

#3

Brennon Staley  
DPD Minimum Floor Area ORD  
August 30, 2013  
Version #6

**CITY OF SEATTLE**  
**ORDINANCE** \_\_\_\_\_  
COUNCIL BILL 117901

AN ORDINANCE relating to land use and zoning; amending Section 23.47A.013 of the Seattle Municipal Code to implement minimum floor area ratio requirements for lots with pedestrian designations in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. The City Council ("Council") makes the following legislative findings of fact and declarations:

1. The Council finds that existing land use code regulations applying to lots with pedestrian designations in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District allow development that is not consistent with the neighborhood character envisioned in the Comprehensive Plan; and

2. The Council finds that the lack of appropriate development standards applicable to these lots has resulted in new, low-density, suburban-style development that conflicts with the desired pedestrian orientation of these areas, allowing substantial under-development of a site, reducing activity adjacent to the sidewalk, encouraging substantial parking, limiting development near transit and services, and minimizing opportunity for residential and commercial development within a neighborhood; and

3. The Council finds that the City is currently studying permanent changes to Chapter 23.47A of the Seattle Municipal Code that will result in new development standards addressing the problems created by under-development of these lots; and



1           4. Within the South Lake Union Urban Center, mechanical equipment that is  
2 accessory to a research and development laboratory, up to 15 percent of the gross floor area of a  
3 structure. The allowance is calculated on the gross floor area of the structure after all space  
4 exempt under this subsection 23.47A.013.D is deducted; and

5           5. Within the First Hill Urban Center Village, on lots zoned NC3, with a 160 foot  
6 height limit, all gross floor area occupied by a residential use.

7           6. On a lot containing a peat settlement-prone environmentally critical area,  
8 above-grade parking within or covered by a structure or portion of a structure where the Director  
9 finds that locating a story of parking below grade is infeasible due to physical site conditions  
10 such as a high water table, if either:

11                 a. the above-grade parking extends no more than 6 feet above existing or  
12 finished grade and no more than 3 feet above the highest existing or finished grade along the  
13 structure footprint, whichever is lower, as measured to the finished floor level or roof above,  
14 pursuant to subsection 23.47A.012.A.5; or

15                 b. all of the following conditions are met:

16                         1) no above-grade parking is exempted by subsection  
17 23.47A.013.D.6.a;

18                         2) the parking is accessory to a residential use on the lot;

19                         3) total parking on the lot does not exceed 1 space for each  
20 residential dwelling unit plus the number of spaces required by this Code for non-residential  
21 uses; and

22                         4) the amount of gross floor area exempted by this subsection  
23 23.47A.013.D.6.b does not exceed 25 percent of the area of the lot in zones with a height limit  
24 less than 65 feet, or 50 percent of the area of the lot in zones with a height limit 65 feet or  
25 greater.

\*\*\*

H. Minimum FAR.

1. A minimum FAR shown in Table C for 23.47A.013 is required whenever:

a. the lot is located in a pedestrian-designated zone designated as of

September 1, 2013; and

b. the lot is located in an Urban Center, Urban Village, or the Station Area

Overlay District; and

c. the following amount of gross floor area is added to or removed from

the lot:

i. on a lot with no existing gross floor area, more than 1,000

square feet of gross floor area; or

ii. on a lot with existing gross floor area, more than either 1,000

square feet of gross floor area or 10 percent of the existing gross floor area, whichever is less.

**Table C for 23.47A.013: Minimum Floor Area Ratio (FAR)**

<u>Height Limit</u>	<u>30'</u>	<u>40'</u>	<u>65'</u>	<u>85'</u>	<u>125'</u>	<u>160'</u>
<u>Minimum FAR</u>	<u>1.5</u>	<u>1.5</u>	<u>2</u>	<u>2</u>	<u>2.5</u>	<u>2.5</u>

2. Portions of the lot designated as a steep slope, wetlands, riparian corridor, or shoreline habitat or as a buffer to one of these areas, as defined in SMC Chapter 25.09, shall not be included when calculating lot size for the purpose of determining the minimum FAR requirement provided in subsection 23.47A.013.H.1.

3. Portions of the lot occupied by a landmark structure that is proposed to be retained shall not be included when calculating lot size for the purpose of determining the minimum FAR requirement provided in subsection 23.47A.013.H.1.

1                    4. The following gross floor area is not counted toward the minimum FAR  
2 requirement provided in subsection 23.47A.013.H.1:

3                    a. Gross floor area below grade; and

4                    b. Gross floor area containing parking.

