Ordinance No. 119484

Council Bill No. 112691

Relating to land use and zoning, amending Sections; 3.20.320; 23.34.100; 23.34.114; 23.34.116; 23.49.035; 23.49.036; 23.49.046; 23.49.048; 23.49.050; 23.49.052; 23.49.066; 23.49.068; 23.49.070; 23.49.072; 23.49.096; 23.49.098; 23.49.100; 23.49.102; 23.49.122; 23.49.124; 23.49.126; 23.49.128; 23.49.148; 23.49.150; 23.49.152; 23.49.154; 23.49.180; 23.49.212; 23.49.240; 23.49.324; 23.66.100 23.66.122; 23.66.124; 23.66.130; 23.66.140; 23.66.150; 23.66.170; and 23.84.024

of Titles 3 and 23 of the Seattle Municipal Code; and amending the Official Land Use Map to implement the Downtown Urban Center Neighborhood Plan.

CF No.

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| Date Introduced: MAY 17 1999 | | |
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| Date Vetoed by Mayor: | Date Veto Published: | |
| Date Passed Over Veto: | Veto Sustained: | |

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: CONLIN
Councilmember

Oversized

## Committee Action:

5-24-99 Full Council: Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

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# ORDINANCE 119484

**AN ORDINANCE** relating to land use and zoning, amending Sections: 3.20.320; 23.34.100; 23.34.114; 23.34.116; 23.49.035; 23.49.036; 23.49.046; 23.49.048; 23.49.050; 23.49.052; 23.49.066; 23.49.068; 23.49.070; 23.49.072; 23.49.096; 23.49.098; 23.49.100; 23.49.102; 23.49.122; 23.49.124; 23.49.126; 23.49.128; 23.49.148; 23.49.150; 23.49.152; 23.49.154; 23.49.180; 23.49.212; 23.49.240; 23.49.324; 23.66.100; 23.66.122; 23.66.124; 23.66.130; 23.66.140; 23.66.150; 23.66.170; and 23.84.024 of Titles 3 and 23 of the Seattle Municipal Code; and amending the Official Land Use Map to implement the Downtown Urban Center Neighborhood Plan.

**NOW, THEREFORE,**

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

**Section 1.** Subsection A of Section 3.20.320 of the Seattle Municipal Code, which Section was last amended by Ordinance 117263, is further amended as follows:

**3.20.320 TDR Bank created.**

A. Transferable development rights ("TDR") from landmark performing arts theaters as defined in Section 23.49.033 shall be eligible for purchase and sale by the City's TDR Bank established under Ordinance No. 114029, to the same extent as TDRs from low((-))income housing <u>or low and low-moderate income housing</u>, subject to the provisions of this section.

* * *

**Section 2.** The Official Land Use Map, SMC 23.32.016, is hereby amended to show the boundaries of the Downtown Urban Center and Urban Villages as depicted in Attachment 1 to this ordinance.

**Section 3.** Section 23.12.080 of the Seattle Municipal Code is repealed.

**Section 4.** Section 23.34.100 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended as follows:

**23.34.100 Designation of Downtown zones.**

Rezones to a downtown zone designation shall be considered only for areas within the boundaries of <u>the D</u> ((~~d~~))owntown <u>Urban Center</u> as ((~~established Land Use and Transportation Plan for Downtown Seattle~~)) <u>shown on the Official Land Use Map.</u>

**Section 5.** Section 23.34.114 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended as follows:

**23.34.114 International District Mixed (IDM) zone, locational criteria.**

The International District Mixed zone designation shall ((~~apply to those downtown~~)) be considered for areas of the International Special Review District designated ((~~by the Downtown Plan~~)) in Chapter 23.66 of the Land Use Code for mixed use development. The areas designated IDM shall be characterized by a mix of uses contained in low and medium scale structures and include the area west of Fifth Avenue South bordering Pioneer Square.

**Section 6.** Section 23.34.116 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended as follows:

**23.34.116 International District Residential (IDR) zone, locational criteria.**

The International District Residential zone designation shall ((~~apply to those downtown~~)) be considered for areas of the International Special District designated ((~~by the Downtown Plan~~)) in Chapter 23.66 of the Land Use Code for development as a predominantly residential neighborhood. The areas designated IDR shall be generally located north of the International District core, contain parcels available for infill development and possess topographic features providing view potential.

**Section 7.** Four codified maps, 1B Downtown Zones, VD Downtown Mixed Commercial, VIA Downtown Mixed Residential, and VID Downtown Mixed Residential, located at the end of Chapter 23.49 of the Seattle Municipal Code, are replaced with amended maps with the same identifiers as depicted in Attachment 2 to this ordinance.

**Section 8.** Subsection B of Section 23.49.035 of the Seattle Municipal Code, which Section was last amended by Ordinance 1177263, is further amended as follows:

**23.49.035 Replacement of public benefit features.**

* * *

B. The terms under which use as low((-))income housing or as a landmark performing arts theater may be discontinued or diminished and the sanctions for failure to continue such use shall be governed by the agreements and instruments executed by the owners of the properties on which such housing and theaters are located, as required by applicable provisions of the Land Use Code and the Public Benefit Features Rule, and any such change in use shall not affect any other structure for which additional FAR was granted in return for the provision of such public benefit features.

* * *

**Section 9.** Subsection E of Section 23.49.036 of the Seattle Municipal Code, which Section was last amended by Ordinance 117570, is further amended as follows:

**23.49.036 Planned community developments (PCDs).**

* * *

E. Evaluation of PCDs. A proposed PCD shall be evaluated on the basis of public benefits provided, possible impacts of the project, and consistency with the ((~~City's Land Use Policies~~)) standards contained in this Section E.

1. Public Benefits. A proposed PCD shall provide one (1) or more of the following elements: Housing, low-income housing, services, employment, increased public revenue, strengthening of neighborhood character, improvements in pedestrian circulation or urban form, and/or other elements which further an adopted City policy and provide a demonstrable public benefit.

2. Potential Impacts. The potential impacts of a proposed PCD shall be evaluated, including, but not necessarily limited to, the impacts on housing, particularly low-income housing, transportation systems, parking, energy, and public services, as well as environmental factors such as noise, air, light, glare, and water quality.

3. The proposed PCD shall be reviewed for consistency with ((~~the Land Use and Transportation Plan for Downtown Seattle and~~)) the Land Use Policies, contained in Chapter 23.12, for other areas adjacent to Downtown which could be affected by the PCD.

4. When the proposed PCD is located in the Pioneer Square Preservation District or International District Special Review District, the Board of the District(s) in which the PCD is located shall review the proposal and make a recommendation to the Department of Neighborhoods Director who shall make a recommendation to the Director prior to the Director's recommendation to the Council on the PCD.

* * *

**Section 10.** Subsections G and H of Section 23.49.046 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are further amended as follows:

**23.49.046 Downtown Office Core 1, conditional uses and Council decisions.**

* * *

G. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria.

a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school.

b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center.

c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanded facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;

g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities, and that the facility will meet State laws and requirements.

H. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 11.** Subsections A, B and C of Section 23.49.048 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, are further amended as follows:

**23.49.048 Downtown Office Core 1, floor area ratio (FAR).**

A. General Standards.

1. The floor area ratio (FAR), as provided in subsection B, shall determine the gross floor area permitted for all nonresidential uses, except as modified by subsection C.

2. Additional FAR above the base, as set forth in subsection B may be achieved by providing public benefit features pursuant to Section 23.49.050, and by the transfer of development rights pursuant to Section 23.49.052, provided that no FAR above seven (7) may be allowed as a bonus for public benefits features except housing, and no FAR above ten (10) may be granted except for development rights transferred from a low((-))income housing <u>or low and low-moderate income housing</u> TDR site, a landmark theater/housing TDR site, as defined in Section 23.84.024, or a major performing arts facility, as defined by Section 23.84.025.

B. Permitted FAR. The base FAR shall be five (5). Additional FAR may be achieved as follows:

**FLOOR AREA RATIO**

| | **May be used in FAR range** | |
|---|---|---|
| **Type of Bonus or TDR** | **Above** | **Up Through** |
| 1. Bonuses other than housing | 5 | 7 |
| 2. Low((-))_income | | |

| | | |
|---|---|---|
| housing bonus | 7 | 10 |
| 3. Low-moderate income housing bonus | 7 | 10 |
| 4. Within-block TDR | 5 | 10 |
| ((4))5. *Landmark TDR | 5 | 10 |
| ((~~5.~~))6. Major performing arts facility TDR | 5 | 14 |
| ((~~6.~~))7. Landmark performing arts theater with housing TDR | 5 | 14 |
| ((~~7.~~))8. Low((-))income or low and low-moderate income housing TDR | 7 | 14 |
| ((~~8.~~))9. Pioneer Square infill TDR | 5 | 7 |

* Note: Priority TDR from landmark performing arts theaters, if available, must be used before any other landmark TDR.

C. Exemptions from FAR Calculations.

1. The following areas ((~~shall be~~)) are exempt from base and maximum FAR calculations:

a. Floor area in residential use. Gross floor area in residential use is exempt when:

(1) The area is included either in a structure that exists on the effective date of this ordinance, and consists of a minimum floor area of one FAR on the date the permit is approved pursuant to this Section, or in an addition to that structure, or

(2) The area is included in a structure:

i. Constructed after the effective date of this ordinance, and

ii. That occupies a lot that contains another structure that was built before the effective date of this ordinance and consists of a minimum of one FAR on the date the permit is approved pursuant to this Section, and

iii. That occupies a lot that is comprised of the same parcels that comprised the lot on the effective date of this ordinance, or

(3) The area is included in a structure constructed after the effective date of this ordinance, but only if the structure uses the maximum permitted FAR, including FAR obtained through bonuses. The area exempt by this subsection (3) is limited to floor area that is in excess of the maximum floor area permitted by the FAR.

b. All floor area below grade;

((~~b.~~)) c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

((~~c.~~)) d. ((~~The gross floor area of public benefit features which satisfy the requirements of Section 23.49.050, Ratios for public benefit features, and satisfy the Public Benefit Features Rule. For all features except housing, the exemption shall apply whether the~~

~~feature is granted a floor area bonus or not, regardless of maximum bonusable area limitations.~~)) Gross floor area of public benefit features, other than a housing public benefit feature. The exemption applies regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area limitations.

2. As an allowance for mechanical equipment, three and one-half percent (3 1/2%) of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 12.** Subsections A, C and D of Section 23.49.050 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, are further amended and a new subsection E is added as follows:

**23.49.050 Downtown Office Core 1, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Preservation Board.

2. Additional gross floor area may be permitted up to the maximum limits set forth in Section 23.49.048 when low income housing or low-moderate income housing is included in the development proposal and the following criteria are met:

a. Gross floor area equivalent to two (2) times the area of the lot shall be earned either:

(1) Through the provision of public benefit features other than housing, or

(2) From transfer of development rights from a lot that is an eligible sending site other than based on its status as a low((-)) income housing or low and low-moderate income housing TDR site, before a housing bonus, or transfer of development rights from a lot that is an eligible sending site based solely on its status as a low((-)) income housing or low and low-moderate income housing TDR site, may be used.

b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.

3. The Director shall review the design of any public benefit feature in subsection B and determine whether the feature, as proposed for a specific project, provides a public benefit and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

3. The Director shall review the design of any public benefit feature in subsection B and determine whether the feature, as proposed for a specific project, provides a public benefit and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, child care, landmark performing arts theaters, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site performing arts theater or low((-))income housing <u>or low-moderate income housing</u> if the lot on which the theater or housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

<u>c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or</u>

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible:

a. The provision of the public benefit feature; and

b. In the case of a landmark performing arts theater, any replacement by the owner of such theater of low((-))income housing or ((~~low-to-moderate~~)) <u>low and low-moderate</u> income housing that is reasonably required to be eliminated from the lot on which the theater is located to make the preservation and operation of the performing arts theater economically feasible, and

2. The Director of Housing and Human Services may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 13.** Subsections A, B, C and D of Section 23.49.052 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, are further amended as follows:

**23.49.052 Downtown Office Core 1, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block. Development rights may be transferred to lots in DOC1 zones from lots located on the same block. The maximum FAR permitted on a receiving lot in DOC1 zones when a transfer of development rights from sending lots on the same downtown block is used shall be ten (10), except that when the sending lot is a low((-))income housing or low and low-moderate income housing TDR site, a landmark theater/housing TDR site, or a major performing arts facility, and the applicable requirements of this section are satisfied, the maximum FAR shall be fourteen (14).

B. Transfer of Development Rights Between Different Downtown Blocks. Development rights may be transferred to lots in DOC1 zones from sending lots on different blocks that contain low((-))income housing or low and low-moderate income housing, Landmark structures or major performing arts facilities, or from infill lots in PSM zones, as provided below:

1. Transfer From Low((-i))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-))income housing or low and low-moderate income housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights subject to the terms and conditions in this subsection B1. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B2 or B3 of this section.

b. Development rights that are transferable based on the status of the sending lot as a low((-))income housing or low and low-moderate income housing TDR site may not be used unless gross floor area equivalent to two (2) times the area of the receiving lot has been achieved on the receiving lot:

(1) Through the use of bonuses for public benefit features other than housing; or

(2) From the transfer of development rights from sending lots eligible to transfer development rights other than as low((-))income housing or low and low-moderate income housing TDR sites.

c. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

d. The maximum FAR permitted on a receiving lot in DOC1 zones when development rights are transferred from low((-))income housing <u>or low and low-moderate income housing</u> TDR sites shall be fourteen (14).

2. Transfer From Landmark Structures or Infill Lots in PSM Zones.

a. Landmark structures from which landmark TDR may be transferred shall be located in DOC1, DOC2, or DRC zones, or on lots in DMC zones located south of Virginia Street.

b. Landmark structures on sending lots from which landmark TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

c. Lots proposed for infill development in PSM zones from which development rights are transferred must have been vacant as of January 1,1984. For the purposes of this provision, structures with abatement orders as of January 1, 1984, and surface parking areas, including minor structures accessory to parking operations, shall be considered vacant.

3. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DOC1 subject to the conditions of this subsection B3.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years.

c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

d. Maximum FAR on a receiving lot with use of TDRs from a major performing arts facility is fourteen (14).

C. Standards for Sending Lots.

1. The gross floor area that may be transferred from any sending lot to a receiving lot, subject to the limitations in subsections A and B, shall be as follows:

a. When the sending lot is located in a DOC1 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone.

b. When the sending lot is located in a DOC2 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

c. When the sending lot is located in a DRC, IDR or IDM zone, or a DMC or DMR zone with a height limit of less than two hundred and forty (240) feet, the gross floor area that may be transferred shall be six (6) times the area of the sending lot, minus any existing

gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone other than for housing.

d. When the sending lot is located in a DMC or DMR zone with a two hundred forty (240) foot height limit, the gross floor area that may be transferred shall be eight (8) times the area of the sending lot, minus any existing floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

e. When the sending lot is located in a PSM zone, the gross floor area that may be transferred shall be either:

(i) Six (6) times the area of the sending lot, minus any existing above-grade gross floor area on the sending lot, for transfers from low((-))income housing <u>or low and low-moderate income housing</u> TDR sites or within-block transfers not from infill development; or

(ii)The amount of gross floor area permitted by the development standards of the PSM zone and the Pioneer Square Preservation District, minus any above-grade gross floor area to be built on the sending lot, when the transfer is from proposed infill development.

2. When development rights are transferred from a sending lot in DOC1 zones, the amount of gross floor area which may then be built on the sending lot shall be equal to the area of the lot multiplied by the applicable FAR limit set in Section 23.49.048, minus the total of:

a. The existing gross floor area on the lot, less any exemptions permitted under Section 23.49.048 C; plus

b. The amount of gross floor area that was transferred from the lot.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a low((-)) income housing <u>or low and low-moderate income housing</u> TDR site) such consent is waived by the Director of Housing and Human Services or designee for good cause, which deed shall be recorded in the King County real property records. When TDRs 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 TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, 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 TDRs that are eligible for transfer between blocks from the owner of the sending lot by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving lot or is an applicant for a permit to develop downtown real property. Any person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. For any transfer that is permitted, or for which the sending lot is granted priority, based on the status of the sending lot as a landmark performing arts theater, the owner of the sending lot shall sign a written agreement with the City with the approval of the Landmarks Preservation Board, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause. The owner of the sending lot shall agree:

a. To maintain the structure in compliance with requirements in such agreement approved by the Landmarks Preservation Board, for a period of at least forty (40) years; and

b. To maintain the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years, and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under the Landmarks Ordinance, Chapter 25.12 of the Seattle Municipal Code (or successor provisions), unless after the minimum forty (40) year period the owner demonstrates to the satisfaction of the Landmarks Preservation Board that a change of use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls. In the case of a partial purchase of TDRs by the City for the TDR Bank, the Director of Housing and Human Services may allow a shorter period of commitment. Any relief

that may be granted from the landmark designation or from any controls or restrictions imposed in connection with that designation, under SMC Chapter 25.12 or otherwise, shall not affect the owner's obligations pursuant to any agreement under this subsection 4.

5. For any transfer to which subsection D4 applies, a subsidy review shall be required if at the time of the transfer, the lot on which the landmark performing arts theater is located:

a. Is being or has been used for any off-site bonus; or

b. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

6. When subsidy review is required according to one (1) or more of the above criteria:

a. The transfer of development rights shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such transfer and the benefits of any off-site bonus, if applicable, are reasonably necessary to make economically feasible:

(i) The preservation of the landmark performing arts theater, and

(ii) Any replacement by the owner of such theater of low((-)) income housing or low-to-moderate income housing that is reasonably required to be eliminated from the sending site to make preservation and operation of the performing arts theater economically feasible; and

b. The Director of Housing and Human Services may require, as a condition of the transfer, that the owner of the lot upon which the landmark performing arts theater is located agree to limit any other subsidies to be received for that lot.

7. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDRs 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

b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

8. 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 The City of Seattle.

**Section 14.** Subsections G and H of Section 23.49.066 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are further amended as follows:

**23.49.066 Downtown Office Core 2, conditional uses and Council decisions.**

* * *

G. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria. a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school. b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center. c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;

g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities and that the facility will meet State laws and requirements.

H. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 15.** Subsections A, B and C of Section 23.49.068 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, are further amended as follows:

**23.49.068 Downtown Office Core 2, floor area ratio (FAR).**

A. General Standards.

1. The floor area ratio (FAR), as provided in subsection B, shall determine the gross floor area permitted for all nonresidential uses, except as modified by subsection C.

2. Additional FAR above the base, as set forth in subsection B may be achieved by providing public benefit features according to Section 23.49.070, and by the transfer of development rights according to Section 23.49.072, provided that no FAR above six (6) may be allowed as a bonus for public benefits features except housing, and no FAR above eight (8) may be granted except for development rights transferred from a low((-))income housing <u>or low and low-moderate income housing</u> TDR site, a landmark theater/housing TDR site, or a major performing arts facility.

B. Permitted FAR. The base FAR shall be four (4). Additional FAR may be achieved as follows:

**FLOOR AREA RATIO**

**May be used in FAR range**

| Type of Bonus or TDR | Above | Up Through |
|---|---|---|
| 1. Bonuses other than housing | 4 | 6 |
| 2. Low((-)) income housing bonus | 6 | 8 |
| 3. Low-moderate income housing bonus | 6 | 8 |
| 4. Within-block TDR | 4 | 8 |
| ((4))5. *Landmark TDR | 4 | 8 |
| ((~~5.~~))6. Major performing arts facility TDR | 4 | 10 |
| ((~~6.~~))7. Low((-))income or low and low-moderate income housing TDR | 6 | 10 |
| ((~~7.~~))8. Pioneer Square infill TDR | 4 | 6 |
| ((~~8.~~))9. Landmark performing arts theater with housing TDR | 4 | 10. |

* Note: Priority TDR from landmark performing arts theaters, if available, must be used before any other landmark TDR. See Section 23.49.033.

C. Exemptions from FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except that on sending lots from which development rights are transferred according to Section 23.49.072 C the only exempt residential space shall be low((-)) income housing or low-moderate income housing on landmark theater/housing TDR sites that satisfies all requirements for a bonus under the Public Benefit Features Rule;

b. All gross floor area below grade;

c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

d. The gross floor area of public benefit features, other than housing, that satisfy the requirements of Section 23.49.070, Ratios for public benefit features, and the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations.

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure,

except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 16.** Subsections A, C and D of Section 23.49.070 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, are further amended and a new subsection E is added as follows:

**23.49.070 Downtown Office Core II, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Preservation Board.

2. Additional gross floor area may be permitted up to the maximum limits set forth in Section 23.49.068 when low income housing or low-moderate income housing is included in the development proposal and the following criteria are met:

a. Gross floor area equivalent to two (2) times the area of the lot shall be earned either:

(1) Through the provision of public benefit features other than housing, or

(2) From transfer of development rights from a lot that is an eligible sending site other than based on its status as a low((-))income housing or low and low-moderate income housing TDR site, before a housing bonus, or transfer of development rights from a lot that is an eligible sending site based solely on its status as a low((-))income housing or low and low-moderate income housing TDR site, may be used.

b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.

3. The Director shall review the design of any public benefit feature in subsection B and determine whether the feature, as proposed for a specific project, provides a public benefit and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, child care, landmark performing arts theaters, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site performing arts theater or low((-))income housing or low-moderate income housing, if the lot on which the theater or housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible:

a. The provision of the public benefit feature; and

b. In the case of a landmark performing arts theater, any replacement by the owner of such theater of low((-))income housing or ((~~low-to-moderate~~)) low and low-moderate income housing that is reasonably required to be eliminated from the lot on which the theater is located to make the preservation and operation of the performing arts theater economically feasible, and

2. The Director of Housing and Human Services may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 17.** Subsections A, B, C and D of Section 23.49.072 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, are further amended as follows:

**23.49.072 Downtown Office Core 2, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block. Development rights may be transferred to lots in DOC2 zones from lots located on the same block. The maximum FAR permitted on a receiving lot in DOC2 zones when a transfer of development rights from sending lots on the same downtown block is used shall be eight (8), except that when the sending lot or lots contain low((-))income housing or low and low-moderate income housing TDR site or a major performing arts facility, and the applicable requirements of subsection B are satisfied, the maximum FAR shall be ten (10).

B. Transfer of Development Rights Between Different Downtown Blocks. Development rights may be transferred to lots in DOC2 zones from sending lots containing low((-))income housing or low-moderate income housing, Landmark structures or major performing arts facilities, or from infill lots in PSM zones, as provided below:

1. Transfer From Low((~~-~~))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-))income housing or low and low-moderate income housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights subject to the terms and conditions in this subsection B1. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B2 or B3 of this section.

b. Development rights that are transferable based on the status of the sending lot as a low((-))income housing or low and low-moderate income housing TDR site may not be used unless gross floor area equivalent to two (2) times the area of the receiving lot has been achieved on the receiving lot:

(1) Through the use of bonuses for public benefit features other than housing; or

(2) From the transfer of development rights from sending lots eligible to transfer development rights other than as low((-))income housing or low and low-moderate income housing TDR sites.

c. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

d. The maximum FAR permitted on a receiving lot in DOC2 zones when development rights are transferred from low((-))income housing or low and low-moderate income housing TDR sites shall be ten (10).

2. Transfer From Designated Landmark Structures or Infill Lots in Pioneer Square Mixed Zones.

a. Landmark structures from which landmark TDR may be transferred shall be located in DOC1, DOC2, or DRC zones, or on lots in DMC zones located south of Virginia Street.

b. Landmark structures on sending lots from which landmark TDR are transferred shall be restored and maintained as required by the Seattle Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

c. Lots proposed for infill development in PSM zones from which development rights are transferred must have been vacant as of January 1,1984. For the purposes of this provision, structures with abatement orders as of January 1, 1984, and surface parking areas, including minor structures accessory to parking operations, shall be considered vacant.

3. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DOC2 subject to the conditions of this subsection B3.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years.

c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

d. Maximum FAR on a receiving lot with use of TDRs from a major performing arts facility is ten (10).

C. Standards for Sending Lots.

1. The gross floor area that may be transferred from any sending lot to a receiving lot, subject to the limitations in subsections A and B, shall be as follows:

a. When the sending lot is located in a DOC1 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone.

b. When the sending lot is located in a DOC2 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the low((-))income housing bonus under the Public Benefit Features Rule.

c. When the sending lot is located in a DRC, IDR or IDM zone, or a DMC or DMR zone with a height limit of less than two hundred and forty (240) feet, the gross floor area that may be transferred shall be six (6) times the area of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone other than for housing.

d. When the sending lot is located in a DMC or DMR zone with a two hundred forty (240) foot height limit, the gross floor area that may be transferred shall be eight

(8) times the area of the sending lot, minus any existing floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing or low and low-moderate income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

e. When the sending lot is located in a PSM zone, the gross floor area that may be transferred shall be either:

(i) Six (6) times the area of the sending lot, minus any existing above-grade gross floor area on the sending lot, for transfers from low((-))income housing or low and low-moderate income housing TDR sites or within-block transfers not from infill development; or

(ii) The amount of gross floor area permitted by the development standards of the PSM zone and the Pioneer Square Preservation District, minus any above-grade gross floor area to be built on the sending lot, when the transfer is from proposed infill development.

