have been extinguished to the satisfaction of the Director as provided in subsection 23.58A.044.G, Table A and Table B for 23.58A.044 shall no longer have effect and applicants shall, for each regional development credit acquired and extinguished, receive an amount of extra residential floor area listed in Table C for 23.58A.044 or an amount of extra nonresidential floor area listed in Table D for 23.58A.044.

Table C for 23.58A.044 Regional Development Credit Exchange Ratios - Residential		
County of Origin	**Type of Credit**	**Square Feet per credit**
King	Agricultural credit	1,640
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,500
	Forest or Rural credit	1,020
Pierce	Agricultural credit	420
	Forest credit	800
Snohomish	Agricultural credit	980
	Forest credit	800

Table D for 23.58A.044 Regional Development Credit Exchange Ratios - Nonresidential		
County of	**Type of Credit**	**Square Feet per**

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Origin		credit
King	Agricultural credit	1,120
	Forest or Rural credit, provided the entire proceeds from the sale shall be used to purchase new agricultural credits	1,030
	Forest or Rural credit	700
Pierce	Agricultural credit	290
	Forest credit	550
Snohomish	Agricultural credit	670
	Forest credit	550

E. Certification. Regional development credits shall be certified by King, Pierce, or Snohomish County as being eligible for transfer under the regional development credit program adopted by the county that is certifying the credits.

F. Prerequisite for issuing development permits. A building permit shall not be issued for a development that includes bonus floor area obtained through regional development credits until the applicant demonstrates to the satisfaction of the Director that the owner of the property being developed owns the regional development credits used to obtain the bonus floor area according to documentation issued by the county where the credits originated from.

G. Prerequisite for issuing a certificate of occupancy. A certificate of occupancy shall not be issued for a development that includes bonus floor area obtained through regional development credits until the applicant demonstrates to the satisfaction of the Director that the regional development credits have been extinguished according to documentation issued by the county where the credits originated from.

H. Proceeds from sale

1. In order to demonstrate the entire proceeds from the sale of credits will be used to purchase new agricultural credits under subsection 23.58A.044.C or 23.58A.044.D, the applicant shall demonstrate that the Forest or Rural credits were purchased from a county or non-profit entity that provides documentation to the Director that the entire proceeds from the sale of the Forest or Rural credits have been:

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a. Expended for the purchase of new Agricultural credits that meet the requirement of subsection 23.58A.044.E and that were purchased from property owners owning agricultural property located in the same county where the Forest or Rural credits originated from; or

b. Placed in a segregated account subject to the restriction that the funds in the account shall only be used for purchasing new Agricultural credits from property owners owning agricultural property located in the same county where the Forest or Rural credits originated from.

2. In the case of subsection 23.58A.044.F.1.b, the account holder shall annually provide, within 30 days after the end of each calendar year, a report to the Director demonstrating:

a. The sources and uses of funds in the account; and

b. The funds in the account have only been used for directly purchasing new Agricultural credits from property owners owning agricultural property located in the same county where the Forest or Rural credits originated from.

This reporting obligation shall end when the entity holding the funds demonstrates to the Director that all funds held by the entity for acquiring credits have been expended.

Section 63. Section 23.66.032 of the Seattle Municipal Code, enacted by Ordinance 123589, is amended as follows:

23.66.032 Contributing structures; determination of architectural or historic significance

A. The owner of a lot in the Pioneer Square Preservation District or the International Special Review District may apply to the Director of Neighborhoods for a determination that a structure on the lot contributes, and is expected to continue to contribute, to the architectural and/or historic character of the District. A structure for which that determination is made is

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considered a contributing structure for purposes of this Section 23.66.032 and for purposes of the eligibility of the lot to send South Downtown Historic TDR or South Downtown Historic TDP pursuant to Sections 23.49.014 and 23.58A.((~~018~~))042. The determination is made by the Director of Neighborhoods, after recommendation by the Pioneer Square Preservation Board or the International Special Review District Board. A structure for which an application for demolition approval has been granted or is pending is not eligible for a determination under this Section 23.66.032. The Director of Neighborhoods may defer consideration of an application under this Section 23.66.032 until final action is taken on any application for a certificate of approval, and any appeals have been resolved.