5                    Section 3. Under RCW 36.70A.390, the City Council approves the following work plan  
6 for the development of permanent development regulations to address the issues in this  
7 ordinance:

8 Task	Date
9 Draft legislation and environmental review (SEPA), 10 including public outreach	January through May 2014
11 Publish SEPA decision	mid-May 2014
12 SEPA appeal period ends	June 2014
13 Mayor transmits legislation to City Council	early July 2014
14 Council deliberations, public hearing, and vote	August 2014
15 Permanent regulations replace interim controls	September 2014

16                    Section 4. Under SMC 25.05.880, the City Council finds that an exemption under SEPA  
17 for this action is necessary to prevent development that is incompatible with City land use  
18 policies for areas with pedestrian designations in Neighborhood Commercial zones within Urban  
19 Center, Urban Villages, and Station Area Overlay Districts. SEPA review of any permanent  
20 regulations modifying existing zoning will be conducted.

21                    Section 5. Based on the authority of RCW 36.70A.390 and the findings in Section 1 of  
22 this ordinance, Section 23.76.062 is waived for the adoption of this ordinance.

23                    Section 6. By reason of the findings set out in this ordinance, and the emergency that is  
24 declared to exist, this ordinance shall become effective immediately upon its passage by a three-  
25

1 fourths vote of the Council, and its approval by the Mayor, as provided by Article 4, Subsection  
2 1(I) of the Charter of the City.

3 Passed by a three-fourths vote of all the members of the City Council on the \_\_\_\_ day  
4 of \_\_\_\_\_, 2013, and signed by me in open session in authentication of  
5 its passage this \_\_\_\_ day of \_\_\_\_\_, 2013.

6  
7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9  
10 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

11  
12 \_\_\_\_\_  
13 Michael McGinn, Mayor

14  
15 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2013.

16  
17 \_\_\_\_\_  
18 Monica Martinez Simmons, City Clerk

19 (Seal)

## FISCAL NOTE FOR NON-CAPITAL PROJECTS

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Planning & Development	Brennon Staley 684-4625	Melissa Lawrie 684-5805

### Legislation Title:

AN ORDINANCE relating to land use and zoning; amending Section 23.47A.013 of the Seattle Municipal Code to implement minimum floor area ratio requirements for lots with pedestrian designations in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

### Summary of the Legislation:

The legislation would establish a minimum FAR on lots with a pedestrian designation in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District based on the height limit of the zone as follows:

Current Height Limit	30'	40'	65'	85'	125'	160'
Proposed Minimum FAR	1.5	1.5	2	2	2.5	2.5

The proposed FAR requirement would apply to any development within the specified areas that adds or removes more than 10 percent of the gross square footage currently existing on the lot, if any exists, or 1,000 square feet, whichever is less.

Other key elements of the legislation are as follows:

- Portions of the lot designated as a steep slope, wetland, riparian corridor, or shoreline habitat Environmentally Critical Area or a buffer to one of these areas would not be included in calculating lot size for the purpose of calculating the minimum FAR.
- Portions of the lot occupied by a landmark structure that is proposed to be retained would not be included in calculating lot size for the purpose of calculating the minimum FAR.
- Gross floor area below grade and gross floor area containing parking would be excluded when calculating minimum FAR.

The legislation would also establish the following tentative timeline for preparation and consideration of permanent legislation.

Task	Date
Draft legislation and environmental review (SEPA), including public outreach	January through May 2014
Publish SEPA decision	mid-May 2014
SEPA appeal period ends	June 2014
Mayor Transmits legislation to City Council (assuming no appeal)	early July 2014
Council deliberations, public hearing and vote	August 2014
Permanent regulations replace interim controls	September 2014

**Background:**

Under existing regulations, the City restricts the maximum FAR allowed in many zones throughout the city. However, no regulations currently exist that govern the minimum FAR that is required in any zone.

In 2013, Council and DPD received complaints on projects proposing structures that were significantly lower than the maximum FAR in pedestrian-oriented areas of the city. This phenomenon has occurred in the recent past. Common complaints regarding these low-density developments are that they:

- impact the existing and/or desired character of the neighborhood by creating an auto-oriented environment, diminishing activity adjacent to the sidewalk, and preventing a street wall that can frame the pedestrian environment,
- reduce the capacity of neighborhood business districts to provide goods and services and accommodate residents and commercial employees within a compact area,
- have a negative impact on the environment by encouraging greater use of automobiles, discouraging residents from walking to and within neighborhood centers, and making it more difficult to create transit-supportive densities and destinations, and
- conflict with Comprehensive Plan goals to create vibrant, pedestrian-oriented neighborhood centers that allow residents to satisfy their daily needs within close proximity to their homes.