2. When development rights are transferred from a sending lot in DOC2 zones, the amount of gross floor area which may then be built on the sending lot shall be equal to the area of the lot multiplied by the applicable FAR limit set in Section 23.49.068, minus the total of:

a. The existing gross floor area on the lot, less any exemptions permitted under Section 23.49.068 C; plus

b. The amount of gross floor area that was transferred from the lot.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a low((-)) income housing or low and low-moderate income housing TDR site) such consent is waived by the Director of Housing and Human Services for good cause, which deed shall be recorded in the King County real property records. When TDRs 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 TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, then after the initial transfer, all subsequent transfers shall also 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 TDRs that are eligible for transfer between blocks from the owner of the sending lot by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving lot or is an applicant for a permit to develop downtown real property. Any

person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. For any transfer that is permitted, or for which the sending lot is granted priority, based on the status of the sending lot as a landmark performing arts theater, the owner of the sending lot shall sign a written agreement with the City with the approval of the Landmarks Preservation Board, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause. The owner of the sending lot shall agree:

a. To maintain the structure in compliance with requirements in such agreement approved by the Landmarks Preservation Board, for a period of at least forty (40) years; and

b. To maintain the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years, and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under the Landmarks Ordinance, Chapter 25.12 of the Seattle Municipal Code (or successor provisions), unless after the minimum forty (40) year period the owner demonstrates to the satisfaction of the Landmarks Preservation Board that a change of use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls. In the case of a partial purchase of TDRs by the City for the TDR Bank, the Director of Housing and Human Services may allow a shorter period of commitment. Any relief that may be granted from the landmark designation or from any controls or restrictions imposed in connection with that designation, under SMC Chapter 25.12 or otherwise, shall not affect the owner's obligations pursuant to any agreement under this subsection 4.

5. For any transfer to which subsection D4 applies, a subsidy review shall be required if at the time of the transfer, the lot on which the landmark performing arts theater is located:

a. Is being or has been used for any off-site bonus; or

b. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

6. When subsidy review is required according to one (1) or more of the above criteria:

a. The transfer of development rights shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such transfer and the benefits of any off-site bonus, if applicable, are reasonably necessary to make economically feasible:

(i) The preservation of the landmark performing arts theater, and

(ii) Any replacement by the owner of such theater of low((-)) income housing or ((~~low-to-moderate~~)) low and low-moderate income housing that is reasonably required to be eliminated from the sending site to make preservation and operation of the performing arts theater economically feasible; and

b. The Director of Housing and Human Services may require, as a condition of the transfer, that the owner of the lot upon which the landmark performing arts theater is located agree to limit any other subsidies to be received for that lot.

7. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDRs 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

b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

8. 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 The City of Seattle.

**Section 18.** Subsections H and I of Section 23.49.096 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are further amended as follows:

**23.49.096 Downtown Retail Core, conditional uses and Council decisions.**

* * *

H. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria.

a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school.

b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center.

c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;

g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities and that the facility will meet State laws and requirements.

I. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown, and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 19.** Subsection C of Section 23.49.098 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

**23.49.098 Downtown Retail Core, floor area ratio (FAR).**

* * *

C. Exemptions From FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except that on sending lots from which development rights are transferred according to Section 23.49.102 the only residential space exempted shall be low((-))income housing <u>or low-moderate income housing</u> on landmark theater housing TDR sites satisfying all requirements for bonus under the Public Benefit Features Rule;

b. All gross floor area below grade;

c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

d. The gross floor area of public benefit features (including a performing arts theater but excluding a major retail store) which satisfy the requirements of Section 23.49.100, Ratios for public benefit features, and satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations; e. The sum of the gross floor area of the following uses, up to a maximum FAR of one and one-half (1 1/2):

(1) Retail sales and services uses, including major retail stores, except lodging,

(2) Human service uses and child care centers,

(3) Customer service offices,

(4) Entertainment uses, such as theaters, and

(5) Museums. The exemption for the uses listed in this subsection C1e shall be increased to a maximum FAR of two (2) when a performing arts theater or three (3) when a major retail store is given a bonus as part of a project pursuant to Section 23.49.096.

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 of this section has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 20.** Subsections A, C and D of Section 23.49.100 of the Seattle Municipal Code, which Section was last amended by Ordinance 116513, is further amended and a new subsection E is added as follows:

**23.49.100 Downtown Retail Core, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Board.

2. Additional gross floor area may be permitted up to the "maximum FAR with public benefit features including housing" described in Section 23.49.098 when low or low-moderate income housing is included in the development proposal and the following criteria are met:

a. Gross floor area equivalent to two (2) times the area of the lot shall be earned through the provision of public benefit features other than housing, before a housing bonus may be used.

b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. <u>The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.</u>

3. The Director shall review the design of any public benefit feature in subsection B to determine whether the feature, as proposed for a specific project, provides public benefits and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, landmark performing arts theaters and child care, all public benefit features provided in return for a bonus shall be located on the same lot or abutting right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site performing arts theater or low((-))income housing or low-moderate income housing, if the lot on which the theater or housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible:

a. The provision of the public benefit feature; and

b. In the case of a landmark performing arts theater, any replacement by the owner of such theater of low((-))income housing or low-to-moderate income housing that is reasonably required to be eliminated from the lot on which the theater is located to make the preservation and operation of the performing arts theater economically feasible, and

2. The Director of Housing and Human Services may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 21.** Subsections B and D of Section 23.49.102 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, is further amended as follows:

**23.49.102 Downtown Retail Core, transfer of development rights.**

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights may not be transferred to lots in DRC zones from sending lots on different blocks.

2. Transfer From Low((-i))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-))income housing or low and low-moderate income housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights for use on receiving lots in DOC1and DOC2 zones subject to the terms and conditions in this subsection B2. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B3 or B4 of this section.

b. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

3. Transfer from Landmark Structures. Development rights from sending lots in DRC zones which contain Landmark structures may be transferred to receiving lots in DOC1 and DOC2 zones. Landmark structures on sending lots from which landmark TDRs are transferred shall be restored and maintained as required by the Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

4. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DOC1, DOC2 or DMC zones with height limits of eighty-five (85) feet or greater subject to the conditions of this subsection B4.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years. c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed, with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDRs from a low((-)) income housing or low and low-moderate income housing TDR site) such consent is waived by the Director of Housing or his or her designee for good cause, which deed shall be recorded with the King County real property records. When TDRs 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 lots or the TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of

the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, then after the initial transfer, all subsequent transfers shall also 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 TDRs that are eligible for transfer between blocks from the owner of the sending site by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving site or is an applicant for a permit to develop downtown real property. Any person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions; a. The transfer of TDRs 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 b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

5. Any agreement governing the use or development of the sending lot shall provide that its covenants and conditions shall run with the land and shall be specifically enforceable by The City of Seattle.

**Section 22.** Subsections G and H of Section 23.49.122 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is further amended as follows:

**23.49.122 Downtown Mixed Commercial, conditional uses and Council decisions.**

* * *

G. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria.

a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school.

b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center.

c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spill over light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;

g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities and that the facility will meet state laws and requirements.

H. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 22.** Subsection C of Section 23.49.124 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

**23.49.124 Downtown Mixed Commercial, floor area ratio (FAR).**

* * *

C. Exemptions From FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except that on sending lots from which development rights are transferred, according to Section 23.49.128 the only residential space exempted shall be low((-))income housing <u>or low and low-moderate income housing</u> on landmark theater/housing TDR sites satisfying all of the requirements for a bonus under the Public Benefit Features Rule;

b. All gross floor area below grade;

c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

d. The gross floor area of public benefit features, other than housing, which satisfy the requirements of Section 23.49.126, Ratios for public benefit features, or which satisfy the requirements for an FAR bonus amenity allowable to a structure in DOC1 or DOC2 for an off-site public benefit feature, and in either case, satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations;

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 of this section has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 23.** Subsection A of Section 23.49.126 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended and new subsections C, D and E is added as follows:

**23.49.126 Downtown Mixed Commercial, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Preservation Board.

2. The Director shall review the design of public benefit features listed in subsection B to determine whether the feature, as proposed for a specific project, actually provides a public benefit and is consistent with the definitions in Chapter 23.84 and with the Public Benefit Features Rule. The housing bonus shall be granted by the Director based on a finding by the Director of the Office of Housing that the proposed housing satisfies the Public Benefit Features Rule. <u>The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.</u>

3. Except for housing, human services, child care, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site low income housing or low-moderate income housing, if the lot on which the housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible the provision of the public benefit feature; and

2. The Director of Housing may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 24.** Subsections A, B, C, and D of Section 23.49.128 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, is further amended as follows:

**23.49.128 Downtown Mixed Commercial, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights may be transferred to lots in DMC zones with height limits of eighty-five feet (85') or greater from sending lots located on the same block that are low((-))income housing or low and low-moderate income housing TDR sites or landmark structures, or from infill lots in PSM zones as provided in subsection B.

2. Development rights may be transferred from lots in DMC zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred to lots in DMC zones from a major performing arts facility on a sending lot on the same downtown block as the receiving lot, only if

the sending lots is in a DOC1, DOC2 or DRC zone. Additional restrictions listed in subsection B3 below also apply.

B. Transfer of Development Rights Between Different Downtown Blocks. Development rights may be transferred to lots in DOC2 zones from sending lots on different blocks that contain low((-))income housing <u>or low and low-moderate income housing</u>, Landmark structures or major performing arts facilities, or from infill lots in PSM zones, as provided below:

1. Transfer From Low((~~-i~~))<u>I</u>ncome Housing <u>or Low and Low-moderate Income Housing</u> TDR Sites.

a. " Low((-))income housing <u>or low and low-moderate income housing</u> TDR sites " as defined in Section 23.84.024 are eligible to transfer development rights subject to the terms and conditions in this subsection B1. Lots containing low((-))income housing <u>or low and low-moderate income housing</u>, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B2 or B3 of this section.

b. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

c. The maximum FAR permitted on a receiving lot in DMC zones when development rights are transferred from low((-))income housing <u>or low and low-moderate income housing</u> TDR sites shall be six (6) or seven (7) in accordance with Section 23.49.124.

2. Transfer From Landmark Structures or Infill Lots in Pioneer Square Mixed Zones.

a. Landmark structures from which landmark TDR may be transferred shall be located in DMC zones located south of Virginia Street.

b. Landmark structures on sending lots from which landmark TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

c. Lots proposed for infill development in PSM zones from which development rights are transferred must have been vacant as of January 1,1984. For the purposes of this provision, structures with abatement orders as of January 1, 1984, and surface parking areas, including minor structures accessory to parking operations, shall be considered vacant.

d. The maximum FAR permitted on a receiving lot in DMC zones when development rights are transferred Landmark structures shall be six (6) or seven (7), in accordance with Section 23.49.124.

3. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DMC zone with a height limit of eighty-five feet (85') or greater, subject to the conditions of this subsection B3.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years.

c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

d. Maximum FAR on a receiving lot with use of TDRs from a major performing arts facility is seven (7).

C. Standards for Sending Lots.

1. The gross floor area that may be transferred from any sending lot to a receiving lot, subject to the limitations in subsections A and B, shall be as follows:

a. When the sending lot is located in a DRC, IDR or IDM zone, or a DMC or DMR zone with a height limit of less than two hundred and forty feet (240'), the gross floor area that may be transferred shall be six (6) times the area of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone other than for housing.

b. When the sending lot is located in a DMC or DMR zone with a two hundred and forty foot (240') height limit, the gross floor area that maybe transferred shall be eight (8) times the area of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area:

(i) any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

c. When the sending lot is located in a PSM zone, the gross floor area that may be transferred shall be either:

(1) Six (6) times the area of the sending lot, minus any existing above-grade gross floor area on the sending lot, for transfers from low((-)) income housing <u>or low and low-moderate income housing</u> TDR sites or within-block transfers not from infill development; or

(2) The amount of gross floor area permitted by the development standards of the PSM zone and the Pioneer Square Preservation District, minus any above-grade gross floor area to be built on the sending lot, when the transfer is from proposed infill development.

2. When development rights are transferred from a sending lot in DMC zones, the amount of gross floor area which may then be built on the sending lot shall be equal to the area of the lot multiplied by the applicable FAR limit set in Section 23.49.124, minus the total of:

a. The existing gross floor area on the lot, less any exemptions permitted under Section 23.49.124; plus

b. The amount of gross floor area which was transferred from the lot.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a low((-)) income housing <u>or low and low-moderate income housing</u> TDR site) such consent is waived by

the Director of Housing and Human Services or designee for good cause, which deed shall be recorded in the King County real property records. When TDRs 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 TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, 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 TDRs that are eligible for transfer between blocks from the owner of the sending lot by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving lot or is an applicant for a permit to develop downtown real property. Any person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. For any transfer that is permitted, or for which the sending lot is granted priority, based on the status of the sending lot as a landmark performing arts theater, the owner of the sending lot shall sign a written agreement with the City with the approval of the Landmarks Preservation Board, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause. The owner of the sending lot shall agree:

a. To maintain the structure in compliance with requirements in such agreement approved by the Landmarks Preservation Board, for a period of at least forty (40) years; and

b. To maintain the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years, and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under the Landmarks Ordinance, Chapter 25.12 of the Seattle Municipal Code (or successor provisions), unless after the minimum forty (40) year period the owner demonstrates to the satisfaction of the Landmarks Preservation Board that a change of use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls. In the case of a partial purchase of TDRs by the City for the TDR Bank, the Director of Housing and Human Services may allow a shorter period of commitment. Any relief that may be granted from the landmark designation or from any controls or restrictions imposed in connection with that designation, under SMC Chapter 25.12 or otherwise, shall not affect the owner's obligations pursuant to any agreement under this subsection 4.

5. For any transfer to which subsection D4 applies, a subsidy review shall be required if at the time of the transfer, the lot on which the landmark performing arts theater is located:

a. Is being or has been used for any off-site bonus; or

b. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

6. When subsidy review is required according to one (1) or more of the above criteria:

a. The transfer of development rights shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such transfer and the benefits of any off-site bonus, if applicable, are reasonably necessary to make economically feasible:

(i) The preservation of the landmark performing arts theater, and

(ii) Any replacement by the owner of such theater of low((-)) income housing or low-to-moderate income housing that is reasonably required to be eliminated from the sending site to make preservation and operation of the performing arts theater economically feasible; and

b. The Director of Housing and Human Services may require, as a condition of the transfer, that the owner of the lot upon which the landmark performing arts theater is located agree to limit any other subsidies to be received for that lot.

7. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDRs 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

b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

8. 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 The City of Seattle.

**Section 25.** Subsection F of Section 23.49.148 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is further amended as follows:

**23.49.148 Downtown Mixed Residential, conditional uses and Council decisions.**

* * *

F. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 26.** Subsection C of Section 23.49.150 of the Seattle Municipal Code, which Section was last amended by Ordinance 112303, is further amended as follows:

**23.49.150 Downtown Mixed Residential, floor area ratio (FAR).**

C. Exemptions From FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except on sending lots from which development rights are transferred, according to Section 23.49.154;

b. All gross floor area below grade;

c. All gross floor area used for accessory parking located above grade;

d. ((~~The gross floor area of public benefit features which satisfy the requirements of Section 23.49.152, Downtown Mixed Residential, ratios for public benefit features, and satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations.~~)) <u>Gross floor area of public benefit features. The exemption applies regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area limitations.</u>

2. As an allowance for mechanical equipment, three and one-half (3%) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure.

**Section 27.** Subsection A of Section 23.49.152 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended and new subsections C, D and E are added as follows:

**23.49.152 Downtown Mixed Residential, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure unless authorized by the Landmarks Preservation Board.

2. Additional gross floor area may be permitted up to the "maximum FAR with housing" described in Section 23.49.150 when low or low-moderate housing is included in the development proposal and the following criteria are met:

a. ((~~The housing bonus shall be granted only for the production of low or low-moderate housing in a new structure, or in a rehabilitated structure or portion of a rehabilitated structure which was not in residential use as of January 1, 1983.~~

~~b.~~))The housing shall be located in a DMR zone.

((e.))b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.

((~~d.~~))c. When the housing option as provided in Section 23.49.164 C is used, the housing provided shall be for low-income households for a period of at least twenty (20) years in order to receive a housing bonus, and the bonus ratio shall be six (6) square feet of commercial floor area for every square foot of housing provided.

3. The Director shall review the design of any public benefit feature listed in subsection B of this section to determine whether the feature, as proposed for a specific project, provides public benefits and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, child care, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site low income housing or low-moderate income housing, if the lot on which the housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to,tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions.

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible the provision of the public benefit feature; and

2. The Director of Housing may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 28.** Subsections A, B and D of Section 23.49.154 of the Seattle Municipal Code, which Section was last amended by Ordinance 116513, are further amended as follows:

**23.49.154 Downtown Mixed Residential, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights shall not be transferred to lots in DMR zones from lots located in the same downtown block.

2. Development rights from sending lots in DMR zones may be transferred to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in DMR zones containing low((-))income housing or low and low-moderate income housing to receiving lots in DMC zones located on the same block in accordance with subsection B2 of this section.

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights from a sending lot on a different downtown block shall not be transferred to receiving lots in Downtown Mixed Residential zones.

2. Transfer From Low((-))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-)) income housing or Low and Low-moderate Income Housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights to receiving sites in DOC1, DOC2and DMC zones subject to the terms and conditions in this subsection B2. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights only if they qualify under subsection A2 of this section.

b. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending and receiving lots shall execute a deed or an agreement, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause, which deed or other agreement shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the rights were transferred.

3. For transfers that are permitted based on the status of the sending site as a low((-))income housing or low and low-moderate income housing TDR site, the owner of the sending site shall agree, with the written consent of all holders of encumbrances on the sending site, unless such consent is waived by the Director of Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants and conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 29.** Subsections A, B and D of Section 23.49.180 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.49.180 Pioneer Square Mixed, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights shall not be transferred to receiving lots in PSM zones from lots located on the same downtown block.

2. Development rights may be transferred from lots in PSM zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in PSM zones containing low((-))income housing or low and low-moderate income housing or infill development to lots in DMC zones located on the same block in accordance with subsection B.

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights shall not be transferred to receiving lots in PSM zones from lots on different downtown blocks.

2. Development rights may be transferred from sending lots in PSM zones to receiving lots in DOC1, DOC2 and DMC zones located on a different block when the sending lot ((~~contains~~)) qualifies as a low-income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule.

((~~a. Each structure on the sending lot shall have the greater of fifty percent (50%) of total gross floor area or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use.~~

~~b. Sending lots shall have gross floor area equivalent to at least one (1) FAR in low-income housing use.~~))

((~~c.~~)) 3. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

((~~d. The low-income housing on the sending lot shall be certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule.~~))

((~~3.~~)) 4. Development rights may be transferred from sending lots in the PSM zone to receiving lots located on different downtown blocks in the DOC1, DOC2 and DMC zones from a sending lot which is proposed for infill development and was vacant as of January 1, 1984.

a. Lots with structures subject to abatement orders on or before January 1, 1984, and surface parking areas, including lots with minor structures accessory to parking operations, shall be considered vacant for the purpose of this section.

b. The transfer of development rights may not occur until a certificate of occupancy has been issued for the project proposed on the vacant lot.

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending and receiving lots shall execute a deed or other agreement which shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the rights were transferred.

3. For transfers from ((~~lots containing~~)) low((-))income housing or low and low-moderate income housing TDR sites, the agreement shall provide for the maintenance of the low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants or conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 30.** Subsections A, B and D of Section 23.49.212 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.49.212 International District Mixed, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights shall not be transferred to lots in IDM zones from lots located in the same block.

2. Development rights may be transferred from lots in IDM zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in IDM zones ((~~containing low-income housing~~)) that qualify as a low-income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule to receiving lots in DMC areas located on the same downtown block in accordance with subsection B2.

B. Transfer of Development Rights Between Lots on Different Blocks.

1. Development rights shall not be transferred to receiving lots in IDM zones from lots on different downtown blocks.

2. Development rights may be transferred from sending lots in IDM zones to receiving lots in DOC1, DOC2, and DMC zones when the sending lot ((~~contains low-income housing~~)) qualifies as a low((-))income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule.

((~~a. Each structure on the sending lot shall have the greater of fifty percent (50%) of the total gross floor area, or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use.~~

~~b. Sending lots shall have gross floor area equivalent to at least one (1) FAR in low-income housing use.~~

~~c.~~)) 3. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

((~~d. The low-income housing on the sending lot must be certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule~~.))

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending and receiving lots shall execute a deed or other agreement which shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the rights were transferred.

3. For transfers from ((~~lots containing~~)) low((-))income housing or low and low-moderate income housing TDR sites, the agreement shall provide for the maintenance of the low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants or conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 31.** Subsections A, B and D of Section 23.49.240 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, are further amended as follows:

**23.49.240 International District Residential, transfer of development rights.**

A. Transfer of Development Rights Within the Same Block.

1. Development rights shall not be transferred to lots in IDR zones from lots located in the same block.

2. Development rights may be transferred from sending lots in IDR zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in the IDR zone ((~~containing low-income housing~~)) that qualify as a low((-))income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule to receiving lots in DMC zones located on the same block in accordance with subsection B2.

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights shall not be transferred to receiving lots in IDR zones from lots on different downtown blocks.

2. Development rights may be transferred from sending lots in IDR zones to receiving lots in the DOC1, DOC2, and DMC zones, when the sending lot ((~~contains low-income housing~~)) qualifies as a low-income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule..

((~~a. Each structure on the sending lot shall have the greater of fifty percent (50%) of the total gross floor area, or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use.~~

~~b. Sending lots shall have gross floor area equivalent to at least one (1) FAR in low-income housing use.~~

~~c.~~)) 3. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

((~~d. The low-income housing on the sending lot must be certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule~~.))

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of sending and receiving lots shall execute a deed or other agreement which shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the development rights were transferred.

3. For transfers from ((~~lots containing~~)) low((-))income housing or low and low-moderate income housing TDR sites, the agreement shall provide for the maintenance of the low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants or conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 32.** Subsection G of Section 23.49.324 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is further amended as follows:

**23.49.324 Downtown Harborfront, conditional uses.**

* * *

G. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 33.** Seven codified maps, Pioneer Square Maps A through G, located at the end of Chapter 23.66 of the Seattle Municipal Code, are replaced with four maps, Pioneer Square Maps A through D as depicted in Attachment 3 to this ordinance.

**Section 34.** Subsections A, B and C of Section 23.66.100 of the Seattle Municipal Code, which Section was last amended by Ordinance 112134, are further amended as follows:

**23.66.100 Creation of district, legislative findings and purpose.**

A. During The City of Seattle's relatively brief history, it has had little time in which to develop areas of consistent historical or architectural character. It is recognized that the Pioneer Square area of Seattle contains many of these rare attributes and consequently is an area of great historical and cultural significance. Further, the King County domed stadium (Kingdome), constructed in the Pioneer Square area, and the traffic and activities which it generates has resulted in adverse impacts upon the social, cultural, historic and ethnic values of the Pioneer Square area. To preserve, protect, and enhance the historic character of the Pioneer Square area and the buildings therein; to return unproductive structures to useful purposes; to attract visitors to the City; to avoid a proliferation of vehicular parking and vehicular-oriented uses; to provide regulations for existing on-street and off-street parking; to stabilize existing, and encourage a variety of new and rehabilitated housing types for all income groups; to encourage the use of transportation modes other than the private automobile; to protect existing commercial vehicle access; to improve visual and urban relationships between existing and future buildings and structures, parking spaces and public improvements within the area; and to encourage pedestrian uses, there is established as a special review district, the Pioneer Square Preservation District. The boundaries of the District are shown on Map A and on the Official Land Use Map.

B. The District ((~~shall consist of an historic core and a buffer zone, as~~)) is depicted on Map A. All property in the entire District shall be developed and used in accordance with the use and development standards established in this ((e))Chapter and the use and development standards for the underlying zone in which the property is located. In the event of irreconcilable differences between the use and development standards of this ((e))Chapter and other provisions of this Land Use Code, the provisions of this ((e))Chapter shall apply.

C. Reasons for Designating the Pioneer Square Preservation District.

1. Historic Significance. The Pioneer Square Preservation District is unique because it is the site of the beginning of The City of Seattle. The area also retains much of the original architecture and artifacts of its early history. The District has played a significant role in

the development of Seattle, the Puget Sound region and The State of Washington. It was the first location of industry, business and homes in early Seattle and the focus of commerce and transportation for more than a half century.

2. Architectural Significance. As a collection of late nineteenth and early twentieth-century buildings of similar materials, construction techniques and architectural style, the District is unique, not only to the City but to the country as well. Most of the buildings within the District embody the distinctive characteristics of the Late Victorian style. Many buildings are the work of one architect, Elmer H. Fisher. For these and other reasons, the buildings combine to create an outstanding example of an area that is distinguishably in style, form, character and construction representative of its era.

3. Social Diversity. The District represents an area of unique social diversity where people from many income levels and social strata live, shop and work. It is an area in which social services, including missions, low-income housing and service agencies exist.

4. Business Environment. The District is an area of remarkable business diversity. The street level of the ((~~historic core~~)) area north of S. King Street is pedestrian-oriented, with its storefronts occupied primarily by specialty retail shops, art galleries, restaurants and taverns. The upper floors of buildings in the historic core are occupied by professional offices, various types of light manufacturing, and housing for persons of many income groups. The ((~~buffer zone~~)) area south of S. King Street ((~~is made up of predominantly of~~)) includes the North Kingdome parking lot, a number of structures occupied by light manufacturing and warehousing uses, and several structures converted to office, residential and mixed use. The north Kingdome parking lot may be redeveloped to accommodate a mix of uses, including a substantial amount of housing. The ongoing restoration and sensitive rehabilitation of many District structures, combined with proposed compatible new construction will continue to enhance the District's economic climate.

5. Educational Value. The restoration and preservation of the District will yield information of educational significance regarding the way of life and the architecture of the late nineteenth-century as well as adding interest and color to the City. Restoration of the District will preserve the environment which was characteristic of an important era of Seattle's history.