***

Section 64. Section 23.84A.030 of the Seattle Municipal Code, last amended by Ordinance 123913, is amended by adding the following new subsections, to be inserted in alphabetical order:

23.84A.030 "P((.))"

* * *

"Podium" means the portion of a structure containing the stories closest to the street level that are below a specified height limit and that provide the base above which additional stories of a tower are permitted.

"Podium height" means the maximum height above street level permitted for the podium portion of a structure, except for those features that are otherwise allowed as exceptions to the applicable height limit of the zone.

* * *

Section 65. Section 23.84A.032 of the Seattle Municipal Code, last amended by Ordinance 123913, is amended by adding the following new subsections to be inserted in alphabetical order:

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23.84A.032 "R"

* * *

"Regional development credit" means an entitlement to development potential on property in unincorporated King, Snohomish, or Pierce County as defined and certified by King, Snohomish, or Pierce County.

"Regional development credit, agricultural" means a regional development credit that King, Snohomish, or Pierce County has designated as having originated from a parcel zoned for agricultural uses.

"Regional development credit, forest" means a regional development credit that King, Snohomish, or Pierce County has designated as having originated from a parcel zoned for forestry uses.

"Regional development credit, rural" means a regional development credit that King, Snohomish, or Pierce County has designated as having originated from a parcel that was not specifically zoned for agricultural or forestry uses.

***

Section 66. Section 23.84A.038 of the Seattle Municipal Code, last amended by Ordinance 123776, is amended as follows in alphabetical order:

23.84A.038 "T"

* * *

((~~"Transferable development rights" or "TDR" means development potential, measured in square feet of gross floor area, that may be transferred from a lot pursuant to provisions of this Title. Such terms do not include development credits transferable from King County pursuant to the City/County Transfer of Development Credits (TDC) program established by Ordinance 119728, or other ruraldevelopment credits, nor do they include development capacity transferable between lots pursuant to Planned Community Development provisions. These terms~~

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~~do not denote or imply that the owner of TDR has a legal or vested right to construct or develop any projector to establish any use.~~))

"TDP" or "transferable development potential" means base residential floor area, measured in square feet of gross floor area, ~~-~~that may be transferred from one lot to another according to provisions of ((~~the zone where the lots are located~~))this Title 23. These terms do not denote or imply that the owner of TDP has a legal or vested right to construct or develop any development or to establish any use.

"TDP, Landmark" means TDP transferred from, or transferable from, a lot based on its status as a Landmark TDP site.

"TDP, open space" means TDP transferred from, or transferable from, a lot based on its status as an open space TDP site.

"TDP, South Downtown Historic" means TDP transferred from, or transferable from, a lot based on its status as a South Downtown Historic TDP site.

"TDP site, Landmark" means a lot, in an area where the applicable provisions of the zone permit Landmark TDP to be transferred from a lot, that includes one or more structures designated wholly or in part as a landmark under Chapter 25.12 or its predecessor ordinance, if the owner of the landmark has executed and recorded an agreement acceptable in form and content to the Landmarks Preservation Board, providing for the restoration and maintenance of the historically significant features of the structure, and which lot includes no other structure that is not accessory to one or more of such structures.

"TDP site, open space" means a lot, in an area where the provisions of the zone permit open space TDP to be transferred from a lot, that satisfies the applicable standards for an open space TDP site in Chapter 23.58A and the provisions of the zone to the extent that an exception from those standards has not been granted.

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"TDP site, South Downtown Historic" means a lot within the Pioneer Square Preservation District or the International Special Review District that satisfies the conditions to be a sending lot for South Downtown Historic TDP under Chapter 23.58A.

***

"TDR" or "Transferable development rights" means development potential, measured in square feet of gross floor area, that may be transferred from a lot pursuant to provisions of this Title 23. Such terms do not include regional development credits, nor do they include development capacity transferable between lots pursuant to Planned Community Development provisions. These terms do not denote or imply that the owner of TDR has a legal or vested right to construction or develop any development or to establish any use.

***

"TDR, open space" means TDR that may be ((~~transferred from a lot or lots based on the provision of public open space meeting certain standards on that lot~~))transferred from, or transferable from, a lot based on its status as an open space TDP site.