Although decisions regarding development are driven by a diversity of market, financing, business strategy, and other decisions, underdevelopment of neighborhood commercial zones occur primarily due to:

- a perception that the increased costs of development will not be sufficient to justify expected increased returns;
- the increased complexity of developing mixed-use structures including different ownership types, financing approaches, and sales strategies; and
- the desire to develop a standardized store format consistent with development in other areas that may be lower density.

This third issue is particularly prevalent among large chain or retail companies, particularly convenience, grocery, fast food, and banks, which may have a formula for building that values fast expansion, single ownership, and consistency among urban and suburban stores.

Minimum FAR requirements have been used by other jurisdictions to ensure a minimum level of development in key areas, particularly where standard low-density, suburban-style development is not appropriate for a local context. The benefit of this approach is that cities can more accurately detail the type of development that they want in certain areas, helping to achieve long-term goals. A potential drawback of this approach is that it may limit redevelopment where property owners feel the real estate market is not sufficient to support higher densities. Additionally, it may disproportionately burden small-scale or low-income property owners that may not have sufficient funds to build multi-story buildings or may lack the expertise to develop mixed use buildings.

Please check one of the following:

**This legislation does not have any financial implications.**

**This legislation has financial implications.**

**Other Implications:**

- a) **Does the legislation have indirect financial implications, or long-term implications?**  
Yes. This legislation may increase the size of development occurring on certain projects where the project might otherwise build below the minimum FAR and may limit development where property owners feel there is not a market for higher density development. These changes may result in developments that pay higher or lower permit fees or may even, in some cases, result in a property owner deciding not to build at all.
- b) **What is the financial cost of not implementing the legislation?**  
None.
- c) **Does this legislation affect any departments besides the originating department?**  
No.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**  
None.
- e) **Is a public hearing required for this legislation?**  
Yes. As this legislation is proposed to be considered as emergency legislation, the City Council will hold a hearing after the legislation is passed.
- 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 would affect lots with a pedestrian designation in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District.

**h) Other Issues: None.**

**List attachments to the fiscal note below: Director's Report. September 3, 2013.**

# Minimum Floor Area Requirement Legislation

## September 3, 2013

### Overview

This proposed legislation would establish a minimum floor area ratio (FAR) requirement on lots with pedestrian designations in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District. The purpose of this legislation is to limit new low-density, suburban-style development that conflicts with the desired urban design and pedestrian-orientation goals of these areas, by substantially under-developing sites, reducing activity adjacent to the sidewalk, encouraging substantial parking, limiting development opportunities on sites near transit and services, and minimizing opportunity for residential and commercial development within a neighborhood.

This legislation was developed by the Department of Planning and Development (DPD) at the request of Councilmember Conlin. This legislation will likely be introduced on an emergency basis to prevent near-term development incompatible with standards eventually adopted by the City with permanent regulations to be developed for the City Council to consider within a year.

### Proposal

FAR means the amount of gross floor area allowed within structures per square foot of the lot. For example, a lot of 10,000 square feet with a maximum FAR of 3 would allow a building containing 30,000 square feet (i.e. a three story building that occupied the full lot or a six story building that occupied half the lot).

The legislation would establish a minimum FAR on lots with a pedestrian designation in Neighborhood Commercial zones within Urban Centers, Urban Villages, and the Station Area Overlay District based on the height limit of the zone as follows:

Current Height Limit	30'	40'	65'	85'	125'	160'
Proposed Minimum FAR	1.5	1.5	2	2	2.5	2.5

The proposed FAR requirement would apply to any development within the specified areas that adds or removes more than 10 percent of the gross square footage currently existing on the lot, if any exists, or 1,000 square feet, whichever is less.

Other key elements of the legislation are as follows:

- Portions of the lot designated as a steep slope, wetland, riparian corridor, or shoreline habitat Environmentally Critical Area or a buffer to one of these areas would not be included in calculating lot size for the purpose of calculating the minimum FAR.
- Portions of the lot occupied by a landmark structure that is proposed to be retained would not be included in calculating lot size for the purpose of calculating the minimum FAR.
- Gross floor area below grade and gross floor area containing parking would be excluded when calculating minimum FAR.

The legislation would also establish the following tentative timeline for preparation and consideration of permanent legislation.

Task	Date
Draft legislation and environmental review (SEPA) ,including public outreach	January through May2014
Publish SEPA decision	mid-May 2014
SEPA appeal period ends	June 2014
Mayor Transmits legislation to City Council (assuming no appeal)	early July 2014
Council deliberations, public hearing and vote	August 2014
Permanent regulations replace interim controls	September 2014

## Background

Under existing regulations, the City restricts the maximum FAR allowed in many zones throughout the city. However, no regulations currently exist that govern the minimum FAR that is required in any zone.