6. Geographic Location. The District is uniquely situated adjacent to Seattle's waterfront, the central business district, the International District, and the King County domed stadium.

* * *

**Section 35.** Subsections A and B of Section 23.66.122 of the Seattle Municipal Code, which Section was last amended by Ordinance 118414, are further amended as follows:

**23.66.122 Prohibited uses.**

A. ((~~1.~~)) The following uses are prohibited in the entire District as both principal and accessory uses:

Retail ice dispensaries;
Plant nurseries;
Frozen food lockers;
Animal services;
Automotive retail sales and service, except gas stations located in parking garages;
Marine retail sales and service;
Heavy commercial services;
Fuel sales;
Sales, service and rental of commercial equipment and construction materials;
Adult motion picture theaters;
Adult panorams;
Bowling alleys;
Skating rinks;
Communication utilities;
Advertising signs and off-premises directional signs;
Transportation facilities, except passenger terminals;
Outdoor storage;
Jails;
Work-release centers ((~~.~~)) ;
General and heavy manufacturing uses;
Salvage and Recycling uses, except recycling collection stations; and
High impact uses.

((~~2.~~)) B. Commercial uses which are ((~~vehicle~~)) automobile-oriented ((~~shall be prohibited in the area of the District identified on Map B.1 Such uses include,~~)) are prohibited. Such uses include but are not limited to the following:

Drive-in businesses, except gas stations accessory to parking garages;
Principal and accessory surface parking areas not in existence prior to August 10, 1981, except that accessory use surface parking lots may be permitted in Subarea B shown on Map C, if the lot satisfies the provisions of SMC 23.49.020, Screening and landscaping of surface parking lots.
Motels.

((~~B. All general and heavy manufacturing uses, salvage and recycling uses except recycling collection stations, and all high-impact uses are prohibited both as principal and as accessory uses.~~))

**Section 36.** Subsection A of Section 23.66.124 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.66.124 Uses subject to special review.**

A. Principal-use parking garages for long-term parking in areas ((~~designated on Map C~~)) south of S. King Street, and principal-use short-term parking garages at any location, shall require approval of the Department of Neighborhoods Director after review and recommendation by the Preservation Board.

* * *

**Section 37.** Subsections A, B, C, D and E of Section 23.66.130 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, are further amended as follows:

**23.66.130 Street-level uses.**

A. Uses at street level in the area designated on Map D shall require the approval of the Department of Neighborhoods Director after review and recommendation by the Preservation Board.

B. Preferred Street-level Uses.

1. Preferred uses at street level shall be highly visible and pedestrian oriented. Preferred street-level uses either display merchandise in a manner that contributes to the character and activity of the area, and/or promote residential uses, including but not limited to the following uses:

a. Art galleries, restaurants and other retail sales and service uses under three thousand (3,000) square feet in size;

b. Theaters.

2. Accessory parking garages which serve preferred street-level uses on streets or malls, parks or alleys designed for pedestrian uses shall also be preferred.

C. Discouraged Street-level Uses.

1. The following uses are discouraged at street-level in the area designated on Map ((~~D~~)) B:

a. Any use occupying more than fifty percent (50%) of any block frontage;

b. Retail sales and services over three thousand (3,000) square feet and all other uses over ten thousand (10,000) square feet;

c. Professional services establishments or offices which comprise more than twenty percent (20%) of any block frontage;

d. Parking garages which are not accessory to preferred uses.

2. Discouraged uses may be approved by the Department of Neighborhoods Director after review and recommendation by the Preservation Board if an applicant demonstrates that the proposed use is compatible with uses preferred at street level.

D. Conditions on Street-level Uses. Approved street level uses in the area designated on Map ((~~D~~)) B shall be subject to the following conditions:

1. No use may occupy more than fifty percent (50%) of the street-level frontage of a block that is twenty thousand (20,000) square feet or more in area;

2. Human service uses and personal service establishments, such as haircutting and tanning salons, may not exceed twenty-five percent (25%) of the total street-level frontage of any block front.

E. The following uses shall be prohibited at street-level in the area designated on Map ((~~D~~)) B:

Wholesaling, storage and distribution uses;
Vocational and fine arts schools;
Research and development;
Radio and television studios;
Taxidermy shops;
Appliance repair shops;
Upholstery establishments;
Other similar uses.

F. The street-level location of entrances and exits of all vehicular-oriented uses, where permitted, shall be approved by the Department of Neighborhoods Director after review and recommendation by the Preservation Board. View-obscuring screening may be required as needed to reduce adverse visual impacts on the immediate area.

**Section 38.** Subsections A and B of Section 23.66.140 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, are further amended as follows:

**23.66.140 Height.**

A. Maximum Height. Maximum structure height is regulated by Chapter 23.49.178, Pioneer Square Mixed, structure height, and shall be as designated on the Official Land Use Map, Chapter 23.32.

B. Minimum Height. No structure shall be erected or permanent addition added to an existing structure which would result in the height of the new structure ((~~totaling~~)) of less than ((~~the minimum height established by Map G.~~)) fifty feet (50'). Height of the structure is to be measured from mean street level fronting on the property to the mean roofline of the structure.

* * *

**Section 39.** Section 23.66.150 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.66.150 Maximum setbacks.**

Maximum permitted setbacks for ((~~S~~))structures ((~~within the Pioneer Square Preservation District located in the area designated on Map E~~)) are:

A. Structures located within Subarea A on Map C shall cover the full width of the lot along street property lines and shall abut upon street property lines.

B. Structures located within Subarea B on Map C shall abut street property lines for the full width of the structure's street front facade.

C. For both Subareas, ((~~although interior open spaces~~)) modifications to setback standards may be permitted by the Department of Neighborhoods Director following review and recommendation by the Preservation Board((~~.~~)) when the following criteria are met:

1. A larger setback will be compatible with and not adversely affect the streetscape; and

2. A larger setback will be compatible with other design elements, such as bulk and profile, of the proposed building.

**Section 40.** Subsection D of Section 23.66.170 of the Seattle Municipal Code, which Section was last amended by Ordinance 118409, is further amended as follows:

**23.66.170 Parking and access.**

* * *

D. Standards for Location of Access to Parking.

1. Access to parking and loading from alleys, and from streets which generally run east/west, is preferred to access from avenues. When a lot abuts more than one (1) right-of-way, the location of access shall be determined by the Department of Neighborhoods Director in consultation with the Director of Transportation. This determination shall be made according to the traffic classification of the street, depicted on Map ((~~F~~))D. Access shall be from rights-of-way classified as follows, from the most to least preferred, except when the Department of Neighborhoods Director, following review and recommendation by the Board, determines that access from the preferred right-of-way would create a hazardous condition: Alleys; Access streets; Class II pedestrian streets-minor arterial; Class II pedestrian streets-principal arterial; Class I pedestrian streets-minor arterial; Class I pedestrian streets-principal arterial; Principal transit street; Street parks.

2. Curbcut width and the number of curbcuts permitted per street frontage shall be governed by Section 23.54.030 of this Land Use Code.

3. The street-level location of entrances and exits of all parking garages, where permitted, shall be permitted only if approved by the Department of Neighborhoods Director after review and recommendation by the Preservation Board. View-obscuring screening may be required as needed to reduce adverse visual impacts on the immediate area.

**Section 41.** Section 23.84.024 of the Seattle Municipal Code, which Section was last amended by Ordinance 118794, amends the definitions of "Low-income housing" and "Low-income housing TDR site" as follows:

**23.84.024 "L"**

* * *

((~~"Land Use and Transportation Plan for Downtown." See "Land use policies, Downtown." "Land use policies" means those policies set forth or incorporated by reference in Chapter 23.12, as such chapter is now in effect and as it maybe hereafter amended, as the same may be amended from time to time.~~
~~"Land use policies, Downtown," or "Land Use and Transportation Plan for Downtown" means the portions of the Land Use and Transportation Plan for Downtown Seattle, as amended, that are incorporated by reference in SMC Chapter 23.12, as such section is now in effect or hereafter amended.~~))

* * *

"Low((-))income housing" means any housing unit which is rented to a low((-))income household at rents not to exceed thirty (30) percent of fifty (50) percent of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Low((-))income housing <u>or low and low-moderate income housing</u> TDR site" means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones;

2. Each structure on the lot shall have ((~~the greater of~~)) <u>a minimum of</u> fifty (50) percent of total gross floor area ((~~, or the gross floor area in use as low-income housing on January 1, 1983,~~)) committed to low((-))income housing <u>or low and low-moderate income housing</u> use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule;

3. The lot has gross floor area equivalent to at least one (1) FAR committed to low-income housing use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule; and

4. The low((-))income housing <u>or low and low-moderate income housing</u> commitment on the lot has been certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule.

* * *

**Section 42.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

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5/16/99
V 9

**Section 43.** This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 24th day of May, 1999, and signed by me in open session in authentication of its passage this 24th day of May, 1999.

President of the City Council

Approved by me this 1st day of June, 1999.

Paul Schell, Mayor

Filed by me this 1st day of June, 1999.

City Clerk

(SEAL)

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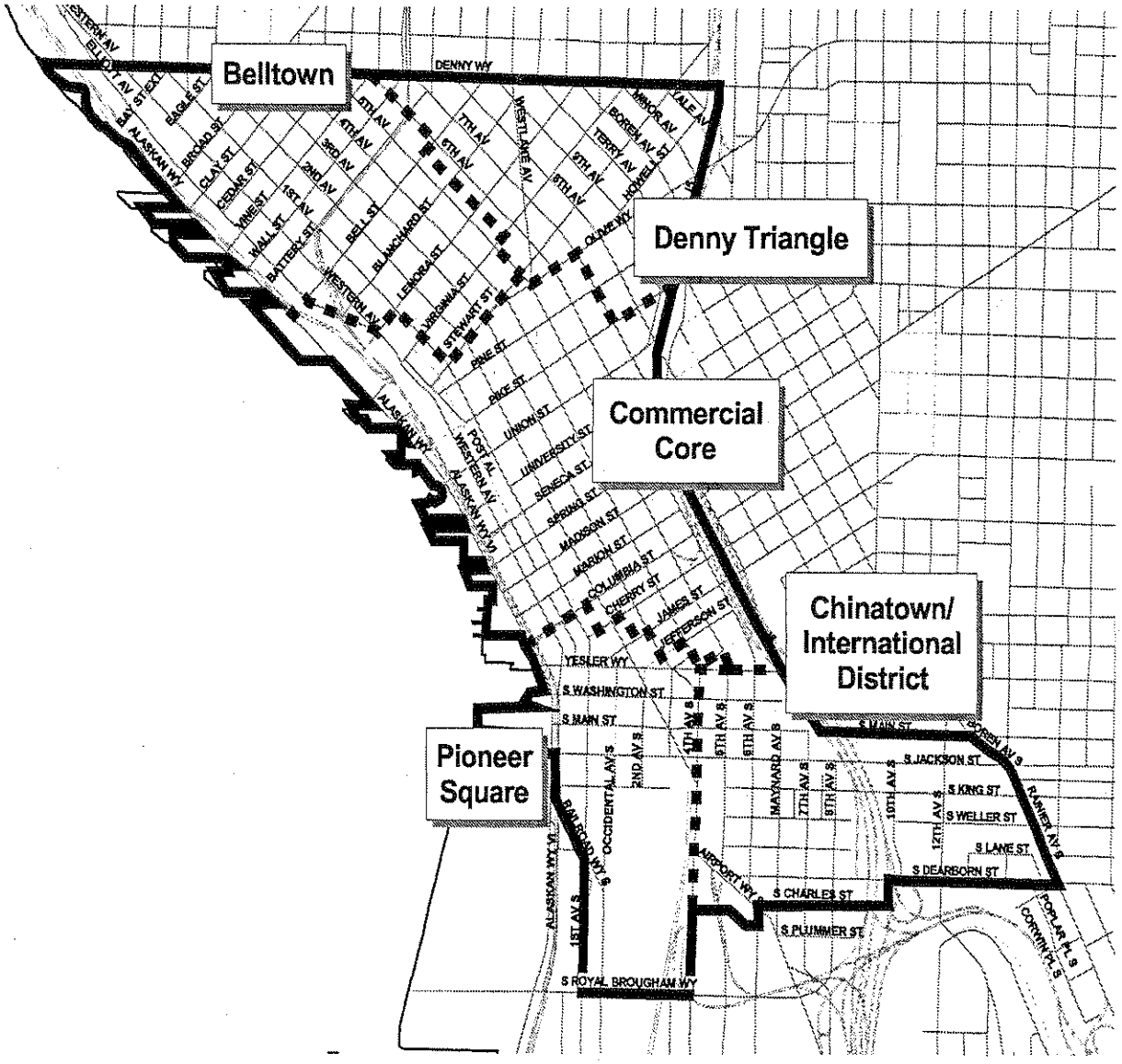
v 4

Attachment 1.

Urban Center/Village Boundaries.



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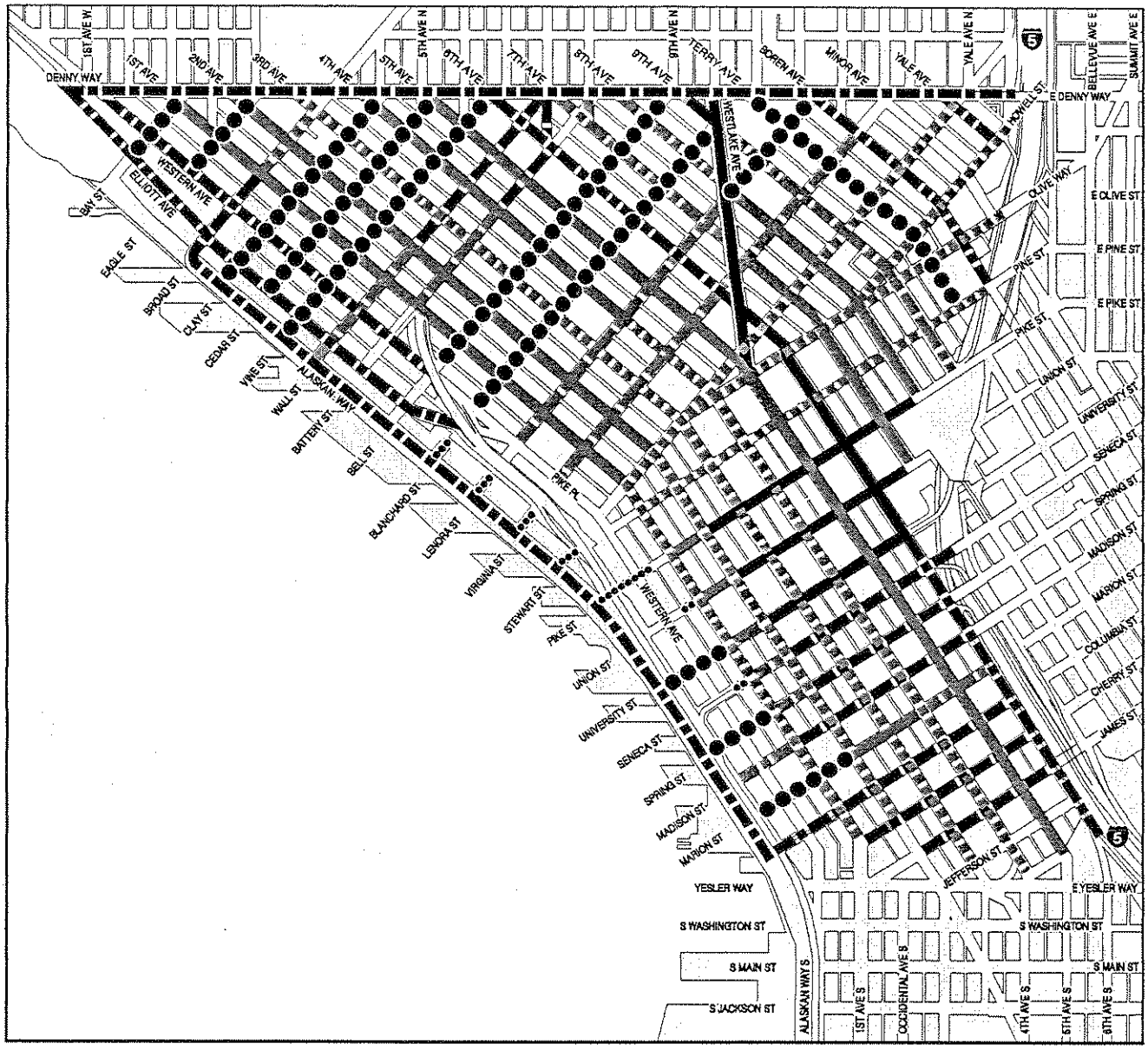
Attachment 2

1 Attachment 2

MLP
1/27/99
V 4
Attachment 2




Access Street

Class II Pedestrian Street/ Minor Arterial

Class II Pedestrian Street/ Principal Arterial

Class I Pedestrian Street/ Minor Arterial

Class I Pedestrian Street/ Principal Arterial

Principal Transit Street

Green Street

Undeveloped Street

N

0 4 8 12
SCALE IN 100 FEET

**Map IB**

**Downtown Zones**

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## Street Classifications



A3300\STRATEGIC PLANNING OFFICE\37580\FINAL MAPS\MAP1B.CDR (5.0) rev. 01/22/99

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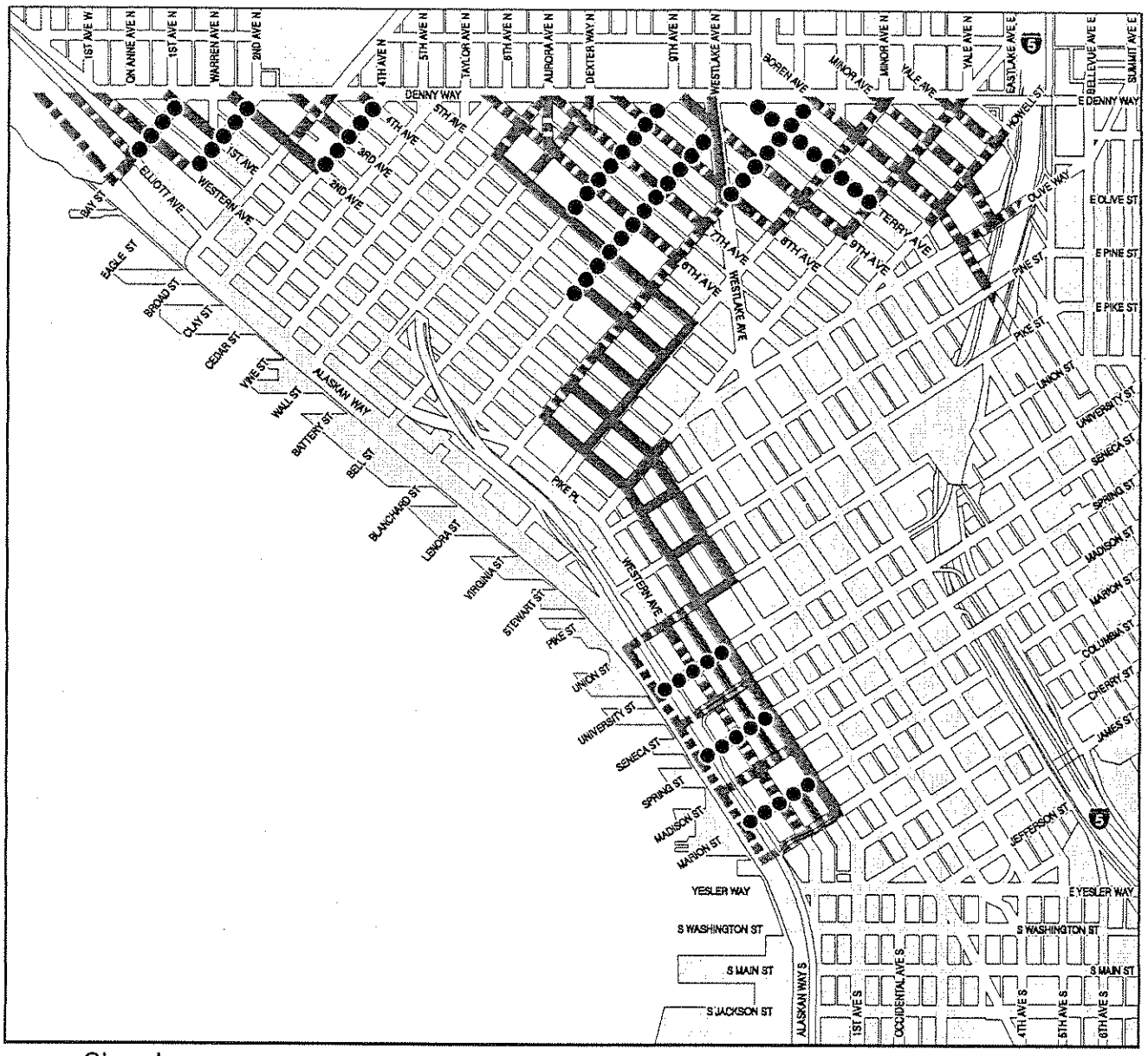
Attachment 2




Class I

Class II

Green Street

N

0 4 8 12
SCALE IN 100 FEET

# Map VD

Downtown
Mixed
Commercial

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## Pedestrian Street Classifications

A3330\STRATEGIC PLANNING OFFICE\37580\FINAL MAPS\MAP5D.CDR (5.0) rev. 01/22/99

MLP
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V 4
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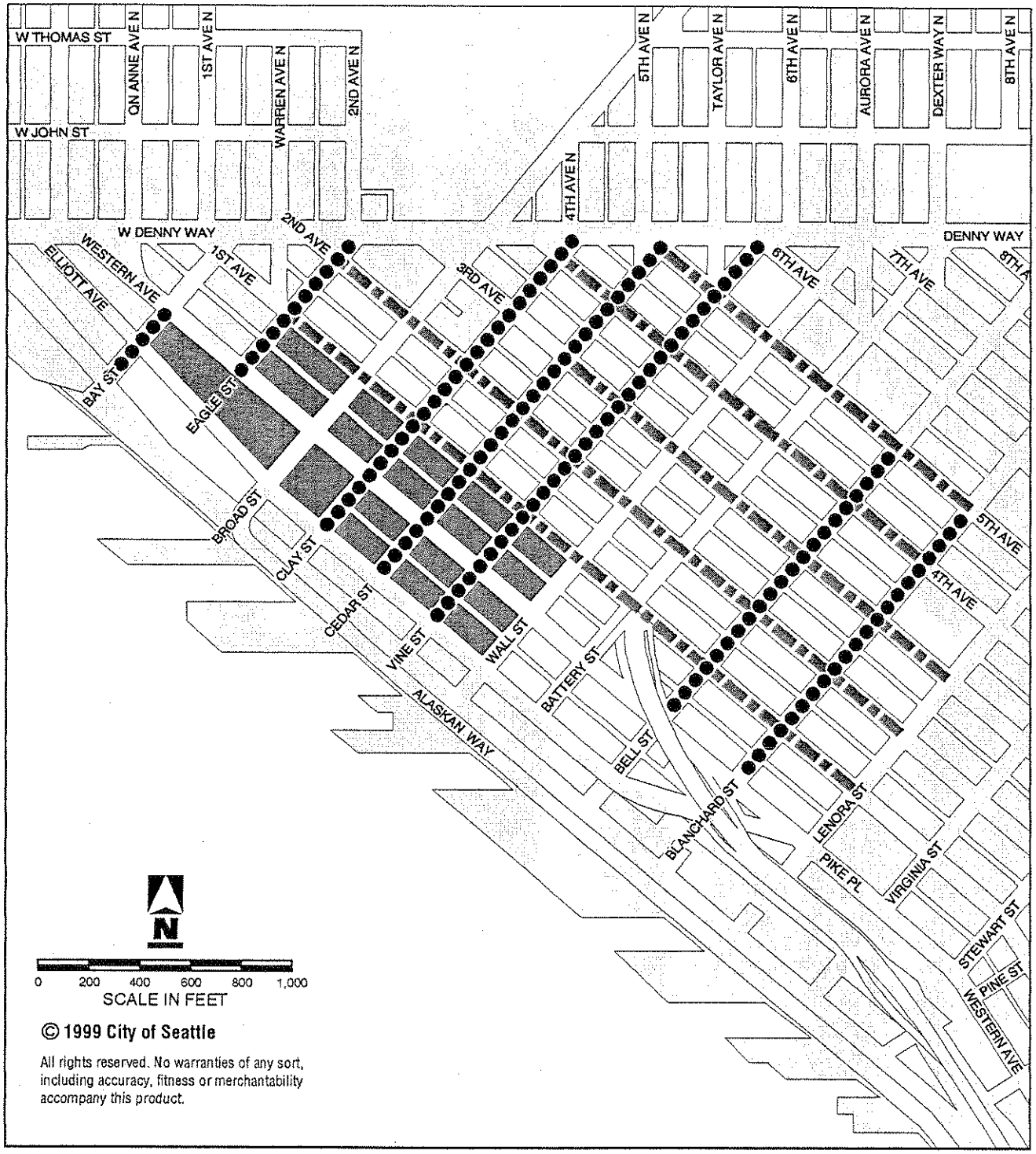