***

"TDR site, housing" means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones, or is located in the South Lake Union Urban Center ((~~either in any IC zone or~~))in any SM zone with a height limit of ((~~eighty-five (~~))85((~~)~~)) feet or higher;

2. Each structure on the lot has a minimum of ((~~fifty (~~))50((~~)~~)) percent of total gross above-grade floor area committed to low-income housing for a minimum of ((~~fifty (~~))50((~~)~~)) years;

3. The lot has above-grade gross floor area equivalent to at least ((~~one (~~))1((~~)~~)) FAR committed to very low-income housing use for a minimum of ((~~fifty (~~))50((~~)~~)) years;

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4. The above-grade gross floor area on the lot committed to satisfy the conditions in subsections 2 and 3 of this definition is contained in one or more structures existing as of ((~~the date of passage of Ordinance 120443~~))July 27, 2001 and ((~~such~~))the area was in residential use as of ((~~such~~))that date ((~~, as demonstrated to the satisfaction of the Director of the Office of Housing;~~))and

5. The low-income housing and very low-income housing commitments on the lot comply with the standards in ((~~S~~))subsection 23.49.012.B.1.b and are memorialized in a recorded agreement between the owner of ((~~such~~))the low-income and very low-income housing and the Director ((~~of the Office~~))of Housing.

***

"Tower" means the portion of a structure above the podium height established for structures that exceeds a specified height in a Seattle Mixed (SM) zone.

"Tower, nonresidential" means the portion of a structure in nonresidential use above the podium height established for structures that exceeds a specified height in a Seattle Mixed (SM) zone.

"Tower, residential" means the portion of a structure in residential use above the podium height established for structures that exceeds the applicable base height limit for residential uses in a Seattle Mixed (SM) zone.

* * *

"Transferable development potential" See "TDP"

"Transferable development rights((~~,~~))" See "TDR((~~,~~))"

***

Section 67. Section 23.86.006 of the Seattle Municipal Code, last amended by Ordinance 123649, is amended as follows:

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23.86.006 Structure height measurement

A. In all zones except downtown zones ((~~and zones within the South Lake Union Urban Center~~)), and except for the Living Building Pilot Program authorized by Section 23.40.060, unless otherwise specified, the height of structures shall be measured according to this subsection 23.86.006.A.

1. General rule. Except as otherwise specified, the height of a structure is the difference between the elevation of the highest point of the structure not excepted from applicable height limits and the average grade level. In this subsection 23.86.006.A, "average grade level" means the average of the elevation of existing lot grades. Except as provided in subsection 23.86.006.A.2, average grade level is calculated, at the discretion of the applicant, as follows:

a. at the midpoint, measured horizontally, of each exterior wall of the structure, or

b. at the midpoint of each side of the smallest rectangle that can be drawn to enclose the structure.

2. Option for calculating average grade level to measure height. The calculation of structure height in subsection 23.86.006.A.1 may be modified, at the discretion of the applicant, as follows to permit the structure to respond to the topography of the lot:

a. Draw the smallest rectangle that encloses the principal structure.

b. Divide one side of the rectangle, chosen by the applicant, into sections at least 15 feet in length using lines that are perpendicular to the chosen side of the rectangle.

c. The sections delineated in subsection 23.86.006.A.2.b are considered to extend vertically from the ground to the sky.

d. The maximum height for each section of the structure is measured from the average grade level for that section of the structure, which is calculated as the average

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elevation of existing lot grades at the midpoints of the two opposing exterior sides of the rectangle for each section of the structure.

B. Within the South Lake Union Urban Center, at the applicant's option, structure height shall be measured either as provided for in subsection 23.86.006.A, 23.86.006.E, or under provisions of this subsection 23.86.006.B. Structure height shall be measured for all portions of the structure. All measurements shall be taken vertically from existing or finished grade, whichever is lower, to the highest point of the structure located directly above each point of measurement. Existing or finished grade shall be established by drawing straight lines between the corresponding elevations at the perimeter of the structure. The straight lines will be existing or finished grade for the purpose of height measurement. When a contour line crosses a façade more than once, that contour line will be disregarded when establishing existing or finished grade.