In 2013, Council and DPD received complaints on projects proposing structures that were significantly lower than the maximum FAR in pedestrian-oriented areas of the city. This phenomenon has occurred in the recent past. Common complaints regarding these low-density developments are that they:

- impact the existing and/or desired character of the neighborhood by creating an auto-oriented environment, diminishing activity adjacent to the sidewalk; and preventing a street wall that can frame the pedestrian environment,
- reduce the capacity of neighborhood business districts to provide goods and services and accommodate residents and commercial employees within a compact area,

- have a negative impact on the environment by encouraging greater use of automobiles, discouraging residents from walking to and within neighborhood centers, and making it more difficult to create transit-supportive densities and destinations, and
- conflict with Comprehensive Plan goals to create vibrant, pedestrian-oriented neighborhood centers that allow residents to satisfy their daily needs within close proximity to their homes.

Although decisions regarding development are driven by a diversity of market, financing, business strategy, and other decisions, underdevelopment of neighborhood commercial zones occur primarily due to:

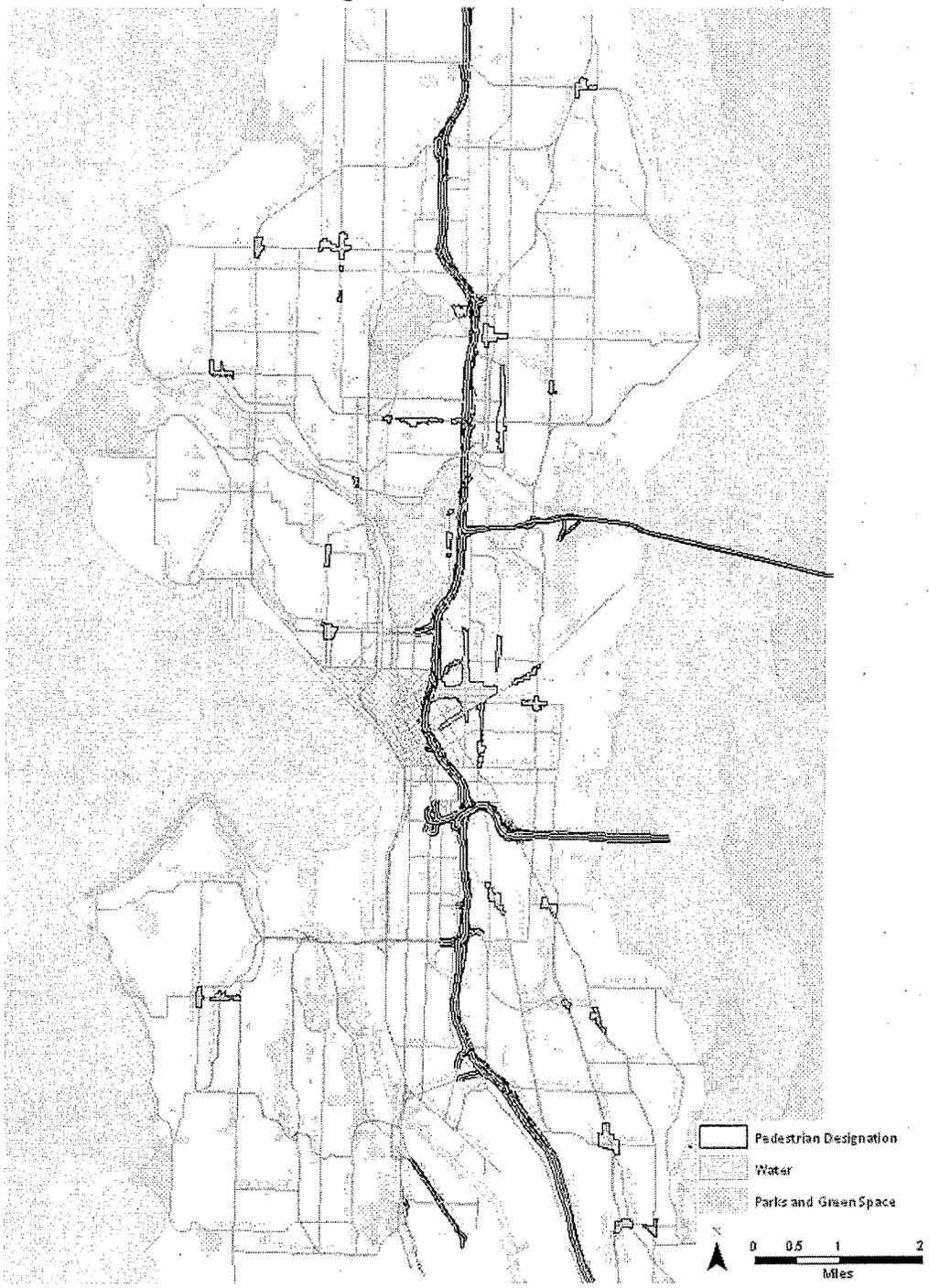
- a perception that the increased costs of development will not be sufficient to justify expected increased returns;
- the increased complexity of developing mixed-use structures including different ownership types, financing approaches, and sales strategies; and
- the desire to develop a standardized store format consistent with development in other areas that may be lower density.