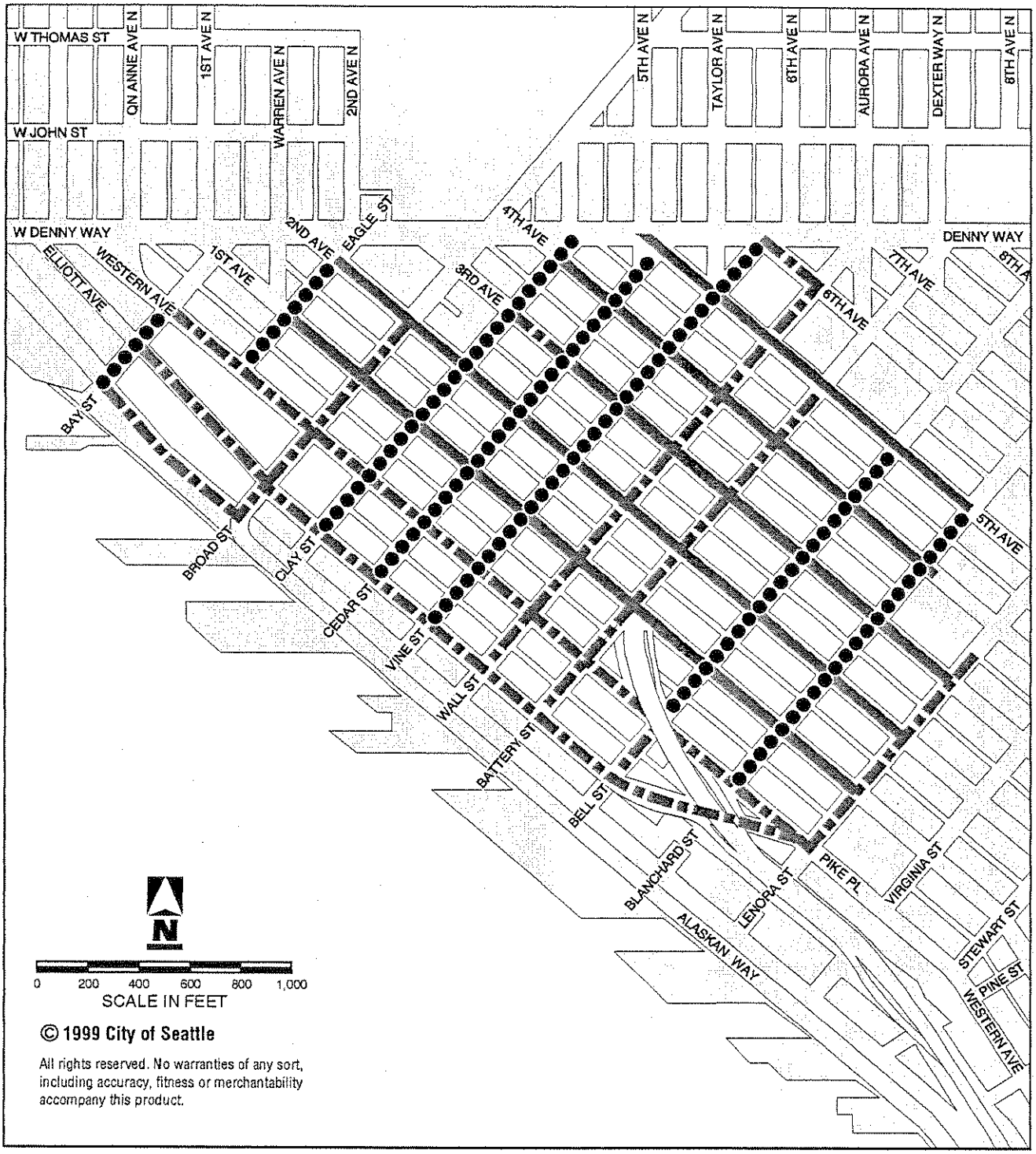

Hillside Terrace
Green Street
Retail Shopping Bonus

**Map VIA**

**Downtown Mixed Residential**

## Public Benefit Features

MLP
1/27/99
V 4
Attachment 2

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Class I
Class II
Green Street

**Map VID**

Downtown Mixed Residential

## Pedestrian Street Classification

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V 4
Attachment 3

1 Attachment 3



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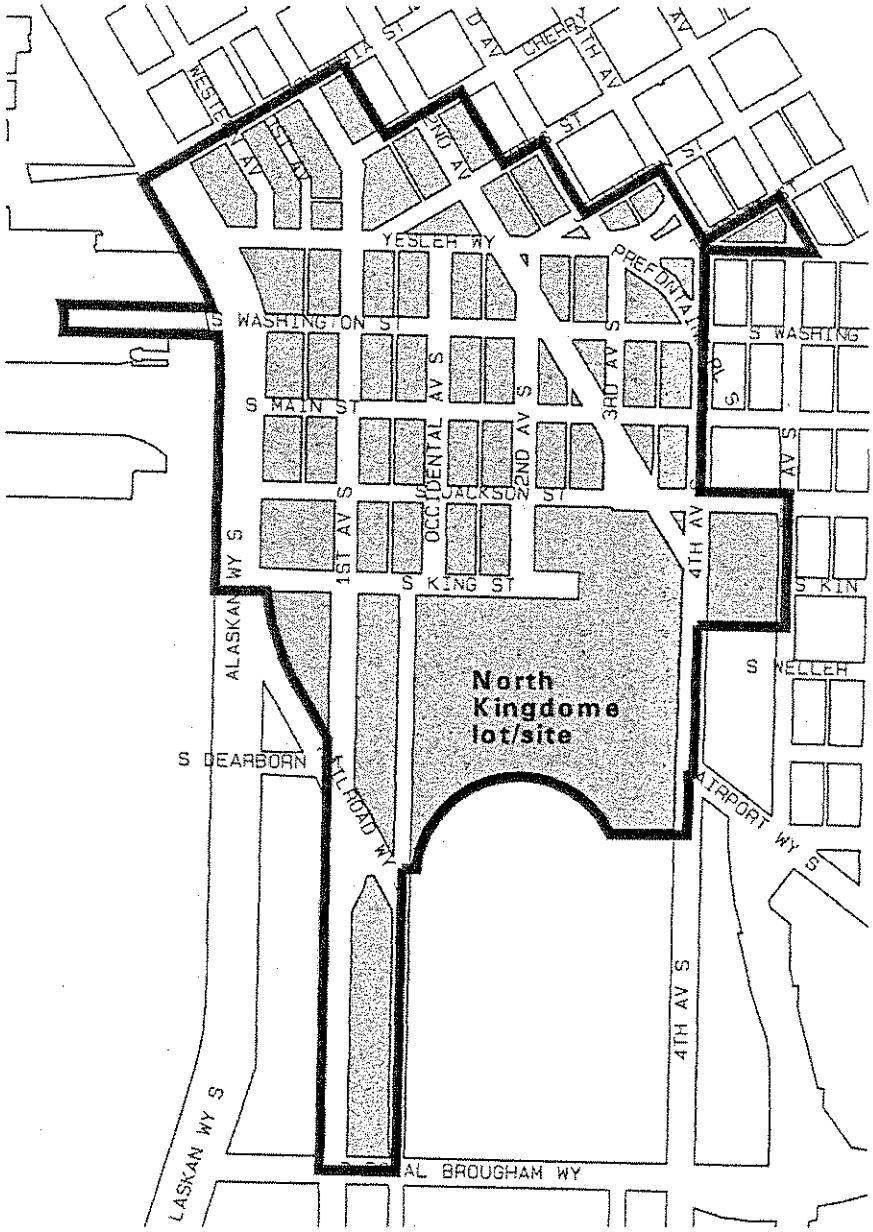
V 4
Attachment 3




# Pioneer Square Preservation District

0 300 600

FEET

**Map A**
23.66.100
**Pioneer Square**

N

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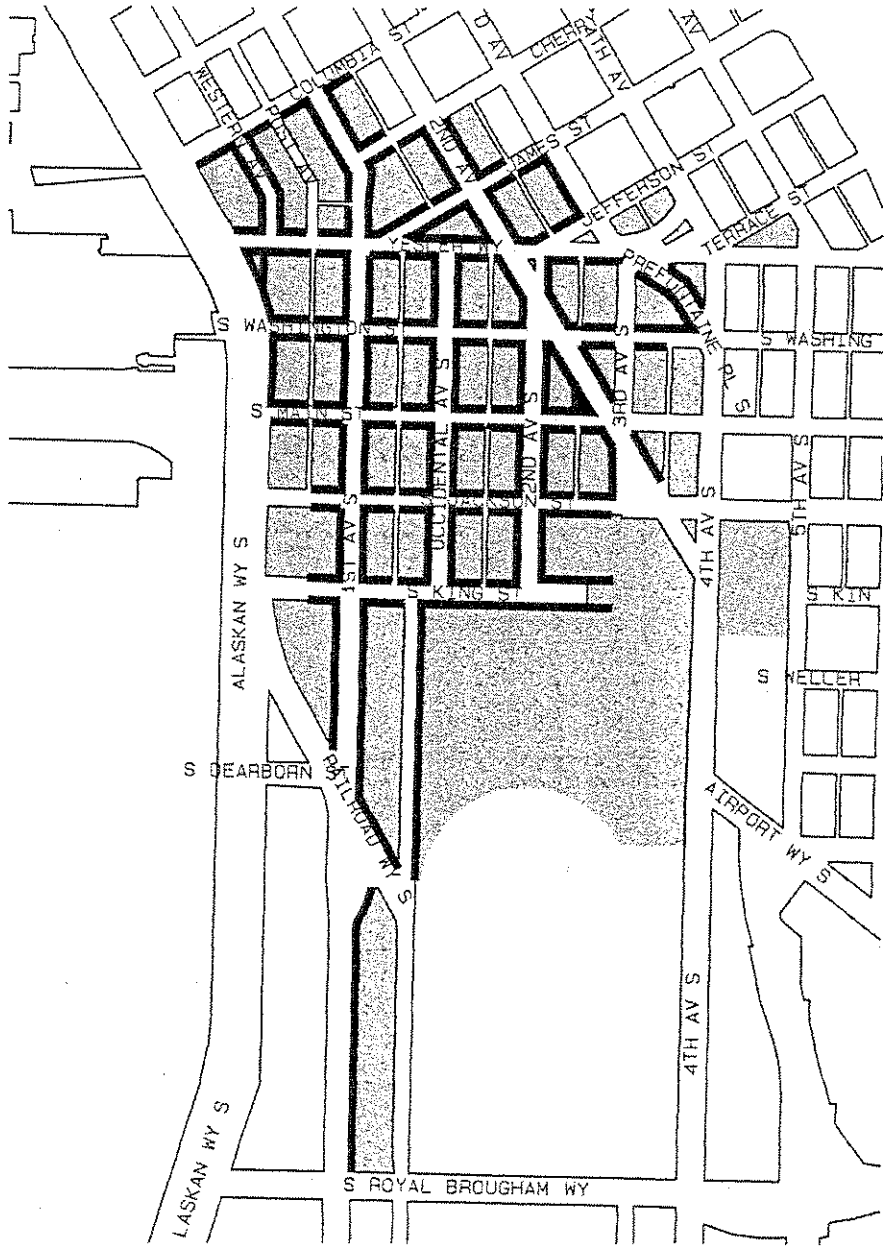


# Pioneer Square

Approval of street level uses required on lots with frontage on designated streets and alleys.

0 300 600

FEET

**Map B**
23.66.130
**Pioneer Square**

N

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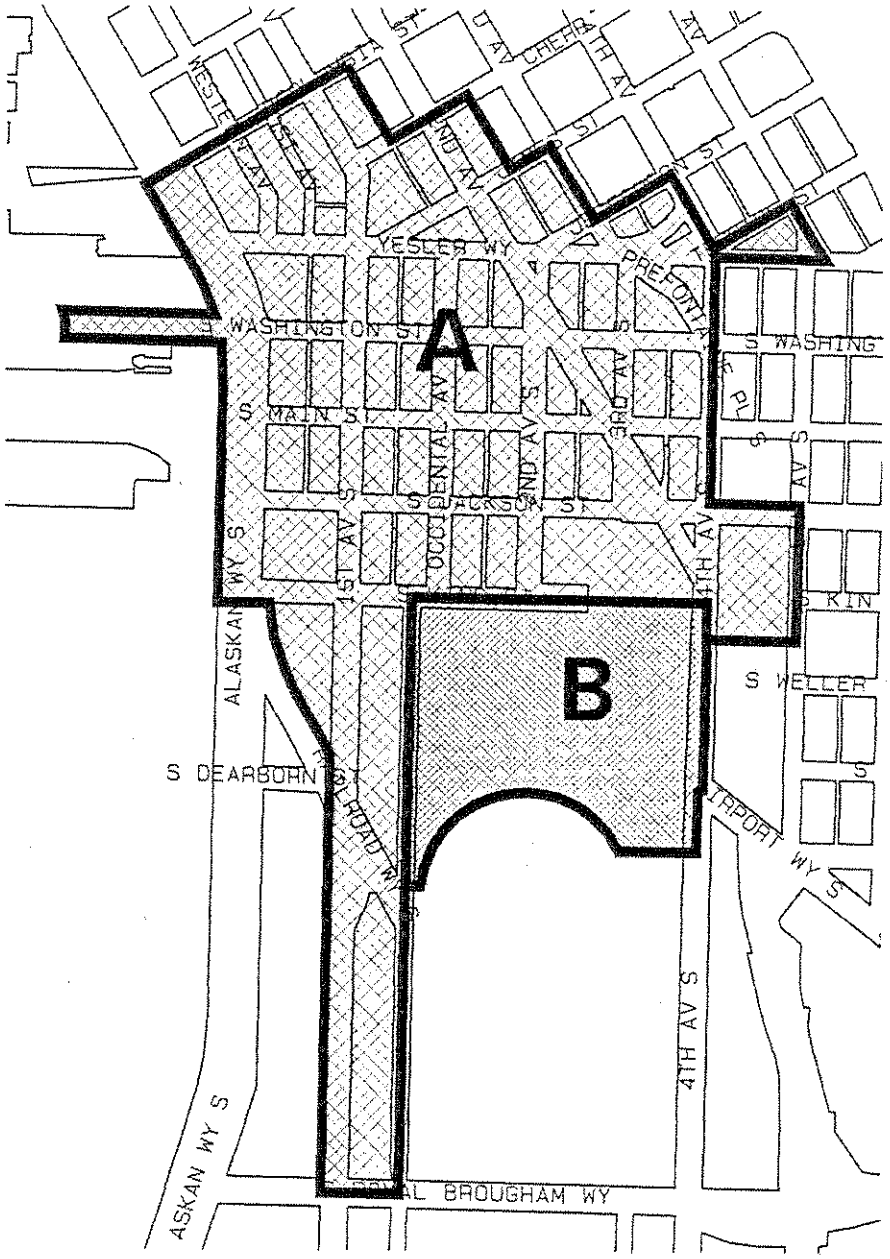


# Pioneer Square

**Structure Setbacks**

Subarea A  Subarea B

0 300 600
FEET

**Map C**
23.66.122 and .150
**Pioneer Square**

N

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MLP
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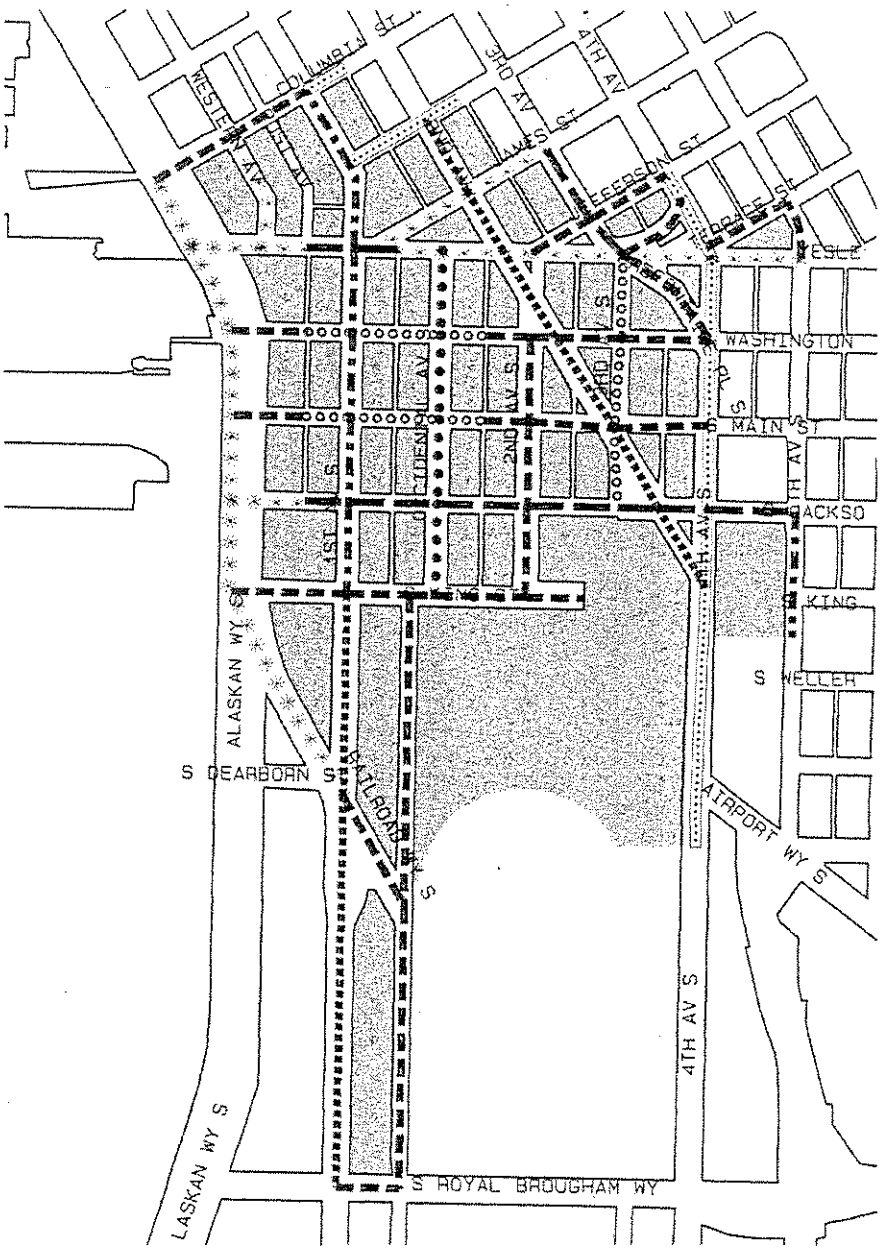
V 4
Attachment 3




# Pioneer Square

## Street Classifications

0 300 600

FEET

- Class I Pedestrian/Minor Arterial
- Class II Pedestrian/Principal Arterial
- Class II Pedestrian/Minor Arterial
- Green Street
- Class I Pedestrian/Principal Transit Street
- Class II Pedestrian/Principal Transit Street
- Class I Pedestrian/Access Street
- Class II Pedestrian/Access Street

**Map D**
23.66.170
**Pioneer Square**

N

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# CITY OF SEATTLE
# FINAL ANALYSIS AND RECOMMENDATIONS
# FOR AMENDING THE DOWNTOWN LAND USE CODE PROVISIONS PERTAINING TO HOUSING BONUS AND TDR TO PROVIDE INCENTIVES FOR LOW-MODERATE INCOME HOUSING

**January 25, 1999**

**Proposal: Amend current housing bonus and TDR (transfer of development rights) provisions to provide further incentives for development of low-moderate income housing affordable to households with incomes between 50 percent to 80 percent of median.**

**Objective.** Meeting downtown housing goals for increasing the supply of downtown housing for all income groups requires a special focus on low-moderate income households -- households with incomes in the 50 percent to 80 percent of median range. It is difficult for the private market to provide new housing affordable to this group downtown, and public and private non-profit housing programs focus on households with incomes at or below 50 percent (50%) of median. The following changes to the current housing bonus and TDR provisions are intended to ensure that substantial new developments that increase employment densities will mitigate impacts on downtown housing available to the employee population in the low-moderate income group:

- **Housing Bonus Program.** The Downtown Housing Bonus Program allows commercial developers to increase the permitted floor area (FAR) and add commercial square footage to a project by earning housing bonus credits through either a Cash Option or a Production Option. The Housing Bonus Program is proposed to be amended to allow greater flexibility in the mix of rent and incomes in Housing Bonus projects. Currently, the bonus is available for low-income housing (affordable to households with incomes at or below 50 percent of median) and low-moderate income housing (affordable to households with incomes between 50 percent and 80 percent of median), provided that at least one-half of the housing bonus credits earned by a project is earned from low-income housing.

  The proposal is to eliminate the requirement that at least one-half (1/2) of the Bonus Credits generated by the housing project be generated from low-income housing and clarifying that rehabilitation of existing occupied projects is an eligible use of Housing Bonus funds.

  Under the proposed change, developers will continue to be able to use the Cash Option to make a cash contribution to earn bonus credits in lieu of actual production or direct subsidy of housing units. A bonus value in dollars per square foot of added commercial space is established for each downtown zone. This value remains constant in each zone, and does not reflect differences in the income range of housing ultimately provided. However, because the cash contribution is made to funds

approved by the City's Office of Housing (OH), or to an OH approved non-profit housing developer, there is some ability to influence the income level of projects funded for housing bonuses within the range below 80 percent of median to meet downtown neighborhood housing goals.

Under the Production Option, developers will continue to be able to earn housing bonus credits for the direct production of low and low-moderate housing. However, by eliminating the requirement that one-half the bonused units be affordable to low-income households, they could choose to do only low-moderate housing. Bonus ratios used to determine the amount of floor area a project can add by producing housing will be established on a sliding scale that assigns a higher value to producing low income units relative to low-moderate income units, so there would continue to be an incentive for developers to choose to do low-income housing.

- **Housing TDR.** The Low-Income Housing TDR System in the Downtown Plan is proposed to be amended to specifically authorize residential projects serving the 50 to 80 percent of median income level so long as at least one FAR is in low-income housing use, and 50 percent of the total floor area of the structure is in low and low-moderate income residential use. The TDR provisions requiring the same amount of housing as was in low-income housing use on January 1, 1983 is being eliminated in part due to impracticability in administration of this provision.

  Under current provisions, projects eligible as TDR sending sites must have at least 50 percent of the total floor area of the structure in low-income housing use (or the amount of floor area in low-income use as of January 1, 1983, whichever is greater), and the low-income housing use must total a minimum density of one (1.0) FAR. The remaining floor area can be occupied by housing for any income level, or by other non-residential uses. The proposal is to revise the percentage of floor area required in low-income housing use on the sending site to include low-moderate income housing, while maintaining the requirement that a minimum of 1.0 FAR of floor area be in low-income housing use.

**Background.** The Downtown Plan adopted in 1985 established a housing bonus that was available to non-residential developers agreeing to contribute to the production of new low or moderate income units (units affordable to households with incomes less than 150 percent of the median income for the Seattle area). The amount and value of the bonus granted was adjusted on a sliding scale to favor providing units affordable to lower income levels.

Following adoption of the Downtown Plan, the private market began producing housing affordable to the upper income levels eligible for the bonus (between 80% and 150% of median income) without use of bonus resources. To eliminate the use of bonuses for projects that the private market seemed capable of-providing without assistance, the City Council amended the Code to restrict the bonus to projects for low-income households, or

a mix of low and low-moderate income households (up to 80% of median income). Under the current program, one-half of the bonusable floor area must be affordable to households with incomes at 50 percent of median or below.

When CAP was enacted, the TDR and bonus provisions were further revised. Prior to CAP, both housing bonuses and TDR for low-income housing could be used to acquire additional floor area to reach the maximum FAR permitted (FAR is floor area ratio, the measure of non-residential development density used in downtown zoning). However, CAP limited the options for reaching the maximum permitted FAR to low-income housing TDR only.

Through a review of existing housing conditions and re-examination of the housing goals in the Downtown Plan, the DUCPG Housing Committee has restated the desire to provide housing downtown for the widest possible range of income groups. Current market conditions and available mechanisms that target housing production to particular income groups have been successful at accommodating both the upper and lower ends of the affordabiltiy spectrum. The group not being reached includes households with incomes in the 50 to 80 percent of median range. Not only is this income group important to achieving the overall balance of income levels desired downtown, but, because this income group makes up a significant share of the downtown job force, future downtown commercial development will increase the demand for this type of housing within downtown.

**Issues.** Expanding the income range of housing projects eligible for housing bonuses and TDRs will make the housing incentive program more effective in addressing the impacts of high density commercial development on downtown housing resources. Providing incentives to increase the supply of housing available to households with incomes between 50 percent and 80 percent of median responds to the need to create opportunities for housing affordable to a large segment of the downtown work force increasingly being priced out of the downtown housing market.

Proposed changes to current housing bonus and TDR provisions broadens the household income range targeted by these programs to include low-moderate income households. However, the impacts of these changes on goals for accommodating low-income housing are expected to be minimal. Under the Housing Bonus Cash Option, revisions to the Bonus Program will still allow the Office of Housing (OH) and OH approved non-profits to target contributions from bonus credits to provide the type of housing needed to meet household income goals. Under the Housing Bonus Production Option, a sliding scale established for bonus ratios that favors the production of low-income housing will continue to provide an incentive for accommodating this income level. The requirement that TDR sending sites maintain a minimum of 1.0 FAR in low-income housing use also maintains the TDR programs link with low-income housing preservation.

**Executive Recommendation:** The Executive supports the changes to the housing bonus and TDR provisions described above, and recommends the following actions to implement these changes:

## HOUSING BONUS PROGRAM

**Proposal.** Allow more flexibility in rent and income limits in Housing Bonus projects and create incentives for low-moderate income housing development by eliminating the requirement that at least one-half (1/2) of the bonus credits produced by a residential project must be earned from low-income housing.

### Comprehensive Plan.

**Housing Policy:** This change is consistent with Policy H26 b. which encourages the City to plan for units affordable to households with incomes between 50% and 80% of median income equivalent to 17% of the expected household growth in Seattle. The provision is also consistent with Policy H29 c. which provides for establishing goals and strategies through neighborhood plans for production of housing affordable to households between 50% and 80% of median income in urban villages.