C. Height ((~~A~~))averaging for ((~~S~~))single-family ((~~Z~~))zones. In a single-family zone, when expanding an existing structure occupied by a nonconforming residential use per ((s))Section 23.42.106, the following measurement shall be used to determine the average height of the closest principal structures on either side:

1. Each structure used for averaging shall be on the same block front as the lot for which a height limit is being established. The structures used shall be the nearest single-family structure on each side of the lot, and shall be within ((~~one hundred feet (~~))100((~~')~~)) feet of the side lot lines of the lot.

2. The height limit for the lot shall be established by averaging the elevations of the structures on either side in the following manner:

a. If the nearest structure on either side has a roof with at least a ((~~four-in-twelve (~~))4:12((~~)~~)) pitch, the elevation to be used for averaging shall be the highest point of that structure's roof minus ((~~five~~))5 feet(((~~5'~~))).

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b. If the nearest structure on either side has a flat roof, or a roof with a pitch of less than ((~~four-in-twelve ()~~)4:12((~~)~~)), the elevation of the highest point of the structure's roof shall be used for averaging.

c. Rooftop features which are otherwise exempt from height limitations according to((~~, Height Exceptions, S~~)) subsection 23.44.012.C, shall not be included in elevation calculations.

d. The two (((~~2~~)))elevations obtained from ((~~steps~~)) subsection 23.86.006.B.2.a and/or subsection 23.86.006.B.2.b shall be averaged to derive the height limit for the lot. This height limit shall be the difference in elevation between the midpoint of a line parallel to the front lot line at the required front setback and the average elevation derived from subsection 23.86.006.B.2.a and/or subsection 23.86.006.B.2.b.

e. The height measurement technique used for the lot shall then be the City's standard measurement technique, ((~~S~~))subsection 23.86.006.A.

3. ((~~When~~))If there is no single-family structure within ((~~one hundred feet ()~~)100((~~')~~)) feet of a side lot line((~~on a side of the lot~~)), or ((~~when~~))if the nearest single-family structure within ((~~one hundred feet ()~~)100'((~~)~~)) feet of a side lot line ((~~on a side of the lot~~))is not on the same block front, the elevation used for averaging on that side shall be ((~~thirty feet ()~~)30((~~')~~)) feet plus the elevation of the midpoint of the front lot line of the abutting vacant lot.

4. ((~~When~~))If the lot is a corner lot, the height limit may be the highest elevation of the nearest structure on the same block front, provided that the structure is within ((~~one hundred feet ()~~)100((~~')~~)) feet of the side lot line of the lot and that both front yards face the same street.

5. In no case shall the height limit established according to these height averaging provisions be greater than ((~~forty feet ()~~)40((~~')~~)) feet.

6. Lots using height averaging to establish a height limit shall be eligible for the

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pitched roof provisions of ((S))subsection 23.44.012.B.

[D. Reserved((.))]

E. Height ((M))measurement ((T))techniques in ((D))downtown ((Z))zones and in the South Lake Union Urban Center((.))

1. Determine the major street ((property))lot line, which shall be the lot's longest street ((property))lot line. When the lot has two (((2)))or more street lot lines of equal length, the applicant shall choose the major street ((property))lot line.

2. Determine the slope of the lot along the entire length of the major street ((property))lot line.

3. The maximum height shall be measured as follows:

a. When the slope of the major street ((property))lot line is less than or equal to ((seven and one-half percent (7-½%)))7.5 percent, the elevation of maximum height shall be determined by adding the maximum permitted height to the existing grade elevation at the midpoint of the major street ((property))lot line. On a through-lot, the elevation of maximum height shall apply only to the half of the lot nearest the major street ((property))lot line. On the other half of a through-lot, the elevation of maximum height shall be determined by the above method using the street lot line opposite and parallel to the major street ((property))lot line as depicted in Exhibit B for 23.86.006((B)).

b. When the slope of the major street ((property))lot line exceeds ((seven and one-half percent (7-½%))) 7.5 percent, the major street ((property))lot line shall be divided into four (((4)))or fewer equal segments no longer than ((one hundred twenty feet ())120((.)) feet in length. The elevation of maximum height shall be determined by adding the maximum permitted height to the existing grade elevation at the midpoint of each segment. On a through-lot, the elevation of maximum height shall apply only to the half of the lot nearest the major street ((property))lot line. On the other half of a through-lot, the elevation of maximum height

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shall be determined by the above method using the street lot line opposite and parallel to the major street ((~~property~~))lot line, as depicted in Exhibit C for 23.86.006((~~C~~)).

c. For lots with more than one (((~~1~~)))street frontage, where there is no street ((~~property~~))lot line that is essentially parallel to the major street((~~property~~)) lot line, when a measurement has been made for the portion of the block containing the major street((~~property~~)) lot line, the next measurement shall be taken from the longest remaining street lot line.