This third issue is particularly prevalent among large chain or retail companies, particularly convenience, grocery, fast food, and banks, which may have a formula for building that values fast expansion, single ownership, and consistency among urban and suburban stores.

Minimum FAR requirements have been used by other jurisdictions to ensure a minimum level of development in key areas, particularly where standard low-density, suburban-style development is not appropriate for a local context. The benefit of this approach is that cities can more accurately detail the type of development that they want in certain areas, helping to achieve long-term goals. A potential drawback of this approach is that it may limit redevelopment where property owners feel the real estate market is not sufficient to support higher densities. Additionally, it may disproportionately burden small-scale or low-income property owners that may not have sufficient funds to build multi-story buildings or may lack the expertise to develop mixed use buildings.

In response to these community concerns and after considering the advantages and disadvantages of such an approach, Councilmember Conlin asked DPD to develop legislation that would implement a minimum FAR standard for key pedestrian-oriented neighborhood centers. To target areas where pedestrian-oriented development is most important and where the market can more easily support higher-density development, the regulations are proposed to be limited to Neighborhood Commercial zones with existing Pedestrian Designations in Urban Centers, Urban Villages, and the Station Area Overlay District. A map of these areas is on the next page.

### Neighborhood Commercial Zones with Pedestrian Designations in Urban Centers, Urban Villages, and the Station Area Overlay District



These areas represent the most appropriate areas for a minimum FAR requirement because they have been specifically designated as having urban design goals, including a pedestrian-oriented character, that warrant additional protection. Additionally, Urban Centers, Urban Villages, and the Station Area Overlay District represent areas with substantial development potential and public investment, where barriers to multi-story development should be limited.

The proposal would require multi-story development consistent with the intended character of the zone, but still allow a range of development options between the minimum and maximum FAR requirements. Minimum FAR requirements were chosen to vary by zone in rough proportion to the maximum FAR of the zones at about 50 percent of the maximum on average. Below is a table comparing proposed minimum FAR with existing maximum FARs by height limit and location.

**Comparison of Existing Maximum FAR and Proposed Minimum FAR**

			Height Limit					
			30'	40'	65'	85'	125'	160'
Maximum FAR	Outside Station Area Overlay District	1. Total permitted for a single-purpose structure containing only residential or non-residential use.	2.25	3	4.25	4.5	5	5
		2. Total permitted for any single use within a mixed-use structure.	n/a	n/a	4.25	4.5	5	5
		3. Total permitted for all uses within a mixed-use structure containing residential and non-residential uses.	2.5	3.25	4.75	6	6	7
	Inside Station Area Overlay District	3	4	5.75	6	6	7	
Proposed Minimum FAR			1.5	1.5	2	2	2.5	2.5

The measurement technique for minimum FAR would vary from maximum FAR in that the list of floor area exemptions would be simplified and gross floor area containing parking would be explicitly excluded from the minimum FAR calculation. In the context of maximum FAR, the City exempts, and thus promotes, desirable gross floor area by excluding it from the FAR calculation. That rationale is not applicable in the context of minimum FAR, where the goal is to promote desirable gross floor area by allowing it to count toward the required minimum. Gross floor area containing parking would be excluded to ensure that property owners do not meet the requirements by simply adding structured parking.

In the 30- and 40-foot zones, this minimum FAR would generally require a two-story structure that occupied most of the lot, while the higher height zones would likely require three- and four-story buildings given the practical design requirements for parking and access to daylight.

DPD also recommends exempting areas containing steep slope, wetland areas, riparian corridor, or shoreline habitat environmentally critical areas and their buffers as well as areas occupied by landmark structures in order to help ensure that these regulations do not inadvertently encourage development in an ECA or demolition of a landmark structure and do not disproportionately burden property owners whose property includes these areas or buildings.

## **Conclusion**

A minimum FAR standard in certain areas will help to ensure that new development supports the goals of the Comprehensive Plan to foster vibrant, pedestrian-oriented neighborhood centers that serve the needs of local residents.