**Policy H27 should be changed as follows:**

"Allow the continued production and preservation of low- *(Insert: and low-moderate income)* housing through existing incentive zoning mechanisms, which include density and height bonuses and the transfer of development rights. Allow for new or different incentive zoning provisions designed to produce or preserve low- *(Insert: and low-moderate income)* housing in downtown if they are adopted as part of neighborhood or subarea plans.

### 1995 Downtown Plan.

This change is consistent with Policy 12: Implementation Guideline 1.A which permits housing bonus for construction of new low or low-moderate income units. The proposed change is inconsistent with Implementation Guideline 2B. pertaining to housing in Mixed Use Residential Districts. Implementation Guideline 2B is proposed to be changed as follows:

B. The housing must be located in the mixed residential district. *(Delete: At least 50 percent of the housing units must be affordable to households with incomes below 50 percent of the median income for the Seattle area.)*

### Land Use Code Sections:

The tables at the beginning of each downtown zone section should be changed to reflect the bonusing of low-moderate income housing.

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For example: Sec. 23.49.048 B. & Sec. 23.49.068 B. Change "low-income housing bonus" to "low-and low-moderate income housing bonus"

**Consolidated Plan.**

The proposed change is consistent with the Consolidated Plan policies (pages 4-94 and 4-95) pertaining to achievement of a mix of housing types affordable to a diversity of incomes and household types and sizes and achievement of a distribution of household income in urban centers and urban villages similar to the distribution of incomes found citywide.

**Public Benefit Features Director's Rule (DR 20-93):**

Change Section V.C.2. a (Pages 85-86)

(Delete: ~~"At least one-half of the bonus credits earned for each commercial project must be earned from low-income housing units").~~

(Delete~~: "At least one-half of the bonus credits must be produced from low-income housing units.).~~

**TDR PROGRAM**

**Proposal.** Allow greater flexibility in rent and income limits and provide further incentives for low-moderate income housing development by revising the requirement establishing eligibility as a TDR sending site. The current requirement that "at least fifty per cent (50%) of the floor area of the sending site structure or the floor area in low-income housing use as of January 1, 1983, whichever is greater, as low-income units" would be revised to read that at least fifty percent (50%) of the floor area of the sending site structure as low- and/or low-moderate income units." The requirement that at least one (1) FAR be in low-income housing use will be retained.

**1995 Downtown Plan:**

Because at least one FAR must be in low-income housing use, the proposal is consistent with Policy 24 which states in part, that "...the use of TDR shall be controlled based on the following priorities : 1) retention and rehabilitation of low income housing throughout downtown;...."

The proposal is inconsistent with Policy 11 which states in part, that "....The greater of 50 percent of the total floor area or the floor area in low income housing use as of January 1, 1983, shall be retained in low income housing use for a period of at least 20 years." It is proposed that Policy 11 be changed as follows:



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(Delete: ~~The greater of 50 percent of the total floor area or the floor area in low income housing use as of January 1, 1983, shall be retained in low income housing use for a period of at least 20 years~~.)

Replace with: Fifty (50) percent of the total floor area shall be retained in low- and/or low-moderate income housing use for a period of at least 20 years.

**Comprehensive Plan.**

**Housing Policy:** This change is consistent with Policy H26 b. which encourages the City to plan for units affordable to households with incomes between 50% and 80% of median income equivalent to 17% of the expected household growth in Seattle. The provision is also consistent with Policy H29 c. which provides for establishing goals and strategies through neighborhood plans for production of housing affordable to households between 50% and 80% of median income in urban villages.

**Policy H27** should be changed as follows:

"Allow the continued production and preservation of low- (Insert: and low-moderate income) housing through existing incentive zoning mechanisms, which include density and height bonuses and the transfer of development rights. Allow for new or different incentive zoning g provisions designed to produce or preserve low- (Insert: and low-moderate income) housing in downtown if they are adopted as part of neighborhood or subarea plans.

**Consolidated Plan.**

The proposed change is consistent with the Consolidated Plan policies (pages 4-94 and 4-95) pertaining to achievement of a mix of housing types affordable to a diversity of incomes and household types and sizes and achievement of a distribution of household income in urban centers and urban villages similar to the distribution of incomes found citywide.

**Land Use Code:**

**Definitions:** Change Low-Income Housing TDR Site (wherever it appears)

**Sec. 23.84.024** is proposed to be changed as follows:

"Low-income housing TDR site" means a lot meeting the following requirements...(Delete: ~~.2. Each structure on the lot shall have the greater of fifty (50) percent of total gross floor area, or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule:...~~")

Replace with: Each structure on the lot shall have fifty (50) percent of total gross floor area committed to low and/or low-moderate income housing use for a minimum of 20 years in accordance with the Public Benefit Features Rule...")

**Public Benefit Features Director's Rule (DR 20-93):**

**Change Section V.F.7.b (check this--my version says 7)**

**(Delete:** "~~Building owners must agree to provide at least fifty percent (50%) of total floor area of the sending site structure or the floor area in low-income housing use as of January 1, 1983, whichever is greater, as low-income housing units.~~")

**Replace with:** "Building owners must agree to provide at least fifty percent (50%) of total floor area of the sending site structure as low- and/or low-moderate income housing units."



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# CITY OF SEATTLE
# FINAL ANALYSIS AND RECOMMENDATIONS FOR AMENDING THE DOWNTOWN LAND USE CODE TO EXEMPT HOUSING FROM FLOOR AREA RATIO (FAR) CALCULATIONS IN THE DOWNTOWN OFFICE CORE 1 (DOC 1) ZONE

**January 25, 1999**

**Proposal: Eliminate density limit on housing in DOC-1 (Make housing "invisible" from FAR calculations).** This action is intended to provide new incentives to include housing in development in the Downtown Office Core 1 (DOC 1) zone. It requires amending the Downtown Land Use Code to exempt residential floor area from FAR calculations in the DOC 1 zone.

**Background.** The original Downtown Plan established a density limit in the DOC 1 zone for all uses, including residential use, because the zone had no height limit and a relatively high base FAR of 10 and maximum FAR of 20. In all other downtown zones, residential use was not subject to a density limit. The original DOC 1 density limits allowed for substantial residential development potential. The base of 10 FAR would allow a substantial residential, commercial office or hotel building without use of bonuses. The 20 FAR maximum for all uses would prevent projects combining housing and office space from exceeding the maximum height and scale of development generally anticipated in the zone. For example, without a height limit and density limit on housing, 20 stories of housing could have been added on top of an office building the size of the Washington Mutual Tower. With Columbia Center new on the scene and built at a density of approximately 28 FAR, the general feeling at that time was that buildings should not, under any circumstances, exceed the 20 FAR limit.

Under the amendments made by the Citizens Alternative Plan (CAP), a 450' height limit was established in DOC 1, and the base and maximum FARs were lowered to 5 FAR and 14 FAR respectively. Under current zoning, any additional floor area above the base FAR of 5, whether for residential or commercial use, must be granted through bonuses.

The proposed action to eliminate the density limit on residential use in DOC 1 will make it possible for a project to exceed the current 14 FAR maximum density limit with residential use, and in residential and mixed use projects, residential floor area above the base 5 FAR will be allowed without requiring bonuses. The height limit will ensure that structures do not exceed 450 feet, and building bulk will be subject to upper level development standards.

**Issues.** In reviewing the proposal to eliminate the density limit on housing in DOC 1, it is important to consider changed circumstances since the CAP amendments. Prior to CAP, residential use was subject to the density limit as a protective measure because there was no height limit in DOC 1 and the maximum FAR was 20. CAP established a height limit and reduced the density limit, offsetting the need to treat residential use differently in DOC 1 than in other downtown zones.



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However, CAP also lowered the base FAR to 5, which may be regarded as putting housing on a more competitive footing with commercial development in a zone intended primarily for office use. Another concern is that projects may not develop to the full commercial FAR if they have the option of adding floor area for housing without using bonuses. While there would be a benefit to adding more housing downtown in a district where some mix of activity is desired, changes that make residential projects, or mixed use projects with a substantial amount of housing, more attractive development options in DOC 1 may reduce the number of sites developed for high density commercial activity. With limited redevelopable sites remaining in DOC 1, it may now be more critical to reserve sites for commercial development to accommodate employment growth (see attached map and chart entitled Appendix B: Potentially Redevelopable Parcels in DOC 1).

The Executive supports the intent of the recommendation to increase opportunities for housing in the DOC 1 zone. The option that best reflects DUCPG's position is described below:

**Exempt residential floor area from FAR calculations as proposed.** Under the assumption that high land values in DOC 1 will make commercial development more economically attractive than residential development, developers in most cases will seek to achieve maximum commercial densities in future projects, provided there is demand for office or hotel space. If demand for these uses is limited, commercial buildings may be built below the maximum density allowed, and there would be an incentive to include housing in a project, especially since the housing could be added without using bonuses.

Exempting residential use from FAR will provide flexibility to add housing in a variety of ways, such as including housing in primarily commercial projects without requiring bonuses for additional residential floor area, and the conversion of non-residential buildings to residential use without requiring bonuses if the existing floor area exceeds the base FAR.

The following modifications to the DUCPG proposal could address potential conflicts with other DOC 1 development objectives, and some options could be combined as an alternative:

- **Exempt housing in mixed use projects from FAR calculations.** To ensure that available sites in DOC 1 are fully utilized and continue to accommodate employment growth, housing would be exempt from FAR calculations only if it were part of a mixed use project with a substantial amount of commercial use. Construction of new, primarily single purpose residential projects in the zone would continue to be subject to the FAR limits that apply to other uses. This approach is consistent with the treatment of housing in other commercial areas outside of downtown where density

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provisions distinguish between single purpose residential development and mixed-use development.

Under this option, a minimum density would need to be established for the non-residential component of a mixed use project. To ensure that mixed-use projects participated to some degree in the downtown Housing Bonus Program, a minimum amount of floor area above the base FAR could be required to be achieved through use of housing bonuses in order to exempt the residential portion of the building from the FAR calculations.

- **Exempt housing provided in existing structures or on sites already developed.** This option is intended to provide flexibility to accommodate special opportunities for housing in DOC 1. Residential floor area would be exempt from FAR calculations in existing non-residential structures, or portions of these structures, that are converted to housing. Furthermore, on sites that already accommodate substantial development, housing that might be added on the same site, either adjacent to or above existing structures (within the height limit), would be exempt from FAR calculations. This option would provide an incentive for housing through fuller utilization of existing, developed sites or the conversion to housing of non-residential structures no longer suited to commercial uses.

- **Exempt bonused housing.** Bonused housing provided on sites in DOC 1 under the housing bonus program to gain additional commercial FAR would be exempt from FAR calculations. This exemption would give developers the option of providing the housing on the same site as the commercial project gaining the bonused FAR without requiring additional bonuses for the added residential floor area. The bonused housing could also be provided on another DOC 1 site and be exempt from FAR calculations.

- **Exempt housing on small sites.** Small sites, defined as sites of 15,000 square feet or less, are generally not well suited to large scale, high density commercial development, but can more easily accommodate the smaller floor plates of residential structures. To allow full use of these sites, and encourage a mix of both uses and development scale in DOC 1, residential use in new projects could be exempted from FAR calculations. This option is consistent with the DUCPG recommendation that will be reviewed later to exempt all uses from FAR calculations on small sites.

**Executive Recommendation:**

To proceed with action on the DUCPG proposal while addressing the issue of maintaining capacity for employment growth in DOC 1, it is recommended that the floor area exemption for residential use in DOC 1 be limited to: 1) housing provided on a site under the housing bonus program to increase the non-residential FAR of a project, 2) housing provided in existing structures or as additions on already developed sites, and 3)

housing in any new projects developed to the maximum FAR allowed for non-residential use. This approach will increase opportunities for housing in DOC 1, promote better utilization of land, and prevent any significant reductions in development capacity needed to accommodate employment growth.

**Changes to Downtown Plan and Land Use Code**

The recommended action will require amending the Downtown Land Use Code section 23.49.048.C., which identifies gross floor area exemptions from FAR calculations in the DOC 1 zone, to include circumstances when floor area in residential use would be exempt. There currently is no policy in the Downtown Plan that establishes a density limit on residential use in DOC-1. In fact, current policies call for encouraging housing in DOC-1 to "add diversity and activity beyond the working day." The Plan further states that "the density of uses that generate employment shall be controlled through a floor area ratio (FAR), and the density of residential uses generally controlled through the combination of height and bulk regulations."

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GRAPHICS\OMP\DOWNTOWN\970611\B-3.CDR (5.0) rev. 07/02/97

# APPENDIX B:
# Potentially Redevelopable Parcels in DOC-1

City of Seattle Analysis

Martin Smith Analysis

P Public ownership

City of Seattle & Martin Smith Analysis

N

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## APPENDIX B: Potentially Redevelopable Sites in DOC 1

The following chart includes the complete inventory of DOC 1 sites identified as likely to be available for redevelopment from two separate analyses. The study by Martin Smith Real Estate Services selected sites based on knowledge of specific site conditions and an assessment of the current downtown real estate market and development climate. The analysis by the City of Seattle is part of the citywide development capacity analysis used to provide a gross estimate of the amount of growth Seattle can accommodate under current zoning over a 20 year period. In the City's analysis, sites identified as redevelopable are those having an assessed land value that is significantly higher than the value of any improvements on the land.

**Sites identified in both Martin Smith Analysis and City of Seattle Analysis**

| Site | Site Size | Existing Development p = parking r = residential | Maximum Development Potential Under Current Zoning |
|---|---|---|---|
| Third Ave. & Madison/Marion | 26,652 sq. ft. | 46,600 sq. ft. | 326,528 sq. ft. |
| Fourth & Seneca (SE corner)** | 18,314 sq. ft. | 0 | 256,396 sq. ft. |
| Seattle Trust Court 3/4 block | 41,189 sq. ft. | 115,139 sq. ft. | 461,500 sq. ft. |
| Fourth & Cherry (NW corner) | 14,281 sq. ft. | 28,560 sq. ft. (p) | 199,934 sq. ft. |
| Fourth & Columbia (SW corner) | 14,280 sq. ft. | 72,000 sq. ft. (p) | 199,920 sq. ft. |
| | | | **1,444,278 sq. ft.** |

**Sites identified in Martin Smith Analysis Only**

| | | | |
|---|---|---|---|
| Northend YMCA | 13,329 sq. ft. | 97,606 sq. ft. | 89,000 sq. ft. |
| Public Library** | 55,449 sq. ft. | 203,216 sq. ft. | 573,000 sq. ft. |
| Municipal Building** | 59,538 sq. ft. | 381,664 sq. ft. | 451,900 sq. ft. |
| | | | **1,113,900 sq. ft.** |

**Sites Identified in City of Seattle Analysis Only**

| | | | |
|---|---|---|---|
| 3rd Ave. & Union | 17,691 sq. ft | ? | 247,674 sq. ft. |
| 3rd Ave. & University | 13,315 sq. ft. | 113,313 sq. ft. (p) | 186,410 sq. ft. |
| 2nd Ave & University/Seneca | 25,923 sq. ft. | 128,826 sq. ft. | 234,096 sq. ft. |
| Women's University Club | 14,398 sq. ft. | 39,320 sq. ft. | 162,252 sq. ft. |
| YWCA | 14,402 sq. ft. | 107,572 sq. ft. | 94,056 sq. ft. |
| Parking garage | 7,199 sq. ft. | 22,192 sq. ft. (p) | 100,786 sq. ft. |

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Sites Identified in City of Seattle Analysis Only (cont.)

| Site | Site Size | Existing Development | Maximum Development Potential Under Current Zoning* |
|---|---|---|---|
| Olympic parking garage | 28,780 sq. ft. | 318,500 sq. ft. (p) | 402,920 sq. ft. |
| Fourth & Seneca (SW corner) | 3,058 sq. ft. | 8,640 sq. ft. | 34,172 sq. ft. |
| Second Ave. & Spring/Seneca**** | 27,821 sq. ft. | 172,842 sq. ft. | 216,652 sq. ft. |
| Dover Apt - Sixth & Marion | 7,199 sq. ft. | 39,378 sq. ft. (r) | 100,786 sq. ft. |
| College Club | 14,404 sq. ft. | 69,080 sq. ft. | 132,576 sq. ft. |
| Sherwood Building | 14,403 sq. ft. | 22,680 sq. ft. | 178,962 sq. ft. |
| Central Building | 26,640 sq. ft. | 201,480 sq. ft. | 171,480 sq. ft. |
| Third & Columbia | 13,332 sq. ft. | 63,990 sq. ft. | 122,658 sq. ft. |
| Fourth & Columbia (NW corner) | 13,309 sq. ft. | 36,281 sq. ft. (p) | 186,326 sq. ft. |
| | | | **2,571,806 sq. ft.** |
| **Total DOC 1** | | | **5,129,984 sq. ft.** |

* Assumes maximum density allowed on site under current zoning (14 FAR) minus square footage of existing commercial development (existing parking and residential floor area counted as 0 since development potential represents net added commercial space).

** site of proposed Starwood Hotel development

*** sites under public ownership not identified as available in City's development capacity analysis

**** space not available - remaining development rights transferred to 1111 3rd Avenue project

**Source: City of Seattle, Office of Management and Planning and Greg Smith, Martin Smith Real Estate Services**

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# CITY OF SEATTLE
# FINAL ANALYSIS AND RECOMMENDATIONS FOR AMENDING PROVISIONS OF THE PIONEER SQUARE PRESERVATION DISTRICT
**January 25, 1999**

**Proposal.** Amend specified use and development standards in the Land Use Code (Chapter 23.66: Special Review Districts, Subchapter II: Pioneer Square Preservation District) for the Historic Core and Buffer Zone areas within the Pioneer Square Preservation District. These amendments are proposed through the Downtown Urban Center Planning Group to implement the Pioneer Square Neighborhood Plan adopted by the City Council in November, 1998, which calls for implementing the adopted 1992 Pioneer Square Plan Update.

To adapt the Special Review District Provisions to changed conditions within the district and adjacent areas and to respond to updated neighborhood development objectives, amendments to the following provisions and use and development standards are proposed:

| | |
|---|---|
| 23.66.100 | Creation of district, legislative findings and purpose |
| 23.66.122 | Prohibited Uses |
| 23.66.124 | Uses subject to special review |
| 23.66.130 | Street-level uses |
| 23.66.140 | Height |
| 23.66.150 | Maximum setbacks |
| 23.66.170 | Parking and access (Pedestrian Street Classifications) |

### *23.66.100 Creation of district, legislative findings and purpose*

Part B of this section is proposed to be amended to eliminate the "Historic Core" and Buffer Zone" designations that currently apply to the portions of the preservation district north and south of S. King Street. Changed conditions, including the proposed development of the North Kingdome parking area and the desire to better integrate the district with adjacent ballpark and stadium development, make it important to consider the Buffer Zone as a functioning extension of the Core, instead of a transition area providing a buffer between the Core and surrounding areas. Extending development standards to the Buffer Zone similar to those that now apply in the "Historic Core" recognizes the area's changing function and eliminates the need to distinguish between the two areas.

As part of this action, Part C, Item 4 should provide descriptions of the areas north and south of S. King Street, rather than refer to the historic core and buffer zone designations. The language is proposed to be amended as follows to reflect changed conditions in the area south of S. King Street:

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Business Environment. The District is an area of remarkable business diversity. The street level of the *(delete: historic core)* area north of S. King Street is pedestrian-oriented, with its storefronts occupied primarily by specialty shops, art galleries, restaurants and taverns. The upper floors of buildings are occupied by professional offices, various types of light manufacturing, and housing for persons of many income groups. The *(delete: buffer zone)* area south of S. King Street includes the North Kingdome parking lot, a number of structures occupied by light manufacturing and warehousing uses, and several structures converted to office, residential and mixed uses. The north Kingdome parking lot will be redeveloped to accommodate a mix of uses, including a substantial amount of housing. The ongoing restoration and rehabilitation of many District structures, combined with proposed compatible new construction will continue to enhance the District's economic climate.

### *23.66.122 Prohibited uses*

This section of the Code specifies that "commercial uses which are vehicle-oriented shall be prohibited in the area of the District identified on Map B. Such uses include, but are not limited to the following:

- Drive-in businesses, except gas stations accessory to parking garages;
- Principal and accessory surface parking areas not in existence prior to August 10, 1981;
- Motels."

The area of the District identified on Map B is generally the area designated as the Historic Core, with the exception of a two-block triangle within the Buffer Zone bounded by S. King Street, Railroad Way S. and Occidental Avenue S.

Drive-in businesses, except gas stations accessory to parking garages, are prohibited in all other downtown zones. The Pioneer Square Preservation District is within the Downtown Urban Center, and under another DUCPG zoning recommendation, the entire district is proposed to be designated as a downtown zone (PSM). Because the general policy is to prohibit these uses in higher density, pedestrian-oriented environments, this type of use should be treated consistently and prohibited throughout downtown.

The Land Use Code does not identify motels as a prohibited use in downtown zones; the prohibition is in the provisions of the Preservation District. The distinction between hotels and motels, as defined in the Land Use Code, is that individual units in a hotel are predominantly accessed by common interior corridors, and in a motel individual units are predominantly accessed by common exterior corridors, and off-street parking is provided on the lot. Motels, as defined in the Code, are inconsistent with the more urban character of development desired not only in areas of the Preservation District where they are currently prohibited, but also in the remaining area of the Buffer Zone, which includes the

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North Kingdom parking lot and the block along 1st Avenue S. south of Railroad Way S. Currently, there are no motels anywhere in the Preservation District.

Principal use surface parking areas are prohibited or only permitted as conditional uses in specified areas in most downtown zones, except temporary principal use surface parking areas may be permitted as conditional uses. More flexibility is allowed for accessory use surface parking areas, but in many zones, similar restrictions apply. Under the current prohibition on these uses, existing surface lots continue to be permitted. In the areas not identified on Map B, new surface lots would be allowed and would likely only occur as a result of the demolition of an existing structure or the redevelopment of existing parking areas, like the North Kingdome parking lots. Continuing to allow new surface lots as a result of the demolition of existing structures or more intensive redevelopment of available sites is inconsistent with objectives to establish a more pedestrian-oriented, urban character throughout the entire Preservation District.

**Recommendation.** In 23.66.122.A.2, change the term vehicular-oriented to automobile-oriented and extend the prohibition on the specified uses to the entire Preservation District, with the following exception: accessory use surface parking areas would be allowed in the North Kingdome lot area with the provision that such areas be landscaped and screened from the view of pedestrians on public streets. As elsewhere in the district, surface parking areas existing prior to August 10, 1981 would continue to be permitted uses throughout the district. (Note: this recommendation only applies to surface parking areas. No changes are proposed to existing provisions that apply to structured parking.) Prohibiting automobile-oriented uses district-wide will eliminate the need for Map B.

***23.66.124 Uses subject to special review***

To avoid confusion with other provisions related to surface parking, it is recommended that Map C "Principal Use Parking" referred to in 23.66.124.A. be eliminated and that the language be revised as follows:

> A. Principal-use parking garages for long-term parking in areas *(delete: designated on Map C)* south of S. King Street, and principal-use short-term parking garages at any location shall require approval of the Department of Neighborhoods Director after review by the Preservation Board.

***23.66.130 Street level uses***

Map D referenced in Section 23.66.130 identifies locations where street level uses require the approval of the Department of Neighborhoods Director.

**Recommendation.** It is recommended that Map D be amended to require approval of street level uses for lots with frontages on the streets and alleys identified on the attached map 3, as recommended in the adopted 1992 Pioneer Square Plan Update and modified by SPO. SPO staff reviewed these recommendations in December, 1998 and

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recommends that some frontages shown on the attached map from the Plan Update, Figure 8.8 Retail Uses Required at Street Level, not be included. Furthermore, some additional street frontages, primarily in the northeast corner of the District, are recommended to be included, and are shown on the attached map identifying where approval of street level uses is required.

In addition to requiring approval of street level uses on these sites, the following uses would continue to be prohibited at street level: wholesale showrooms; vocational and fine arts schools; radio and television studios; taxidermy shops; appliance repair shops; upholstery establishments; mini-warehouses; warehouses; other similar uses. Most developed lots abutting the streets and alleys where approval of street level uses is proposed to be required already comply with these use provisions.

***23.66.140 Height***

Under 23.66.140.A. Maximum Height, include a reference to Section 23.49.178 Pioneer Square Mixed, structure height. Item C. This sub-section establishes how the maximum height of development is determined in the 100' height district of Pioneer Square. In this height district, 100' is the maximum height, but development is also subject to a limit based on the height of the tallest adjacent structure. This provision is easily overlooked by those who only refer to the Preservation District provisions to determine what development standards apply.

Under 23.66.140.b. Minimum Height, require the 50 foot minimum building height to the entire District and eliminate Map G and references to Map G. The only area currently not subject to the 50' minimum height is the narrow finger of the district south of Railroad Way S., where a 30' minimum height currently applies.

***23.66.150 Maximum Setbacks***

Map E referenced in Section 23.66.150 identifies locations where structures are required to cover the full width of the lot along street property lines and abut upon street property lines.

**Recommendation.** To promote development that contributes to a positive pedestrian environment and supports desired street level uses, and to better link Pioneer Square to the ball park, football stadium, and other activities in adjacent areas, extend the maximum setback provisions to the area bounded by S. King Street, Railroad Way S., 1st Avenue S., Royal Brougham Way, and Occidental Avenue S. Also, include the frontages of structures located on the east side of Occidental Avenue S. and the south side of S. King Street between Occidental Avenue S. and 2nd Avenue S. Along these streets, it is recommended that the requirement be limited to the portion of the structure fronting the street rather than for the full width of the lot, since the site is one large parcel (the North Kingdome parking lot); requiring structures to abut the street property line for the full width of this exceptionally wide lot would not be reasonable.