F. Determining the ((~~H~~))height of ((~~E~~))existing ((~~P~~))public ((~~S~~))school ((~~S~~))structures. When the height of the existing public school structure ((~~must~~)) is ((~~be~~)) measured for purposes of determining the permitted height or lot coverage of a public school structure, either of the following measurement methods may be used:

1. If all parts of the new roof are pitched at a rate of not less than ((~~four to twelve (~~))4:12((~~)~~)), the ridge of the new roof may extend to the highest point of the existing roof. A shed roof does not qualify for this option((~~.~~)); or

2. If all parts of the new roof are not pitched at a rate of not less than ((~~four to twelve (~~))4:12((~~)~~)), then the elevation of the new construction may extend to the average height of the existing structure. The average height shall be determined by measuring the area of each portion of the building at each height and averaging those areas, as depicted in Exhibit D for 23.86.006((~~D~~)).

G. Height ((~~M~~))measurement ((~~T~~))technique for ((~~S~~))structures ((~~L~~))located ((~~P~~))partially ((~~W~~))within the Shoreline District. When any portion of the structure falls within the Shoreline District, structure height for the entire structure shall be measured according to Section 23.60A.952, Height.

H. For ((~~P~~))projects accepted into the Living Building Pilot Program authorized pursuant to Section 23.40.060, the applicant may choose either the height definition of Section 502 of the Seattle Building Code or the height measurement method described in this Section 23.86.006.

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Section 67. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 68. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 14th day of May, 2013, and signed by me in open session in authentication of its passage this 14th day of May, 2013.

President _____ of the City Council

2013 CITY CLERK

Approved by me this 14th day of May, 2013.

Michael McGinn, Mayor

Filed by me this 14th day of May, 2013.

Monica Martinez Simmons, City Clerk

(Seal)