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*23.66.170 Parking and access. D. Standards for Location of Access to Parking*

Map F referenced in Section 23.66.170: Parking and Access includes a combination of the pedestrian, traffic and transit street classifications. These classifications influence such issues as the location of access to on-site parking, curbcut locations, treatment of on-street parking, and priorities for improvements based on the relative importance of the street's function in the pedestrian/transit network. While in other parts of downtown the Pedestrian Street Classifications trigger development standards for treatment of the street level environment of abutting development, in Pioneer Square, these standards are superseded by the provisions of the Preservation District.

**Recommendation.** The neighborhood's examination of gateways and pedestrian links to adjacent areas and activities suggests the following changes to existing street classifications:

- **S. Jackson Street.** The designation of S. Jackson Street as a Class I Pedestrian Street should be extended for the three and one-half blocks currently designated Class II between 5th Avenue S. and the alley east of Occidental Avenue S. (see attached map). The Class I Pedestrian Street designation applies to streets with high pedestrian activity that function as major links in downtown pedestrian circulation. This revised designation will emphasize this street as a principal link between Pioneer Square and the International District, as well as providing access to light rail and commuter rail stations at King Street and Union Stations.

- **1st Avenue S.** The Class I Pedestrian Street classification of 1st Avenue S. should be extended to include the block between S. Jackson and S. S. King Streets, replacing the existing Class I designation.

- **1st Avenue S. and Occidental Avenue S. between Railroad Way S. and S. Royal Brougham Way.** Both these streets are currently undesignated because downtown zoning stops at Railway Avenue S. In conjunction with the proposal to extend the PSM downtown zone south to Royal Brougham Way for the block between 1st Avenue S. and Occidental Avenues S., these streets should also receive a downtown pedestrian street classification. The Class II classification in intended for streets of moderate pedestrian activity serving as secondary links in the downtown pedestrian circulation system. These streets will become increasingly important as pedestrian routes providing access to the future football stadium, exhibition hall, and ball park, as well as to the redevelopment of sites and structures abutting them.

It is further recommended that this map be simplified to only include the Pedestrian Classifications. The transit and traffic street classifications should be added to Map 1B at the back of the Downtown Zoning section of the Land Use Code, Chapter 23.49.

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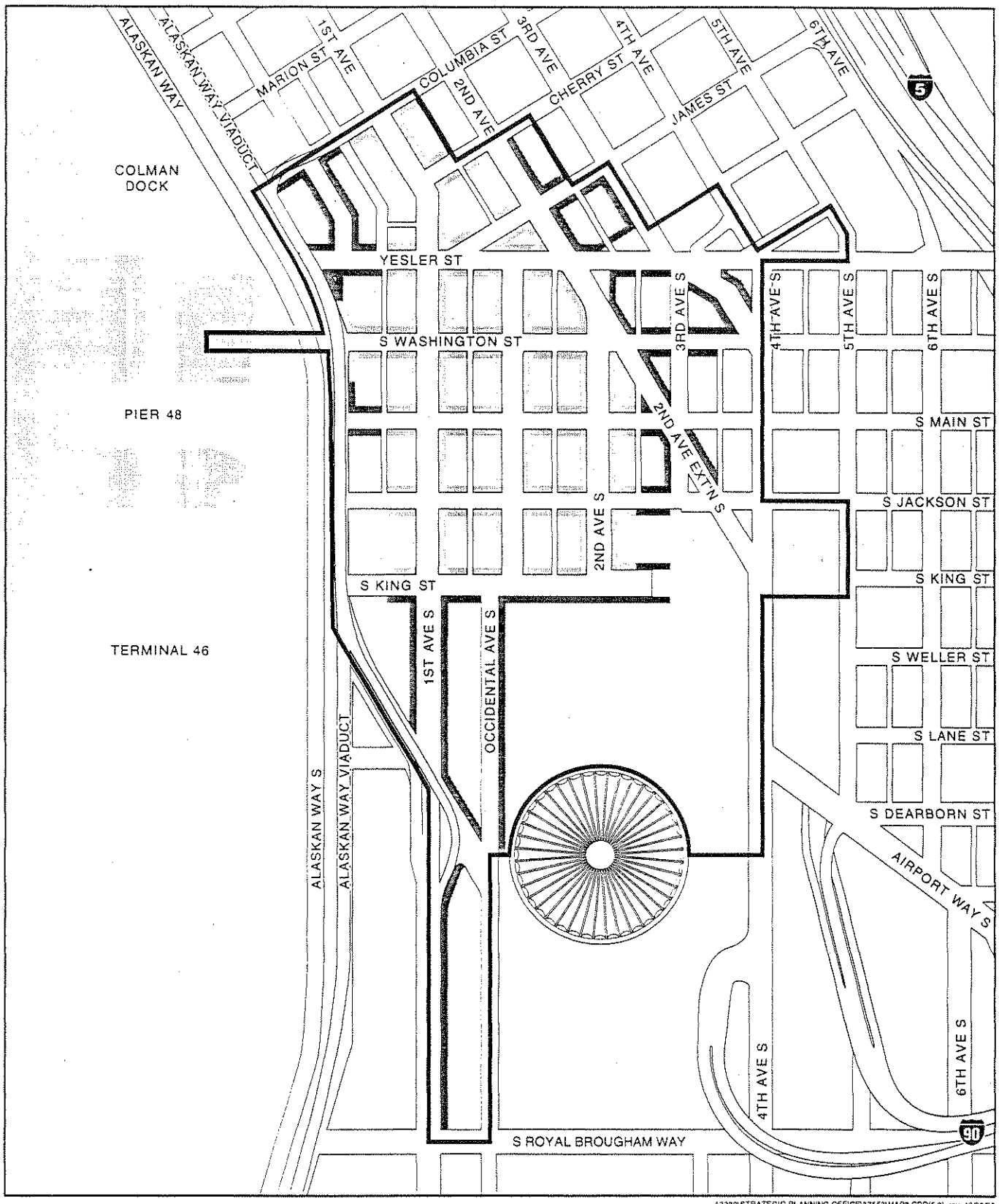


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# PIONEER SQUARE

Approval of street level uses required on lots with frontage on designated streets and alleys.

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Review District — Existing — Proposed additions

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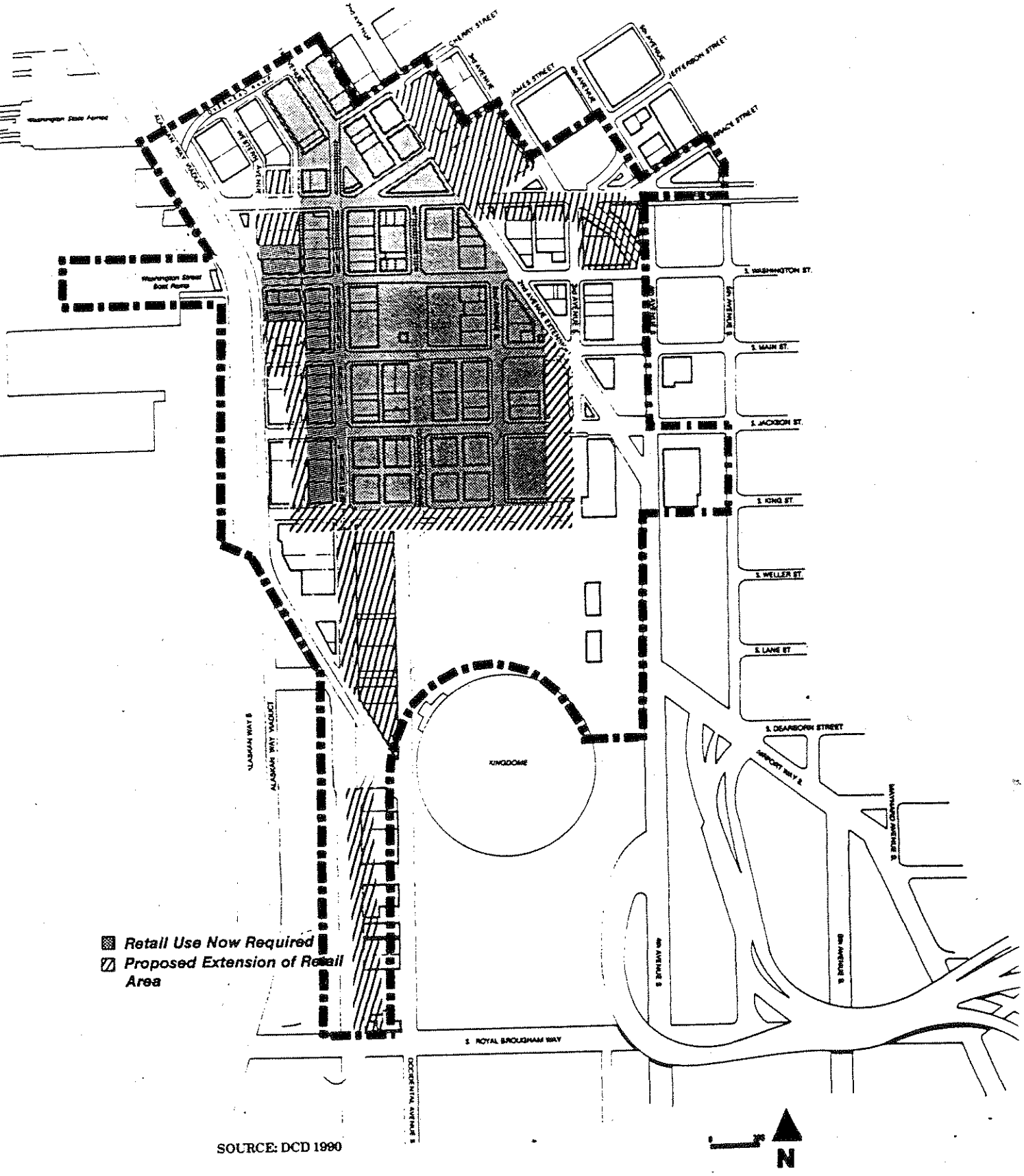
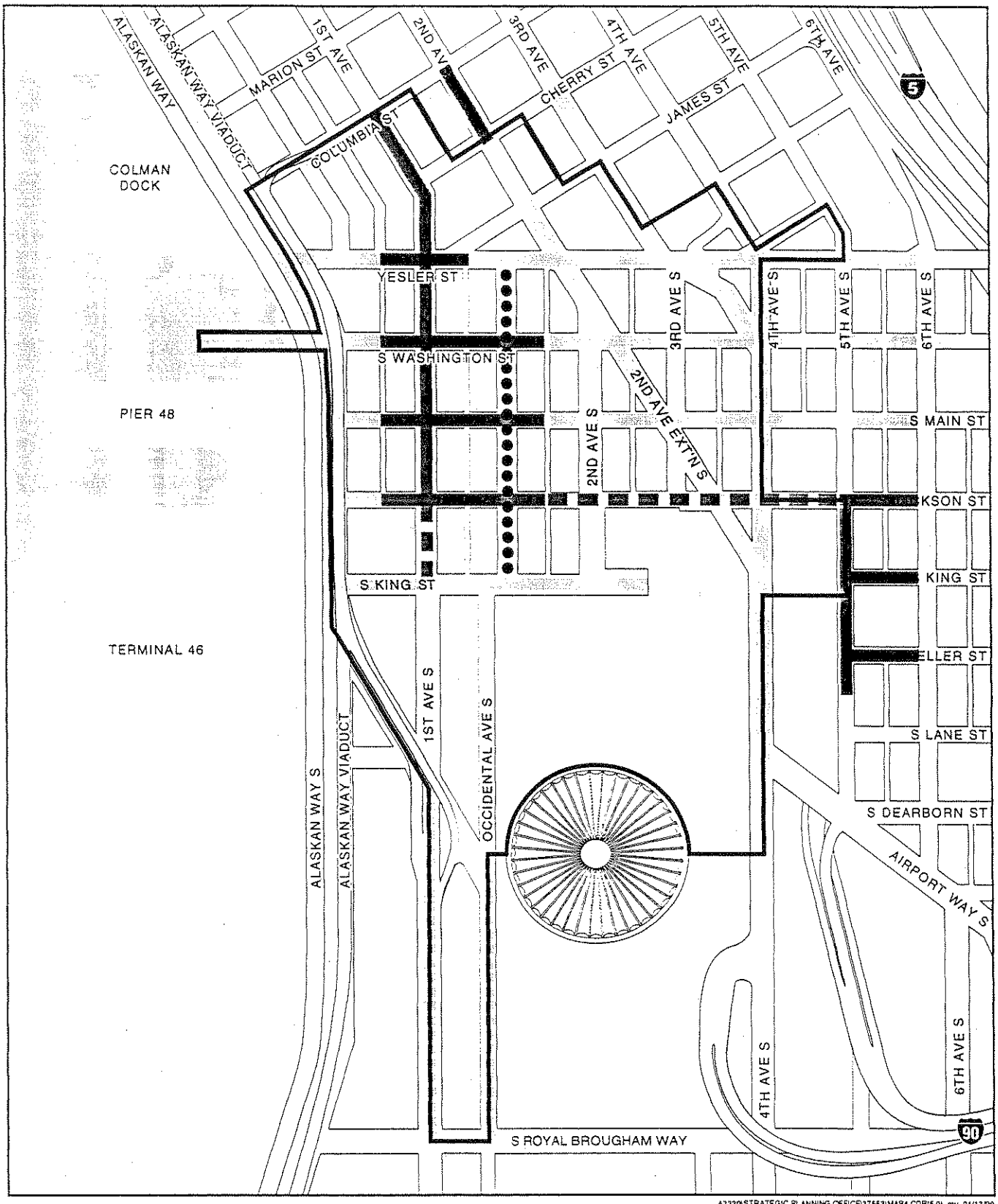



SOURCE: DCD 1990

**Figure 8.8 Retail Uses Required at Street Level**

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# PIONEER SQUARE:
## Pedestrain Street Classifications

Review District
Street Park
Class I
Extend Class I
Class II
Extend Class II

N

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1. ORDINANCE # 119484

**Re** - _____ of document.

**Grantor**(s) (Last name first, then first name and initials)
1.City of Seattle
☐ Additional names on page-----of document.

**Grantee**(s) (Last name first, then first name and initials)
1.N/A
2.

**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range)
☐ Additional reference #'s on page --------of document N/A

**Assessor's Property Tax Parcel/Account Number/ N/A**

☐ Assessor Tax # not yet assigned.

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ORDINANCE 119484

AN ORDINANCE relating to land use and zoning, amending Sections: 3.20.320; 23.34.100; 23.34.114; 23.34.116; 23.49.035; 23.49.036; 23.49.046; 23.49.048; 23.49.050; 23.49.052; 23.49.066; 23.49.068; 23.49.070; 23.49.072; 23.49.096; 23.49.098; 23.49.100; 23.49.102; 23.49.122; 23.49.124; 23.49.126; 23.49.128; 23.49.148; 23.49.150; 23.49.152; 23.49.154; 23.49.180; 23.49.212; 23.49.240; 23.49.324; 23.66.100; 23.66.122; 23.66.124; 23.66.130; 23.66.140; 23.66.150; 23.66.170; and 23.84.024 of Titles 3 and 23 of the Seattle Municipal Code; and amending the Official Land Use Map to implement the Downtown Urban Center Neighborhood Plan.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 3.20.320 of the Seattle Municipal Code, which Section was last amended by Ordinance 117263, is further amended as follows:

3.20.320 TDR Bank created.

A. Transferable development rights ("TDR") from landmark performing arts theaters as defined in Section 23.49.033 shall be eligible for purchase and sale by the City's TDR Bank established under Ordinance No. 114029, to the same extent as TDRs from low((-))income housing or low and low-moderate income housing, subject to the provisions of this section.

* * *

Section 2. The Official Land Use Map, SMC 23.32.016, is hereby amended to show the boundaries of the Downtown Urban Center and Urban Villages as depicted in Attachment 1 to this ordinance.

Section 3. Section 23.12.080 of the Seattle Municipal Code is repealed.

Section 4. Section 23.34.100 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended as follows:

23.34.100 Designation of Downtown zones.

Rezones to a downtown zone designation shall be considered only for areas within the boundaries of the D ((d))owntown Urban Center as ((~~established Land Use and Transportation Plan for Downtown Seattle~~)) shown on the Official Land Use Map.



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**Section 5.** Section 23.34.114 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended as follows:

**23.34.114 International District Mixed (IDM) zone, locational criteria.**

The International District Mixed zone designation shall ((~~apply to those downtown~~)) be considered for areas of the International Special Review District designated ((~~by the Downtown Plan~~)) in Chapter 23.66 of the Land Use Code for mixed use development. The areas designated IDM shall be characterized by a mix of uses contained in low and medium scale structures and include the area west of Fifth Avenue South bordering Pioneer Square.

**Section 6.** Section 23.34.116 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended as follows:

**23.34.116 International District Residential (IDR) zone, locational criteria.**

The International District Residential zone designation shall ((~~apply to those downtown~~)) be considered for areas of the International Special District designated ((~~by the Downtown Plan~~)) in Chapter 23.66 of the Land Use Code for development as a predominantly residential neighborhood. The areas designated IDR shall be generally located north of the International District core, contain parcels available for infill development and possess topographic features providing view potential.

**Section 7.** Four codified maps, 1B Downtown Zones, VD Downtown Mixed Commercial, VIA Downtown Mixed Residential, and VID Downtown Mixed Residential, located at the end of Chapter 23.49 of the Seattle Municipal Code, are replaced with amended maps with the same identifiers as depicted in Attachment 2 to this ordinance.

**Section 8.** Subsection B of Section 23.49.035 of the Seattle Municipal Code, which Section was last amended by Ordinance 1177263, is further amended as follows:

**23.49.035 Replacement of public benefit features.**

* * *

B. The terms under which use as low((-))income housing or as a landmark performing arts theater may be discontinued or diminished and the sanctions for failure to continue such use shall be governed by the agreements and instruments executed by the owners of the properties on which such housing and theaters are located, as required by applicable provisions of the Land Use Code and the Public Benefit Features Rule, and any such change in use shall not affect any other structure for which additional FAR was granted in return for the provision of such public benefit features.

* * *



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**Section 9.** Subsection E of Section 23.49.036 of the Seattle Municipal Code, which Section was last amended by Ordinance 117570, is further amended as follows:

**23.49.036 Planned community developments (PCDs).**

* * *

E. Evaluation of PCDs. A proposed PCD shall be evaluated on the basis of public benefits provided, possible impacts of the project, and consistency with the ((~~City's Land Use Policies~~)) standards contained in this Section E.

1. Public Benefits. A proposed PCD shall provide one (1) or more of the following elements: Housing, low-income housing, services, employment, increased public revenue, strengthening of neighborhood character, improvements in pedestrian circulation or urban form, and/or other elements which further an adopted City policy and provide a demonstrable public benefit.

2. Potential Impacts. The potential impacts of a proposed PCD shall be evaluated, including, but not necessarily limited to, the impacts on housing, particularly low-income housing, transportation systems, parking, energy, and public services, as well as environmental factors such as noise, air, light, glare, and water quality.

3. The proposed PCD shall be reviewed for consistency with ((~~the Land Use and Transportation Plan for Downtown Seattle and~~)) the Land Use Policies, contained in Chapter 23.12, for other areas adjacent to Downtown which could be affected by the PCD.

4. When the proposed PCD is located in the Pioneer Square Preservation District or International District Special Review District, the Board of the District(s) in which the PCD is located shall review the proposal and make a recommendation to the Department of Neighborhoods Director who shall make a recommendation to the Director prior to the Director's recommendation to the Council on the PCD.

* * *

**Section 10.** Subsections G and H of Section 23.49.046 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are further amended as follows:

**23.49.046 Downtown Office Core 1, conditional uses and Council decisions.**

* * *

G. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.



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2. Dispersion Criteria.

a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school.

b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center.

c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanded facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;



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g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities, and that the facility will meet State laws and requirements.

H. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 11.** Subsections A, B and C of Section 23.49.048 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, are further amended as follows:

**23.49.048 Downtown Office Core 1, floor area ratio (FAR).**

A. General Standards.

1. The floor area ratio (FAR), as provided in subsection B, shall determine the gross floor area permitted for all nonresidential uses, except as modified by subsection C.

2. Additional FAR above the base, as set forth in subsection B may be achieved by providing public benefit features pursuant to Section 23.49.050, and by the transfer of development rights pursuant to Section 23.49.052, provided that no FAR above seven (7) may be allowed as a bonus for public benefits features except housing, and no FAR above ten (10) may be granted except for development rights transferred from a low((-))income housing <u>or low and low-moderate income housing</u> TDR site, a landmark theater/housing TDR site, as defined in Section 23.84.024, or a major performing arts facility, as defined by Section 23.84.025.

B. Permitted FAR. The base FAR shall be five (5). Additional FAR may be achieved as follows:

FLOOR AREA RATIO

| Type of Bonus or TDR | May be used in FAR range Above | Up Through |
|---|---|---|
| 1. Bonuses other than housing | 5 | 7 |
| 2. Low((-)) income | | |



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| | | |
|---|---|---|
| housing bonus | 7 | 10 |
| 3. Low-moderate income housing bonus | 7 | 10 |
| 4. Within-block TDR | 5 | 10 |
| ((4))5. *Landmark TDR | 5 | 10 |
| ((~~5.~~))6. Major performing arts facility TDR | 5 | 14 |
| ((~~6.~~))7. Landmark performing arts theater with housing TDR | 5 | 14 |
| ((~~7.~~))8. Low((-))income or low and low-moderate income housing TDR | 7 | 14 |
| ((~~8.~~))9. Pioneer Square infill TDR | 5 | 7 |

* Note: Priority TDR from landmark performing arts theaters, if available, must be used before any other landmark TDR.

C. Exemptions from FAR Calculations.

1. The following areas ((~~shall be~~)) are exempt from base and maximum FAR calculations:

a. Floor area in residential use. Gross floor area in residential use is exempt when:

(1) The area is included either in a structure that exists on the effective date of this ordinance, and consists of a minimum floor area of one FAR on the date the permit is approved pursuant to this Section, or in an addition to that structure, or

(2) The area is included in a structure:

i. Constructed after the effective date of this ordinance, and

ii. That occupies a lot that contains another structure that was built before the effective date of this ordinance and consists of a minimum of one FAR on the date the permit is approved pursuant to this Section, and

iii. That occupies a lot that is comprised of the same parcels that comprised the lot on the effective date of this ordinance, or

(3) The area is included in a structure constructed after the effective date of this ordinance, but only if the structure uses the maximum permitted FAR, including FAR obtained through bonuses. The area exempt by this subsection (3) is limited to floor area that is in excess of the maximum floor area permitted by the FAR.

b. All floor area below grade;

((~~b.~~)) c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

((~~c.~~)) d. ((~~The gross floor area of public benefit features which satisfy the requirements of Section 23.49.050, Ratios for public benefit features, and satisfy the Public Benefit Features Rule. For all features except housing, the exemption shall apply whether the~~



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~~feature is granted a floor area bonus or not, regardless of maximum bonusable area limitations.~~)) Gross floor area of public benefit features, other than a housing public benefit feature. The exemption applies regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area limitations.

2. As an allowance for mechanical equipment, three and one-half percent (3 1/2%) of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 12.** Subsections A, C and D of Section 23.49.050 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, are further amended and a new subsection E is added as follows:

**23.49.050 Downtown Office Core 1, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Preservation Board.

2. Additional gross floor area may be permitted up to the maximum limits set forth in Section 23.49.048 when low income housing or low-moderate income housing is included in the development proposal and the following criteria are met:

a. Gross floor area equivalent to two (2) times the area of the lot shall be earned either:

(1) Through the provision of public benefit features other than housing, or

(2) From transfer of development rights from a lot that is an eligible sending site other than based on its status as a low((-)) income housing or low and low-moderate income housing TDR site, before a housing bonus, or transfer of development rights from a lot that is an eligible sending site based solely on its status as a low((-)) income housing or low and low-moderate income housing TDR site, may be used.

b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.



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3. The Director shall review the design of any public benefit feature in subsection B and determine whether the feature, as proposed for a specific project, provides a public benefit and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

3. The Director shall review the design of any public benefit feature in subsection B and determine whether the feature, as proposed for a specific project, provides a public benefit and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, child care, landmark performing arts theaters, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site performing arts theater or low((-))income housing <u>or low-moderate income housing</u> if the lot on which the theater or housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

<u>c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or</u>

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible:

a. The provision of the public benefit feature; and

b. In the case of a landmark performing arts theater, any replacement by the owner of such theater of low((-))income housing or ((~~low to moderate~~)) <u>low and low-moderate</u> income housing that is reasonably required to be eliminated from the lot on which the theater is located to make the preservation and operation of the performing arts theater economically feasible, and

2. The Director of Housing and Human Services may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.



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E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 13.** Subsections A, B, C and D of Section 23.49.052 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, are further amended as follows:

**23.49.052 Downtown Office Core 1, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block. Development rights may be transferred to lots in DOC1 zones from lots located on the same block. The maximum FAR permitted on a receiving lot in DOC1 zones when a transfer of development rights from sending lots on the same downtown block is used shall be ten (10), except that when the sending lot is a low((-))income housing or low and low-moderate income housing TDR site, a landmark theater/housing TDR site, or a major performing arts facility, and the applicable requirements of this section are satisfied, the maximum FAR shall be fourteen (14).

B. Transfer of Development Rights Between Different Downtown Blocks. Development rights may be transferred to lots in DOC1 zones from sending lots on different blocks that contain low((-))income housing or low and low-moderate income housing, Landmark structures or major performing arts facilities, or from infill lots in PSM zones, as provided below:

1. Transfer From Low((-))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-))income housing or low and low-moderate income housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights subject to the terms and conditions in this subsection B1. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B2 or B3 of this section.

b. Development rights that are transferable based on the status of the sending lot as a low((-))income housing or low and low-moderate income housing TDR site may not be used unless gross floor area equivalent to two (2) times the area of the receiving lot has been achieved on the receiving lot:

(1) Through the use of bonuses for public benefit features other than housing; or

(2) From the transfer of development rights from sending lots eligible to transfer development rights other than as low((-))income housing or low and low-moderate income housing TDR sites.

c. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.



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d. The maximum FAR permitted on a receiving lot in DOC1 zones when development rights are transferred from low((-))income housing or low and low-moderate income housing TDR sites shall be fourteen (14).

2. Transfer From Landmark Structures or Infill Lots in PSM Zones.

a. Landmark structures from which landmark TDR may be transferred shall be located in DOC1, DOC2, or DRC zones, or on lots in DMC zones located south of Virginia Street.

b. Landmark structures on sending lots from which landmark TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

c. Lots proposed for infill development in PSM zones from which development rights are transferred must have been vacant as of January 1,1984. For the purposes of this provision, structures with abatement orders as of January 1, 1984, and surface parking areas, including minor structures accessory to parking operations, shall be considered vacant.

3. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DOC1 subject to the conditions of this subsection B3.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years.

c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

d. Maximum FAR on a receiving lot with use of TDRs from a major performing arts facility is fourteen (14).

C. Standards for Sending Lots.

1. The gross floor area that may be transferred from any sending lot to a receiving lot, subject to the limitations in subsections A and B, shall be as follows:

a. When the sending lot is located in a DOC1 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone.

b. When the sending lot is located in a DOC2 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

c. When the sending lot is located in a DRC, IDR or IDM zone, or a DMC or DMR zone with a height limit of less than two hundred and forty (240) feet, the gross floor area that may be transferred shall be six (6) times the area of the sending lot, minus any existing



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gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone other than for housing.

d. When the sending lot is located in a DMC or DMR zone with a two hundred forty (240) foot height limit, the gross floor area that may be transferred shall be eight (8) times the area of the sending lot, minus any existing floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

e. When the sending lot is located in a PSM zone, the gross floor area that may be transferred shall be either:

(i) Six (6) times the area of the sending lot, minus any existing above-grade gross floor area on the sending lot, for transfers from low((-))income housing or low and low-moderate income housing TDR sites or within-block transfers not from infill development; or

(ii)The amount of gross floor area permitted by the development standards of the PSM zone and the Pioneer Square Preservation District, minus any above-grade gross floor area to be built on the sending lot, when the transfer is from proposed infill development.

2. When development rights are transferred from a sending lot in DOC1 zones, the amount of gross floor area which may then be built on the sending lot shall be equal to the area of the lot multiplied by the applicable FAR limit set in Section 23.49.048, minus the total of:

a. The existing gross floor area on the lot, less any exemptions permitted under Section 23.49.048 C; plus

b. The amount of gross floor area that was transferred from the lot.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a low((-)) income housing or low and low-moderate income housing TDR site) such consent is waived by the Director of Housing and Human Services or designee for good cause, which deed shall be recorded in the King County real property records. When TDRs 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 TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, 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.



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2. Any person may purchase any TDRs that are eligible for transfer between blocks from the owner of the sending lot by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving lot or is an applicant for a permit to develop downtown real property. Any person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. For any transfer that is permitted, or for which the sending lot is granted priority, based on the status of the sending lot as a landmark performing arts theater, the owner of the sending lot shall sign a written agreement with the City with the approval of the Landmarks Preservation Board, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause. The owner of the sending lot shall agree:

a. To maintain the structure in compliance with requirements in such agreement approved by the Landmarks Preservation Board, for a period of at least forty (40) years; and

b. To maintain the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years, and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under the Landmarks Ordinance, Chapter 25.12 of the Seattle Municipal Code (or successor provisions), unless after the minimum forty (40) year period the owner demonstrates to the satisfaction of the Landmarks Preservation Board that a change of use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls. In the case of a partial purchase of TDRs by the City for the TDR Bank, the Director of Housing and Human Services may allow a shorter period of commitment. Any relief



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that may be granted from the landmark designation or from any controls or restrictions imposed in connection with that designation, under SMC Chapter 25.12 or otherwise, shall not affect the owner's obligations pursuant to any agreement under this subsection 4.

5. For any transfer to which subsection D4 applies, a subsidy review shall be required if at the time of the transfer, the lot on which the landmark performing arts theater is located:

a. Is being or has been used for any off-site bonus; or

b. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

6. When subsidy review is required according to one (1) or more of the above criteria:

a. The transfer of development rights shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such transfer and the benefits of any off-site bonus, if applicable, are reasonably necessary to make economically feasible:

(i) The preservation of the landmark performing arts theater, and

(ii) Any replacement by the owner of such theater of low((-)) income housing or low-to-moderate income housing that is reasonably required to be eliminated from the sending site to make preservation and operation of the performing arts theater economically feasible; and

b. The Director of Housing and Human Services may require, as a condition of the transfer, that the owner of the lot upon which the landmark performing arts theater is located agree to limit any other subsidies to be received for that lot.

7. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDRs 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

b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

8. 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 The City of Seattle.

**Section 14.** Subsections G and H of Section 23.49.066 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are further amended as follows:

**23.49.066 Downtown Office Core 2, conditional uses and Council decisions.**



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G. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria. a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school. b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center. c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;



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f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;

g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities and that the facility will meet State laws and requirements.

H. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 15.** Subsections A, B and C of Section 23.49.068 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, are further amended as follows:

**23.49.068 Downtown Office Core 2, floor area ratio (FAR).**

A. General Standards.

1. The floor area ratio (FAR), as provided in subsection B, shall determine the gross floor area permitted for all nonresidential uses, except as modified by subsection C.

2. Additional FAR above the base, as set forth in subsection B may be achieved by providing public benefit features according to Section 23.49.070, and by the transfer of development rights according to Section 23.49.072, provided that no FAR above six (6) may be allowed as a bonus for public benefits features except housing, and no FAR above eight (8) may be granted except for development rights transferred from a low((-))income housing <u>or low and low-moderate income housing</u> TDR site, a landmark theater/housing TDR site, or a major performing arts facility.

B. Permitted FAR. The base FAR shall be four (4). Additional FAR may be achieved as follows:

**FLOOR AREA RATIO**

**May be used in FAR range**



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| Type of Bonus or TDR | Above | Up Through |
|---|---|---|
| 1. Bonuses other than housing | 4 | 6 |
| 2. Low((-)) income housing bonus | 6 | 8 |
| 3. Low-moderate income housing bonus | 6 | 8 |
| 4. Within-block TDR | 4 | 8 |
| ((4))5. *Landmark TDR | 4 | 8 |
| ((~~5.~~))6. Major performing arts facility TDR | 4 | 10 |
| ((~~6.~~))7. Low((-))income or low and low-moderate income housing TDR | 6 | 10 |
| ((~~7.~~))8. Pioneer Square infill TDR | 4 | 6 |
| ((~~8.~~))9. Landmark performing arts theater with housing TDR | 4 | 10. |

* Note: Priority TDR from landmark performing arts theaters, if available, must be used before any other landmark TDR. See Section 23.49.033.

C. Exemptions from FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except that on sending lots from which development rights are transferred according to Section 23.49.072 C the only exempt residential space shall be low((-)) income housing or low-moderate income housing on landmark theater/housing TDR sites that satisfies all requirements for a bonus under the Public Benefit Features Rule;

b. All gross floor area below grade;

c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

d. The gross floor area of public benefit features, other than housing, that satisfy the requirements of Section 23.49.070, Ratios for public benefit features, and the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations.

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure,



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except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 16.** Subsections A, C and D of Section 23.49.070 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, are further amended and a new subsection E is added as follows:

**23.49.070 Downtown Office Core II, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Preservation Board.

2. Additional gross floor area may be permitted up to the maximum limits set forth in Section 23.49.068 when low income housing or low-moderate income housing is included in the development proposal and the following criteria are met:

a. Gross floor area equivalent to two (2) times the area of the lot shall be earned either:

(1) Through the provision of public benefit features other than housing, or

(2) From transfer of development rights from a lot that is an eligible sending site other than based on its status as a low((-))income housing or low and low-moderate income housing TDR site, before a housing bonus, or transfer of development rights from a lot that is an eligible sending site based solely on its status as a low((-))income housing or low and low-moderate income housing TDR site, may be used.

b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.

3. The Director shall review the design of any public benefit feature in subsection B and determine whether the feature, as proposed for a specific project, provides a public benefit and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.



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4. Except for housing, human services, child care, landmark performing arts theaters, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site performing arts theater or low((-))income housing or low-moderate income housing, if the lot on which the theater or housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible:

a. The provision of the public benefit feature; and

b. In the case of a landmark performing arts theater, any replacement by the owner of such theater of low((-))income housing or ((~~low-to-moderate~~)) low and low-moderate income housing that is reasonably required to be eliminated from the lot on which the theater is located to make the preservation and operation of the performing arts theater economically feasible, and

2. The Director of Housing and Human Services may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.



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**Section 17.** Subsections A, B, C and D of Section 23.49.072 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, are further amended as follows:

**23.49.072 Downtown Office Core 2, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block. Development rights may be transferred to lots in DOC2 zones from lots located on the same block. The maximum FAR permitted on a receiving lot in DOC2 zones when a transfer of development rights from sending lots on the same downtown block is used shall be eight (8), except that when the sending lot or lots contain low((-))income housing or low and low-moderate income housing TDR site or a major performing arts facility, and the applicable requirements of subsection B are satisfied, the maximum FAR shall be ten (10).

B. Transfer of Development Rights Between Different Downtown Blocks. Development rights may be transferred to lots in DOC2 zones from sending lots containing low((-))income housing or low-moderate income housing, Landmark structures or major performing arts facilities, or from infill lots in PSM zones, as provided below:

1. Transfer From Low((-))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-))income housing or low and low-moderate income housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights subject to the terms and conditions in this subsection B1. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B2 or B3 of this section.

b. Development rights that are transferable based on the status of the sending lot as a low((-))income housing or low and low-moderate income housing TDR site may not be used unless gross floor area equivalent to two (2) times the area of the receiving lot has been achieved on the receiving lot:

(1) Through the use of bonuses for public benefit features other than housing; or

(2) From the transfer of development rights from sending lots eligible to transfer development rights other than as low((-))income housing or low and low-moderate income housing TDR sites.

c. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

d. The maximum FAR permitted on a receiving lot in DOC2 zones when development rights are transferred from low((-))income housing or low and low-moderate income housing TDR sites shall be ten (10).

2. Transfer From Designated Landmark Structures or Infill Lots in Pioneer Square Mixed Zones.



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a. Landmark structures from which landmark TDR may be transferred shall be located in DOC1, DOC2, or DRC zones, or on lots in DMC zones located south of Virginia Street.

b. Landmark structures on sending lots from which landmark TDR are transferred shall be restored and maintained as required by the Seattle Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

c. Lots proposed for infill development in PSM zones from which development rights are transferred must have been vacant as of January 1,1984. For the purposes of this provision, structures with abatement orders as of January 1, 1984, and surface parking areas, including minor structures accessory to parking operations, shall be considered vacant.

3. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DOC2 subject to the conditions of this subsection B3.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years.

c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

d. Maximum FAR on a receiving lot with use of TDRs from a major performing arts facility is ten (10).

C. Standards for Sending Lots.

1. The gross floor area that may be transferred from any sending lot to a receiving lot, subject to the limitations in subsections A and B, shall be as follows:

a. When the sending lot is located in a DOC1 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone.

b. When the sending lot is located in a DOC2 zone, the gross floor area that may be transferred shall be the area of the sending lot times the base FAR of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the low((-))income housing bonus under the Public Benefit Features Rule.

c. When the sending lot is located in a DRC, IDR or IDM zone, or a DMC or DMR zone with a height limit of less than two hundred and forty (240) feet, the gross floor area that may be transferred shall be six (6) times the area of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone other than for housing.

d. When the sending lot is located in a DMC or DMR zone with a two hundred forty (240) foot height limit, the gross floor area that may be transferred shall be eight



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(8) times the area of the sending lot, minus any existing floor area on the sending lot, excluding from existing gross floor area:

(i) Any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing or low and low-moderate income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

e. When the sending lot is located in a PSM zone, the gross floor area that may be transferred shall be either:

(i) Six (6) times the area of the sending lot, minus any existing above-grade gross floor area on the sending lot, for transfers from low((-))income housing or low and low-moderate income housing TDR sites or within-block transfers not from infill development; or

(ii) The amount of gross floor area permitted by the development standards of the PSM zone and the Pioneer Square Preservation District, minus any above-grade gross floor area to be built on the sending lot, when the transfer is from proposed infill development.

2. When development rights are transferred from a sending lot in DOC2 zones, the amount of gross floor area which may then be built on the sending lot shall be equal to the area of the lot multiplied by the applicable FAR limit set in Section 23.49.068, minus the total of:

a. The existing gross floor area on the lot, less any exemptions permitted under Section 23.49.068 C; plus

b. The amount of gross floor area that was transferred from the lot.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a low((-)) income housing or low and low-moderate income housing TDR site) such consent is waived by the Director of Housing and Human Services for good cause, which deed shall be recorded in the King County real property records. When TDRs 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 TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, then after the initial transfer, all subsequent transfers shall also 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 TDRs that are eligible for transfer between blocks from the owner of the sending lot by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving lot or is an applicant for a permit to develop downtown real property. Any



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person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. For any transfer that is permitted, or for which the sending lot is granted priority, based on the status of the sending lot as a landmark performing arts theater, the owner of the sending lot shall sign a written agreement with the City with the approval of the Landmarks Preservation Board, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause. The owner of the sending lot shall agree:

a. To maintain the structure in compliance with requirements in such agreement approved by the Landmarks Preservation Board, for a period of at least forty (40) years; and

b. To maintain the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years, and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under the Landmarks Ordinance, Chapter 25.12 of the Seattle Municipal Code (or successor provisions), unless after the minimum forty (40) year period the owner demonstrates to the satisfaction of the Landmarks Preservation Board that a change of use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls. In the case of a partial purchase of TDRs by the City for the TDR Bank, the Director of Housing and Human Services may allow a shorter period of commitment. Any relief that may be granted from the landmark designation or from any controls or restrictions imposed in connection with that designation, under SMC Chapter 25.12 or otherwise, shall not affect the owner's obligations pursuant to any agreement under this subsection 4.



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5. For any transfer to which subsection D4 applies, a subsidy review shall be required if at the time of the transfer, the lot on which the landmark performing arts theater is located:

a. Is being or has been used for any off-site bonus; or

b. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

6. When subsidy review is required according to one (1) or more of the above criteria:

a. The transfer of development rights shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such transfer and the benefits of any off-site bonus, if applicable, are reasonably necessary to make economically feasible:

(i) The preservation of the landmark performing arts theater, and

(ii) Any replacement by the owner of such theater of low((-)) income housing or ((~~low-to-moderate~~)) low and low-moderate income housing that is reasonably required to be eliminated from the sending site to make preservation and operation of the performing arts theater economically feasible; and

b. The Director of Housing and Human Services may require, as a condition of the transfer, that the owner of the lot upon which the landmark performing arts theater is located agree to limit any other subsidies to be received for that lot.

7. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDRs 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

b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

8. 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 The City of Seattle.

**Section 18.** Subsections H and I of Section 23.49.096 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, are further amended as follows:

**23.49.096 Downtown Retail Core, conditional uses and Council decisions.**

* * *

H. Work-release centers may be permitted as Council conditional uses, based on the following criteria:



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1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria.

a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school.

b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center.

c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spillover light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;

d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;



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g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities and that the facility will meet State laws and requirements.

I. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown, and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 19.** Subsection C of Section 23.49.098 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

**23.49.098 Downtown Retail Core, floor area ratio (FAR).**

* * *

C. Exemptions From FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except that on sending lots from which development rights are transferred according to Section 23.49.102 the only residential space exempted shall be low((-))income housing <u>or low-moderate income housing</u> on landmark theater housing TDR sites satisfying all requirements for bonus under the Public Benefit Features Rule;

b. All gross floor area below grade;

c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

d. The gross floor area of public benefit features (including a performing arts theater but excluding a major retail store) which satisfy the requirements of Section 23.49.100, Ratios for public benefit features, and satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations; e. The sum of the gross floor area of the following uses, up to a maximum FAR of one and one-half (1 1/2):



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(1) Retail sales and services uses, including major retail stores, except lodging,

(2) Human service uses and child care centers,

(3) Customer service offices,

(4) Entertainment uses, such as theaters, and

(5) Museums. The exemption for the uses listed in this subsection C1e shall be increased to a maximum FAR of two (2) when a performing arts theater or three (3) when a major retail store is given a bonus as part of a project pursuant to Section 23.49.096.

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 of this section has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 20.** Subsections A, C and D of Section 23.49.100 of the Seattle Municipal Code, which Section was last amended by Ordinance 116513, is further amended and a new subsection E is added as follows:

**23.49.100 Downtown Retail Core, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Board.

2. Additional gross floor area may be permitted up to the "maximum FAR with public benefit features including housing" described in Section 23.49.098 when low or low-moderate income housing is included in the development proposal and the following criteria are met:

a. Gross floor area equivalent to two (2) times the area of the lot shall be earned through the provision of public benefit features other than housing, before a housing bonus may be used.

b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. <u>The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.</u>



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3. The Director shall review the design of any public benefit feature in subsection B to determine whether the feature, as proposed for a specific project, provides public benefits and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, landmark performing arts theaters and child care, all public benefit features provided in return for a bonus shall be located on the same lot or abutting right-of-way as the project in which the bonus floor area is used.

* * *

C. A subsidy review shall be required as a condition to any bonus for an off-site performing arts theater or low((-))income housing or low-moderate income housing, if the lot on which the theater or housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible:

a. The provision of the public benefit feature; and

b. In the case of a landmark performing arts theater, any replacement by the owner of such theater of low((-))income housing or low-to-moderate income housing that is reasonably required to be eliminated from the lot on which the theater is located to make the preservation and operation of the performing arts theater economically feasible, and

2. The Director of Housing and Human Services may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.



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**Section 21.** Subsections B and D of Section 23.49.102 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, is further amended as follows:

**23.49.102 Downtown Retail Core, transfer of development rights.**

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights may not be transferred to lots in DRC zones from sending lots on different blocks.

2. Transfer From Low((-))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-))income housing or low and low-moderate income housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights for use on receiving lots in DOC1and DOC2 zones subject to the terms and conditions in this subsection B2. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B3 or B4 of this section.

b. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

3. Transfer from Landmark Structures. Development rights from sending lots in DRC zones which contain Landmark structures may be transferred to receiving lots in DOC1 and DOC2 zones. Landmark structures on sending lots from which landmark TDRs are transferred shall be restored and maintained as required by the Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

4. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DOC1, DOC2 or DMC zones with height limits of eighty-five (85) feet or greater subject to the conditions of this subsection B4.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years. c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed, with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDRs from a low((-)) income housing or low and low-moderate income housing TDR site) such consent is waived by the Director of Housing or his or her designee for good cause, which deed shall be recorded with the King County real property records. When TDRs 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 lots or the TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of



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the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, then after the initial transfer, all subsequent transfers shall also 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 TDRs that are eligible for transfer between blocks from the owner of the sending site by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving site or is an applicant for a permit to develop downtown real property. Any person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions; a. The transfer of TDRs 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 b. The City shall not be required to recognize any return of TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

5. Any agreement governing the use or development of the sending lot shall provide that its covenants and conditions shall run with the land and shall be specifically enforceable by The City of Seattle.



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**Section 22.** Subsections G and H of Section 23.49.122 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is further amended as follows:

**23.49.122 Downtown Mixed Commercial, conditional uses and Council decisions.**

* * *

G. Work-release centers may be permitted as Council conditional uses, based on the following criteria:

1. Maximum Number of Residents. No work-release center shall house more than fifty (50) persons, excluding resident staff.

2. Dispersion Criteria.

a. The lot line of any new or expanding work-release center shall be located six hundred (600) feet or more from any residential zone, any lot line of any special residence, and any lot line of any school.

b. The lot line of any new or expanding work-release center shall be located one (1) mile or more from any lot line of any other work-release center.

c. The Director shall determine whether a proposed facility meets the dispersion criteria from maps which shall note the location of current work-release centers and special residences. Any person who disputes the accuracy of the maps may furnish the Director with the new information and, if determined by the Director to be accurate, this information shall be used in processing the application.

3. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

a. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

b. The extent to which the applicant has demonstrated that the facility can be made secure. The applicant shall submit a proposed security plan to the Director, and the Director, in consultation with the Seattle Police Department, shall consider and evaluate the plan. The security plan shall address, but is not limited to, the following:

i. Plans to monitor and control the activities of residents, including methods to verify the presence of residents at jobs or training programs, policies on sign-outs for time periods consistent with the stated purpose of the absence for unescorted trips by residents away from the center, methods of checking the records of persons sponsoring outings for work-release residents, and policies on penalties for drug or alcohol use by residents, and

ii. Staff numbers, level of responsibilities, and scheduling, and

iii. Compliance with the security standards of the American Corrections Association;

c. The extent to which proposed lighting is located so as to minimize spill over light on surrounding properties while maintaining appropriate intensity and hours of use to ensure security is maintained;



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d. The extent to which the facility's landscape plan meets the requirements of the zone while allowing visual supervision of the residents of the facility;

e. The extent to which appropriate measures are taken to minimize noise impacts on surrounding properties. Measures to be used for this purpose may include: landscaping, sound barriers or fences, berms, location of refuse storage areas, and limiting the hours of use of certain areas;

f. The extent to which the impacts of traffic and parking are mitigated by increasing on-site parking or loading spaces to reduce overflow vehicles or changing the access to and location of off-street parking;

g. The extent to which the facility is well-served by public transportation or to which the facility is committed to a program of encouraging the use of public or private mass transportation;

h. Verification from the Department of Corrections (DOC), which shall be reviewed by the Police Department, that the proposed work-release center meets DOC standards for such facilities and that the facility will meet state laws and requirements.

H. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 22.** Subsection C of Section 23.49.124 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, is further amended as follows:

**23.49.124 Downtown Mixed Commercial, floor area ratio (FAR).**

* * *

C. Exemptions From FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except that on sending lots from which development rights are transferred, according to Section 23.49.128 the only residential space exempted shall be low((-))income housing <u>or low and low-moderate income housing</u> on landmark theater/housing TDR sites satisfying all of the requirements for a bonus under the Public Benefit Features Rule;

b. All gross floor area below grade;



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c. All gross floor area located above grade which is used for principal or accessory short-term parking, or for parking accessory to residential uses, up to one (1) space per dwelling unit;

d. The gross floor area of public benefit features, other than housing, which satisfy the requirements of Section 23.49.126, Ratios for public benefit features, or which satisfy the requirements for an FAR bonus amenity allowable to a structure in DOC1 or DOC2 for an off-site public benefit feature, and in either case, satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations;

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 of this section has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

**Section 23.** Subsection A of Section 23.49.126 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended and new subsections C, D and E is added as follows:

**23.49.126 Downtown Mixed Commercial, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure, unless authorized by the Landmarks Preservation Board.

2. The Director shall review the design of public benefit features listed in subsection B to determine whether the feature, as proposed for a specific project, actually provides a public benefit and is consistent with the definitions in Chapter 23.84 and with the Public Benefit Features Rule. The housing bonus shall be granted by the Director based on a finding by the Director of the Office of Housing that the proposed housing satisfies the Public Benefit Features Rule. <u>The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.</u>

3. Except for housing, human services, child care, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

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C. A subsidy review shall be required as a condition to any bonus for an off-site low income housing or low-moderate income housing, if the lot on which the housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to, tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions; or

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible the provision of the public benefit feature; and

2. The Director of Housing may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 24.** Subsections A, B, C, and D of Section 23.49.128 of the Seattle Municipal Code, which Section was last amended by Ordinance 117954, is further amended as follows:

**23.49.128 Downtown Mixed Commercial, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights may be transferred to lots in DMC zones with height limits of eighty-five feet (85') or greater from sending lots located on the same block that are low((-))income housing or low and low-moderate income housing TDR sites or landmark structures, or from infill lots in PSM zones as provided in subsection B.

2. Development rights may be transferred from lots in DMC zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred to lots in DMC zones from a major performing arts facility on a sending lot on the same downtown block as the receiving lot, only if



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the sending lots is in a DOC1, DOC2 or DRC zone. Additional restrictions listed in subsection B3 below also apply.

B. Transfer of Development Rights Between Different Downtown Blocks. Development rights may be transferred to lots in DOC2 zones from sending lots on different blocks that contain low((-))income housing or low and low-moderate income housing, Landmark structures or major performing arts facilities, or from infill lots in PSM zones, as provided below:

1. Transfer From Low((~~-~~))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. " Low((-))income housing or low and low-moderate income housing TDR sites " as defined in Section 23.84.024 are eligible to transfer development rights subject to the terms and conditions in this subsection B1. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights if they qualify under subsection A, B2 or B3 of this section.

b. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included, up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

c. The maximum FAR permitted on a receiving lot in DMC zones when development rights are transferred from low((-))income housing or low and low-moderate income housing TDR sites shall be six (6) or seven (7) in accordance with Section 23.49.124.