Attachment: Exhibit A: Map of Rezone

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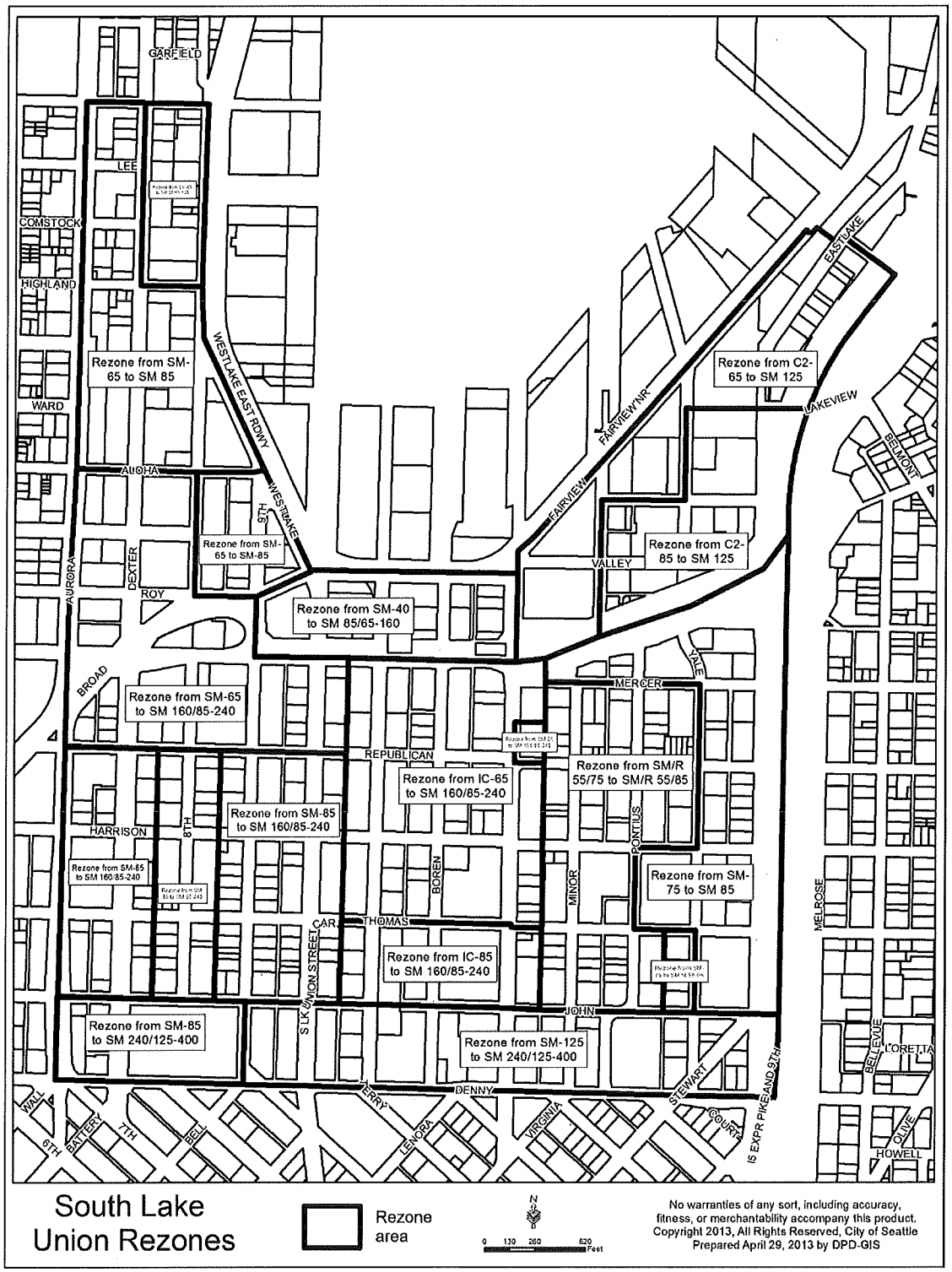
Exhibit A: Rezone Map to Council Bill 117603
May 1, 2013
Version 2

Exhibit A: Map of Rezone



FILED CITY CLERK

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Department of Planning and Development	Jim Holmes 684-8372	Melissa Lawrie 684-5805

Legislation Title: AN ORDINANCE related to land use and zoning, modifying function and locational criteria for the Seattle Mixed zone; modifying use provisions and development standards; enacting and amending affordable housing incentive programs; enacting and amending provisions for height and density bonuses and transfer of development rights; amending Sections 23.34.128, 23.41.012, 23.45.510, 23.45.516, 23.45.574, 23.47A.035, 23.48.002, 23.48.004, 23.48.010, 23.48.011, 23.48.012, 23.48.014, 23.48.017,23.48.020, 23.48.024, 23.48.026, 23.48.028, 23.48.030, 23.48.032, 23.48.034, 23.48.035, 23.48.036, 23.48.038, 23.49.008, 23.49.010, 23.49.011, 23.49.023, 23.50.026, 23.50.027, 23.50.028, 23.50.053, 23.57.005, 23.57.008, 23.57.012, 23.58A.002, 23.58A.004, 23.58A.012, 23.58A.014, 23.58A.022,23.58A.024, 23.58A.026, 23.66.032, 23.84A.030, 23.84A.032, 23.84A.038, 23.86.006; repealing Sections 23.48.006, 23.48.008, 23.48.016, 23.48.018, 23.48.019, 23.50.051, 23.50.052, 23.58A.013, 23.58A.016, 23.58A.018, 23.58A.023; adding new sections 23.48.008, 23.48.009, 23.48.013, 23.48.022, 23.48.025, 23.58A.003, 23.58A.040, 23.58A.042, and 23.58A.044; and amending the Official Land Use Map, Chapter 23.32, at pages 101 and 102 to rezone areas within the South Lake Union Urban Center.

Summary of the Legislation:

The proposed legislation will provide for additional height and density in the South Lake Union Urban Center through an incentive zoning program.

Key recommendations include:

1. Rezoning Industrial Commercial (IC) zoned properties to Seattle Mixed (SM);
2. Provide for general increases in allowable height and density throughout the neighborhood.
3. Revise development standards to address development of a new building type in the neighborhood.
4. Apply incentive zoning provisions to development in South Lake Union for commercial and residential projects;
5. Require new development to conform to LEED Silver if it exceed base development rights, and Green Factor requirements if over 20,000 square feet;
6. Amend pedestrian-oriented development standards;

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7. Provide for establishment of LCLIP in South Lake union and Downtown.
8. Amend other sections of the Land Use Code as they relate to development conditions in South Downtown, and in order to make administrative revisions and correct references.

Background:

In January 2008, DPD began working with the South Lake Community to develop a height and density recommendation that would advance the Comprehensive Plan and Neighborhood Plan Goals for future development of the neighborhood. By designating South Lake Union as an Urban Center, it is the City's goal to support and encourage development of South Lake Union as a neighborhood with a concentration of jobs and housing of regional significance. The South Lake Union rezone legislation recommends a set of development regulations that include increases in height and floor area as an incentive to provide important neighborhood amenities to ensure that as growth continues, it contributes to livability and sustainability.
Key components of this legislation include:

- Linking increased building height and floor area to expanding the City's incentive zoning program, creating opportunities for affordable housing and community infrastructure;
- Preserving the established scale and character of the Cascade Neighborhood, one of Seattle's oldest, and creating a new residential community along Eighth Avenue just north of Denny Park;
- Establishing new development standards to ensure towers are well-spaced and floor plates are limited to preserve openness to the sky and public views through the neighborhood;
- Ensuring active public spaces through well-designed ground floor retail along key streets, façade transparency and parking standards, and pedestrian pass-throughs on large blocks; and
- Strengthening incentives to preserve landmark properties and existing open spaces.

This legislation is the result of a 5-year process that included participation by a diverse and engaged set of community stakeholders working to define a clear vision for the future of South Lake Union and how increased height and density should be accommodated in the neighborhood.

Please check one of the following:

____ **This legislation does not have any financial implications.**

__x__ **This legislation has financial implications.**

Appropriations:

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Fund Name and Number	Department	Budget Control Level*	2012 Appropriation	2013 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:

As discussed under anticipated revenue/reimbursement, this legislation will implement development standards which are the first step in establishing a Local Infrastructure Project Area (LIPA) under RCW 39.108. If a LIPA is formed later, via a separate ordinance, it would require the City to set aside a portion of general fund tax revenue to fund infrastructure projects within the LIPA; however it is the intent of the program that this money will be spend on operations and maintenance and planned projects to avoid a general fund impact. Modeling of the proposed program suggests that the amount of annual property tax revenue that must be set-aside will increase in a roughly linear fashion from $0 in initial years to $5.6M in year 2039 with a total set-aside of $66.4 (about $40.3M given a discount rate of 3%) from City property tax over a period of 25 years. Analysis of existing expenditures suggests that if current funding levels for street, park, and streetlight maintenance increase consistent with inflation that there will be sufficient planned expenditures from general operations and maintenance to re-direct this set-aside without impact on the general fund in every year except the last three. While there are too many factors to accurately predict general fund expenditures over 25 years, it is anticipated based on this data that with capital investments included there will be sufficient total general fund needs in South Lake Union and Downtown to prevent general fund impacts.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Permit Review	DPD	Applicant Fees		
TOTAL				

Revenue/Reimbursement Notes:

Changes to Land Use Code requirements for future development in the South Lake Union Urban Center will result in fiscal impact on the Department of Planning and Development (DPD) related to permit administration. Compared to projects using existing zoning regulations, project proposals using incentive zoning to gain additional height and floor area will require additional staff time for review of permit applications. Those impacts, however, are assumed to be offset by permit fees. To the extent that the South Lake Union zoning changes stimulate future development, the City generally would benefit by adding to the tax base.

Based on a market study conducted by Heartland LLC., it is estimated that over the next 20 years approximately 35 projects will be built using the incentive zoning program. This volume of

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projects, and the additional work required for each, will not require any additional staffing capacity.

Additionally, this legislation will implement development standards which are the first step in establishing a Local Infrastructure Project Area (LIPA) under RCW 39.108. The LIPA, however, will not become effective until a second ordinance is passed, which is anticipated to occur in early 2013. If enacted, the LIPA would result in a portion of future City and County property tax revenues on the value of new development occurring within the LIPA would be directed to a fund local infrastructure projects. This revenue would be equal to 17.4% of the total property tax value on development where construction was initiated after the LIPA was formed and would occur for a minimum of 10 years and a maximum of 25 years depending on whether the City is able to meet certain threshold for acquisition of regional development rights through incentive zoning. It is estimated that the LIPA will generate $27.7M (about $16.9M given a discount rate of 3%) from County property tax and $66.4 (about $40.3M given a discount rate of 3%) from City property tax over a period of 25 years. Given that this development is expected to occur regardless of the LIPA, the funds generated from City property tax should be consider a reallocation from the general fund rather than new revenue. It is not anticipated that it will generate any revenue in 2012 or 2013.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2012 Positions	2012 FTE	2013 Positions*	2013 FTE*
TOTAL							

** 2013 positions and FTE are <u>total</u> 2013 position changes resulting from this legislation, not incremental changes. Therefore, under 2013, please be sure to include any continuing positions from 2012.*

<u>Position Notes</u>:

None.

Do positions sunset in the future?

No.

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2012 Expenditures	2013 Anticipated Expenditures

COUNCIL CLERK

TOTAL				

** See budget book to obtain the appropriate Budget Control Level for your department.*

Spending/Cash Flow Notes:

None.

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

The proposed legislation will induce a significant amount of additional development capacity in the South Lake Union Urban Center (an additional 12,000 housing units and capacity for 22,000 jobs), which could result in an increase in demand for municipal services to be provided by the full range of city departments. The increase in the need for additional services is expected to be balanced by the corresponding incremental increase in property tax revenues sales tax revenues and other revenues associated with increased development. In sum, the increased development will be balanced by increased revenue at existing rates.

The more direct and immediate cost of implementing the legislation is the impact on DPD to process the area-wide legislative rezone. Costs to process the rezone include updating land use and zoning maps, permit tracking systems, and GIS systems. This work would be funded out of the DPD's IT unit and would be accommodated within existing budget authority and staffing levels.

b) What is the financial cost of not implementing the legislation?

None.

c) Does this legislation affect any departments besides the originating department?

If adopted, it is likely the proposed legislation will impact staff time in OH, Parks, City Light, and SDOT although impacts can be absorbed through existing permit fees and/or utility rates without any new FTEs.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

The South Lake Union Height and Density EIS studied 4 alternatives for increased height and density in the neighborhood. While each provided for increases in density consistent with the City's Comprehensive Plan goals, only those alternatives that increase height and floor area through an incentive zoning result in public amenities that support the anticipated growth in the neighborhood.

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e) Is a public hearing required for this legislation?

Yes. The City Council is holding hearings on this proposal in July and August.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

g) Does this legislation affect a piece of property?

This legislation affects 330 acres of property in the South Lake Union Urban Center.

h) Other Issues:

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City of Seattle
Office of the Mayor

September 18, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would amend the Land Use Code to allow for increased height and density through an incentive zoning program for the South Lake Union Urban Center.

The proposed legislation would accomplish several important goals of the City:

- Rezone Industrial Commercial (IC) zoned land to Seattle Mixed (SM) consistent with a 2006 amendment to the Future Land Use Map of the Comprehensive Plan which designated these areas as mixed-use commercial.

- Establish new development standards allowing increases in height and density in many parts of the neighborhood; ensure that towers are limited in number and strategically located; that floor plates are limited to preserve openness to the sky; and promote an active pedestrian environment.

- Strengthen incentives to preserve landmark properties and existing open spaces.

- Implement an incentive zoning program that is estimated to provide $45 million in affordable housing, $27 million in infrastructure investment, and preservation of 25,000 acres of working farms and forests over the next 25 years.

This legislation is the product of a 5-year planning process which was built on the City's Comprehensive Plan and the South Lake Union Urban Center Neighborhood Plan that established a vision for the future of South Lake Union as an Urban Center. This effort engaged a broad cross section of community stakeholders including residents, business owners, neighbors of South Lake Union, and property owners.

Thank you for your consideration of this legislation. Should you have questions, please contact Jim Holmes in the Department of Planning and Development at 684-8372

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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