2. Transfer From Landmark Structures or Infill Lots in Pioneer Square Mixed Zones.

a. Landmark structures from which landmark TDR may be transferred shall be located in DMC zones located south of Virginia Street.

b. Landmark structures on sending lots from which landmark TDR are transferred shall be restored and maintained as required by the Landmarks Preservation Board, according to the procedures in the Public Benefit Features Rule.

c. Lots proposed for infill development in PSM zones from which development rights are transferred must have been vacant as of January 1,1984. For the purposes of this provision, structures with abatement orders as of January 1, 1984, and surface parking areas, including minor structures accessory to parking operations, shall be considered vacant.

d. The maximum FAR permitted on a receiving lot in DMC zones when development rights are transferred Landmark structures shall be six (6) or seven (7), in accordance with Section 23.49.124.

3. Transfer from a Major Performing Arts Facility.

a. TDRs from a major performing arts facility in DOC1, DOC2 or DRC maybe used on a receiving lot in DMC zone with a height limit of eighty-five feet (85') or greater, subject to the conditions of this subsection B3.

b. No change from a major performing arts facility to another use shall be permitted for forty (40) years.



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c. Prior to the transfer of development rights from a major performing arts facility, either a final architectural building permit, or a temporary or final Certificate of Occupancy must be issued.

d. Maximum FAR on a receiving lot with use of TDRs from a major performing arts facility is seven (7).

C. Standards for Sending Lots.

1. The gross floor area that may be transferred from any sending lot to a receiving lot, subject to the limitations in subsections A and B, shall be as follows:

a. When the sending lot is located in a DRC, IDR or IDM zone, or a DMC or DMR zone with a height limit of less than two hundred and forty feet (240'), the gross floor area that may be transferred shall be six (6) times the area of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area any exemptions permitted by the regulations of the zone other than for housing.

b. When the sending lot is located in a DMC or DMR zone with a two hundred and forty foot (240') height limit, the gross floor area that maybe transferred shall be eight (8) times the area of the sending lot, minus any existing gross floor area on the sending lot, excluding from existing gross floor area:

(i) any exemptions permitted by the regulations of the zone other than for housing; and

(ii) The area of any low((-))income housing that is on a landmark theater/housing TDR site and meets the requirements for the housing bonus under the Public Benefit Features Rule.

c. When the sending lot is located in a PSM zone, the gross floor area that may be transferred shall be either:

(1) Six (6) times the area of the sending lot, minus any existing above-grade gross floor area on the sending lot, for transfers from low((-)) income housing <u>or low and low-moderate income housing</u> TDR sites or within-block transfers not from infill development; or

(2) The amount of gross floor area permitted by the development standards of the PSM zone and the Pioneer Square Preservation District, minus any above-grade gross floor area to be built on the sending lot, when the transfer is from proposed infill development.

2. When development rights are transferred from a sending lot in DMC zones, the amount of gross floor area which may then be built on the sending lot shall be equal to the area of the lot multiplied by the applicable FAR limit set in Section 23.49.124, minus the total of:

a. The existing gross floor area on the lot, less any exemptions permitted under Section 23.49.124; plus

b. The amount of gross floor area which was transferred from the lot.

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending lot shall execute a deed with the written consent of all holders of encumbrances on the sending lot, unless (in the case of TDR from a low((-)) income housing <u>or low and low-moderate income housing</u> TDR site) such consent is waived by



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the Director of Housing and Human Services or designee for good cause, which deed shall be recorded in the King County real property records. When TDRs 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 TDRs, the TDRs shall pass with the receiving lot whether or not a structure using such TDRs shall have been permitted or built prior to any conveyance of the receiving lot. Any subsequent conveyance of TDRs previously conveyed to a receiving lot shall require the written consent of all parties holding any interest in the receiving lot from which the conveyance is made. If the TDRs are transferred other than directly from the sending lot to the receiving lot using the TDRs, 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 TDRs that are eligible for transfer between blocks from the owner of the sending lot by complying with the applicable provisions of this section and the Public Benefit Features Rule, whether or not the purchaser is then the owner of an eligible receiving lot or is an applicant for a permit to develop downtown real property. Any person purchasing such TDRs may, at any time prior to the application for a permit using such TDRs, or after any such permit is denied or expires unused, retransfer such TDRs by deed to any other person for such consideration as may be agreed by the parties. Any purchaser of such TDRs (including any successor or assignee) may use such TDRs to obtain FAR above the applicable base to the extent 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 TDRs, to the same extent as if the TDRs had been purchased on such date. The Director may require, as a condition of processing any permit application using TDRs or for the release of any security posted in lieu of a deed for TDRs to the receiving lot, that the owner of the receiving lot demonstrate that the TDRs 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 application, stating that such TDRs are not available for retransfer.

3. For transfers that are permitted based on the status of the sending lot as a low((-))income housing <u>or low and low-moderate income housing</u> TDR site or a landmark theater/housing TDR site, 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 Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing <u>or low and low-moderate income housing</u> on the sending lot for a minimum of twenty (20) years.

4. For any transfer that is permitted, or for which the sending lot is granted priority, based on the status of the sending lot as a landmark performing arts theater, the owner of the sending lot shall sign a written agreement with the City with the approval of the Landmarks Preservation Board, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause. The owner of the sending lot shall agree:



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a. To maintain the structure in compliance with requirements in such agreement approved by the Landmarks Preservation Board, for a period of at least forty (40) years; and

b. To maintain the primary use of the theater portion of the structure as a performing arts theater for at least forty (40) years, and for so long thereafter as any of the interior features of the theater portion of the structure remain subject to controls under the Landmarks Ordinance, Chapter 25.12 of the Seattle Municipal Code (or successor provisions), unless after the minimum forty (40) year period the owner demonstrates to the satisfaction of the Landmarks Preservation Board that a change of use is required to allow the owner a sufficient economic return under the standards then applicable to proceedings for removal or modification of such controls. In the case of a partial purchase of TDRs by the City for the TDR Bank, the Director of Housing and Human Services may allow a shorter period of commitment. Any relief that may be granted from the landmark designation or from any controls or restrictions imposed in connection with that designation, under SMC Chapter 25.12 or otherwise, shall not affect the owner's obligations pursuant to any agreement under this subsection 4.

5. For any transfer to which subsection D4 applies, a subsidy review shall be required if at the time of the transfer, the lot on which the landmark performing arts theater is located:

a. Is being or has been used for any off-site bonus; or

b. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

6. When subsidy review is required according to one (1) or more of the above criteria:

a. The transfer of development rights shall be allowed only to the extent that the Director of Housing and Human Services shall determine, pursuant to a subsidy review, that the benefits of such transfer and the benefits of any off-site bonus, if applicable, are reasonably necessary to make economically feasible:

(i) The preservation of the landmark performing arts theater, and

(ii) Any replacement by the owner of such theater of low((-)) income housing or low-to-moderate income housing that is reasonably required to be eliminated from the sending site to make preservation and operation of the performing arts theater economically feasible; and

b. The Director of Housing and Human Services may require, as a condition of the transfer, that the owner of the lot upon which the landmark performing arts theater is located agree to limit any other subsidies to be received for that lot.

7. A deed conveying TDRs may require or permit the return of the TDRs to the sending lot under specified conditions, but notwithstanding any such provisions:

a. The transfer of TDRs 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 TDRs unless it is demonstrated that all parties in the chain of title have executed, acknowledged and recorded instruments conveying any interest in the TDRs back to the sending lot.

8. 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 The City of Seattle.

**Section 25.** Subsection F of Section 23.49.148 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is further amended as follows:

**23.49.148 Downtown Mixed Residential, conditional uses and Council decisions.**

* * *

F. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;

3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 26.** Subsection C of Section 23.49.150 of the Seattle Municipal Code, which Section was last amended by Ordinance 112303, is further amended as follows:

**23.49.150 Downtown Mixed Residential, floor area ratio (FAR).**

C. Exemptions From FAR Calculations.

1. The following areas shall be exempt from base and maximum FAR calculations:

a. All gross floor area in residential use, except on sending lots from which development rights are transferred, according to Section 23.49.154;

b. All gross floor area below grade;

c. All gross floor area used for accessory parking located above grade;

d. ((~~The gross floor area of public benefit features which satisfy the requirements of Section 23.49.152, Downtown Mixed Residential, ratios for public benefit features, and satisfy the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations.~~)) Gross floor area of public benefit features. The exemption applies regardless of whether a floor area bonus is obtained, and regardless of maximum bonusable area limitations.



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C. A subsidy review shall be required as a condition to any bonus for an off-site low income housing or low-moderate income housing, if the lot on which the housing is located, at the time of issuance of the building permit for the structure receiving the bonus FAR:

1. Is being or has been used:

a. For any other off-site bonus; or

b. As a sending site for the transfer of development rights; or

c. For a project receiving any public subsidies for housing development, including, but not limited to,tax exempt bond financing, low income housing tax credits, federal loans or grants, City of Seattle housing loans or grants, State of Washington Housing Trust funds, or City of Seattle property tax exemptions.

2. Is subject to any restrictions on the use, occupancy or rents of such property resulting from any public subsidy of any nature, direct or indirect, including without limitation any tax benefits, or will become subject to any such restrictions if any such subsidy for which an application has been made is granted.

D. When subsidy review is required according to one (1) or more of the above criteria:

1. The bonus requested shall be allowed only to the extent that the Director of Housing shall determine, pursuant to a subsidy review, that the benefits of such bonus(es), and proceeds of sale of development rights, if applicable, are reasonably necessary to make economically feasible the provision of the public benefit feature; and

2. The Director of Housing may require, as a condition of the bonus, that the owner of the lot upon which the bonus feature is located agree to limit any other subsidies to be received for that lot.

E. The Director of Housing is authorized to impose on the developers of housing that use the bonus described in this Section, maximum permitted rent levels and minimum duration of availability for units developed using the housing bonus. These regulations shall be designated to assure the units shall be available for households earning 0 to 80 percent of area median income for the longest reasonable duration.

**Section 28.** Subsections A, B and D of Section 23.49.154 of the Seattle Municipal Code, which Section was last amended by Ordinance 116513, are further amended as follows:

**23.49.154 Downtown Mixed Residential, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights shall not be transferred to lots in DMR zones from lots located in the same downtown block.

2. Development rights from sending lots in DMR zones may be transferred to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in DMR zones containing low((-))income housing or low and low-moderate income housing to receiving lots in DMC zones located on the same block in accordance with subsection B2 of this section.

B. Transfer of Development Rights Between Different Downtown Blocks.



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1. Development rights from a sending lot on a different downtown block shall not be transferred to receiving lots in Downtown Mixed Residential zones.

2. Transfer From Low((-))Income Housing or Low and Low-moderate Income Housing TDR Sites.

a. "Low((-)) income housing or Low and Low-moderate Income Housing TDR sites" as defined in Section 23.84.024 are eligible to transfer development rights to receiving sites in DOC1, DOC2and DMC zones subject to the terms and conditions in this subsection B2. Lots containing low((-))income housing or low and low-moderate income housing, but not qualifying under this subsection, may be eligible to transfer development rights only if they qualify under subsection A2 of this section.

b. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending and receiving lots shall execute a deed or an agreement, with the written consent of all holders of encumbrances on the sending lot, unless such consent is waived by the Director of Housing and Human Services for good cause, which deed or other agreement shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the rights were transferred.

3. For transfers that are permitted based on the status of the sending site as a low((-))income housing or low and low-moderate income housing TDR site, the owner of the sending site shall agree, with the written consent of all holders of encumbrances on the sending site, unless such consent is waived by the Director of Housing and Human Services for good cause, to provide for the maintenance of the required low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants and conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 29.** Subsections A, B and D of Section 23.49.180 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.49.180 Pioneer Square Mixed, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.



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1. Development rights shall not be transferred to receiving lots in PSM zones from lots located on the same downtown block.

2. Development rights may be transferred from lots in PSM zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in PSM zones containing low((-))income housing or low and low-moderate income housing or infill development to lots in DMC zones located on the same block in accordance with subsection B.

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights shall not be transferred to receiving lots in PSM zones from lots on different downtown blocks.

2. Development rights may be transferred from sending lots in PSM zones to receiving lots in DOC1, DOC2 and DMC zones located on a different block when the sending lot ((~~contains~~)) qualifies as a low-income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule.

((~~a. Each structure on the sending lot shall have the greater of fifty percent (50%) of total gross floor area or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use.~~

~~b. Sending lots shall have gross floor area equivalent to at least one (1) FAR in low-income housing use.~~))

((~~c.~~)) 3. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

((~~d. The low-income housing on the sending lot shall be certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule.~~))

((~~3.~~)) 4. Development rights may be transferred from sending lots in the PSM zone to receiving lots located on different downtown blocks in the DOC1, DOC2 and DMC zones from a sending lot which is proposed for infill development and was vacant as of January 1, 1984.

a. Lots with structures subject to abatement orders on or before January 1, 1984, and surface parking areas, including lots with minor structures accessory to parking operations, shall be considered vacant for the purpose of this section.

b. The transfer of development rights may not occur until a certificate of occupancy has been issued for the project proposed on the vacant lot.

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending and receiving lots shall execute a deed or other agreement which shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the rights were transferred.



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3. For transfers from ((~~lots containing~~)) low((-))income housing or low and low-moderate income housing TDR sites, the agreement shall provide for the maintenance of the low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants or conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 30.** Subsections A, B and D of Section 23.49.212 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.49.212 International District Mixed, transfer of development rights.**

A. Transfer of Development Rights Within the Same Downtown Block.

1. Development rights shall not be transferred to lots in IDM zones from lots located in the same block.

2. Development rights may be transferred from lots in IDM zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in IDM zones ((~~containing low-income housing~~)) that qualify as a low-income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule to receiving lots in DMC areas located on the same downtown block in accordance with subsection B2.

B. Transfer of Development Rights Between Lots on Different Blocks.

1. Development rights shall not be transferred to receiving lots in IDM zones from lots on different downtown blocks.

2. Development rights may be transferred from sending lots in IDM zones to receiving lots in DOC1, DOC2, and DMC zones when the sending lot ((~~contains low-income housing~~)) qualifies as a low((-))income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule.

((~~a. Each structure on the sending lot shall have the greater of fifty percent (50%) of the total gross floor area, or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use.~~

~~b. Sending lots shall have gross floor area equivalent to at least one (1) FAR in low-income housing use.~~

~~c.~~)) 3. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.



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((~~d. The low-income housing on the sending lot must be certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule~~.))

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of the sending and receiving lots shall execute a deed or other agreement which shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the rights were transferred.

3. For transfers from ((~~lots containing~~)) low((-))income housing or low and low-moderate income housing TDR sites, the agreement shall provide for the maintenance of the low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants or conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 31.** Subsections A, B and D of Section 23.49.240 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, are further amended as follows:

**23.49.240 International District Residential, transfer of development rights.**

A. Transfer of Development Rights Within the Same Block.

1. Development rights shall not be transferred to lots in IDR zones from lots located in the same block.

2. Development rights may be transferred from sending lots in IDR zones to receiving lots in DOC1 and DOC2 zones located on the same downtown block.

3. Development rights may be transferred from lots in the IDR zone ((~~containing low-income housing~~)) that qualify as a low((-))income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule to receiving lots in DMC zones located on the same block in accordance with subsection B2.

B. Transfer of Development Rights Between Different Downtown Blocks.

1. Development rights shall not be transferred to receiving lots in IDR zones from lots on different downtown blocks.

2. Development rights may be transferred from sending lots in IDR zones to receiving lots in the DOC1, DOC2, and DMC zones, when the sending lot ((~~contains low-income housing~~)) qualifies as a low-income housing or low and low-moderate income housing TDR site as defined in Section 23.84.024 and satisfies the Public Benefit Features Rule..



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((~~a. Each structure on the sending lot shall have the greater of fifty percent (50%) of the total gross floor area, or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use.~~

~~b. Sending lots shall have gross floor area equivalent to at least one (1) FAR in low-income housing use.~~

~~c.~~)) 3. Principal use surface parking areas shall not be included in the area of the sending lot for purposes of calculating the amount of development rights which may be transferred. Accessory surface parking areas shall be included up to a maximum area of one-quarter (1/4) of the footprint of the structure on the sending lot.

((~~d. The low-income housing on the sending lot must be certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule~~.))

* * *

D. Transfer of Development Rights Agreements.

1. The fee owners of sending and receiving lots shall execute a deed or other agreement which shall be recorded with the title to both lots.

2. The agreement or deed shall be for a term which equals or exceeds the life of the project on the receiving lot for which the development rights were transferred.

3. For transfers from ((~~lots containing~~)) low((-))income housing or low and low-moderate income housing TDR sites, the agreement shall provide for the maintenance of the low((-))income housing or low and low-moderate income housing on the sending lot for a minimum of twenty (20) years.

4. The agreement or deed shall state that the development rights transferred from the sending lot to the receiving lot may not be reclaimed unless the project on the receiving lot, or that portion of the project for which the rights were transferred, is demolished. The deed or agreement shall also provide that its covenants or conditions shall run with the land and shall be specifically enforceable by any party or by The City of Seattle.

**Section 32.** Subsection G of Section 23.49.324 of the Seattle Municipal Code, which Section was last amended by Ordinance 118672, is further amended as follows:

**23.49.324 Downtown Harborfront, conditional uses.**

* * *

G. Jails may be permitted as Council conditional uses. The Council's decision shall be based on ((~~the Land Use and Transportation Plan for Downtown and~~)) the following criteria:

1. The extent to which the applicant can demonstrate the need for the new or expanding facility in the City, including a statement describing the public interest in establishing or expanding the facility;

2. The extent to which the applicant can demonstrate that the proposed location is functionally necessary to the criminal justice system;



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2. As an allowance for mechanical equipment, three and one-half (3%) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure.

**Section 27.** Subsection A of Section 23.49.152 of the Seattle Municipal Code, which Section was last amended by Ordinance 117430, is further amended and new subsections C, D and E are added as follows:

**23.49.152 Downtown Mixed Residential, ratios for public benefit features.**

A. General Provisions.

1. No floor area beyond the base FAR shall be granted for any project which causes the destruction of any designated feature of a Landmark structure unless authorized by the Landmarks Preservation Board.

2. Additional gross floor area may be permitted up to the "maximum FAR with housing" described in Section 23.49.150 when low or low-moderate housing is included in the development proposal and the following criteria are met:

a. ((~~The housing bonus shall be granted only for the production of low or low-moderate housing in a new structure, or in a rehabilitated structure or portion of a rehabilitated structure which was not in residential use as of January 1, 1983.~~

~~b.~~))The housing shall be located in a DMR zone.

((~~c.~~))b. The housing bonus shall be granted by the Director based on a finding by the Director of Housing ((~~and Human Services~~)) that the proposed housing satisfies the Public Benefit Features Rule. The Director and Director of Housing are authorized, in determining the allocation of bonus credits to low and low and low-moderate income housing, to establish a schedule of bonus ratios that provides greater weight for low-income housing than for low-moderate income housing.

((~~d.~~))c. When the housing option as provided in Section 23.49.164 C is used, the housing provided shall be for low-income households for a period of at least twenty (20) years in order to receive a housing bonus, and the bonus ratio shall be six (6) square feet of commercial floor area for every square foot of housing provided.

3. The Director shall review the design of any public benefit feature listed in subsection B of this section to determine whether the feature, as proposed for a specific project, provides public benefits and is consistent with the definitions in Chapter 23.84 and the Public Benefit Features Rule.

4. Except for housing, human services, child care, and off-site open space permitted under Section 23.49.009, all public benefit features provided in return for a bonus shall be located on the same lot or abutting public right-of-way as the project in which the bonus floor area is used.

* * *



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3. The extent to which the applicant can demonstrate that the new or expanding facility does not create or further advance a level of institutionalization which is harmful to the surrounding community.

**Section 33.** Seven codified maps, Pioneer Square Maps A through G, located at the end of Chapter 23.66 of the Seattle Municipal Code, are replaced with four maps, Pioneer Square Maps A through D as depicted in Attachment 3 to this ordinance.

**Section 34.** Subsections A, B and C of Section 23.66.100 of the Seattle Municipal Code, which Section was last amended by Ordinance 112134, are further amended as follows:

**23.66.100 Creation of district, legislative findings and purpose.**

A. During The City of Seattle's relatively brief history, it has had little time in which to develop areas of consistent historical or architectural character. It is recognized that the Pioneer Square area of Seattle contains many of these rare attributes and consequently is an area of great historical and cultural significance. Further, the King County domed stadium (Kingdome), constructed in the Pioneer Square area, and the traffic and activities which it generates has resulted in adverse impacts upon the social, cultural, historic and ethnic values of the Pioneer Square area. To preserve, protect, and enhance the historic character of the Pioneer Square area and the buildings therein; to return unproductive structures to useful purposes; to attract visitors to the City; to avoid a proliferation of vehicular parking and vehicular-oriented uses; to provide regulations for existing on-street and off-street parking; to stabilize existing, and encourage a variety of new and rehabilitated housing types for all income groups; to encourage the use of transportation modes other than the private automobile; to protect existing commercial vehicle access; to improve visual and urban relationships between existing and future buildings and structures, parking spaces and public improvements within the area; and to encourage pedestrian uses, there is established as a special review district, the Pioneer Square Preservation District. The boundaries of the District are shown on Map A and on the Official Land Use Map.

B. The District ((~~shall consist of an historic core and a buffer zone, as~~)) is depicted on Map A. All property in the entire District shall be developed and used in accordance with the use and development standards established in this ((e))Chapter and the use and development standards for the underlying zone in which the property is located. In the event of irreconcilable differences between the use and development standards of this ((e))Chapter and other provisions of this Land Use Code, the provisions of this ((e))Chapter shall apply.

C. Reasons for Designating the Pioneer Square Preservation District.

1. Historic Significance. The Pioneer Square Preservation District is unique because it is the site of the beginning of The City of Seattle. The area also retains much of the original architecture and artifacts of its early history. The District has played a significant role in



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the development of Seattle, the Puget Sound region and The State of Washington. It was the first location of industry, business and homes in early Seattle and the focus of commerce and transportation for more than a half century.

2. Architectural Significance. As a collection of late nineteenth and early twentieth-century buildings of similar materials, construction techniques and architectural style, the District is unique, not only to the City but to the country as well. Most of the buildings within the District embody the distinctive characteristics of the Late Victorian style. Many buildings are the work of one architect, Elmer H. Fisher. For these and other reasons, the buildings combine to create an outstanding example of an area that is distinguishably in style, form, character and construction representative of its era.

3. Social Diversity. The District represents an area of unique social diversity where people from many income levels and social strata live, shop and work. It is an area in which social services, including missions, low-income housing and service agencies exist.

4. Business Environment. The District is an area of remarkable business diversity. The street level of the ((~~historic core~~)) area north of S. King Street is pedestrian-oriented, with its storefronts occupied primarily by specialty retail shops, art galleries, restaurants and taverns. The upper floors of buildings in the historic core are occupied by professional offices, various types of light manufacturing, and housing for persons of many income groups. The ((~~buffer zone~~)) area south of S. King Street ((~~is made up of predominantly of~~)) includes the North Kingdome parking lot, a number of structures occupied by light manufacturing and warehousing uses, and several structures converted to office, residential and mixed use. The north Kingdome parking lot may be redeveloped to accommodate a mix of uses, including a substantial amount of housing. The ongoing restoration and sensitive rehabilitation of many District structures, combined with proposed compatible new construction will continue to enhance the District's economic climate.

5. Educational Value. The restoration and preservation of the District will yield information of educational significance regarding the way of life and the architecture of the late nineteenth-century as well as adding interest and color to the City. Restoration of the District will preserve the environment which was characteristic of an important era of Seattle's history.

6. Geographic Location. The District is uniquely situated adjacent to Seattle's waterfront, the central business district, the International District, and the King County domed stadium.

* * *

**Section 35.** Subsections A and B of Section 23.66.122 of the Seattle Municipal Code, which Section was last amended by Ordinance 118414, are further amended as follows:

**23.66.122 Prohibited uses.**



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A. ((~~1.~~)) The following uses are prohibited in the entire District as both principal and accessory uses:

Retail ice dispensaries;
Plant nurseries;
Frozen food lockers;
Animal services;
Automotive retail sales and service, except gas stations located in parking garages;
Marine retail sales and service;
Heavy commercial services;
Fuel sales;
Sales, service and rental of commercial equipment and construction materials;
Adult motion picture theaters;
Adult panorams;
Bowling alleys;
Skating rinks;
Communication utilities;
Advertising signs and off-premises directional signs;
Transportation facilities, except passenger terminals;
Outdoor storage;
Jails;
Work-release centers ((~~.~~)) ;
General and heavy manufacturing uses;
Salvage and Recycling uses, except recycling collection stations; and
High impact uses.

((~~2.~~)) B. Commercial uses which are ((~~vehicle~~)) automobile-oriented ((~~shall be prohibited in the area of the District identified on Map B.1. Such uses include,~~)) are prohibited. Such uses include but are not limited to the following:

Drive-in businesses, except gas stations accessory to parking garages;
Principal and accessory surface parking areas not in existence prior to August 10, 1981, except that accessory use surface parking lots may be permitted in Subarea B shown on Map C, if the lot satisfies the provisions of SMC 23.49.020, Screening and landscaping of surface parking lots.
Motels.

((~~B. All general and heavy manufacturing uses, salvage and recycling uses except recycling collection stations, and all high-impact uses are prohibited both as principal and as accessory uses.~~))



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**Section 36.** Subsection A of Section 23.66.124 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.66.124 Uses subject to special review.**

A. Principal-use parking garages for long-term parking in areas ((~~designated on Map C~~)) south of S. King Street, and principal-use short-term parking garages at any location, shall require approval of the Department of Neighborhoods Director after review and recommendation by the Preservation Board.

* * *

**Section 37.** Subsections A, B, C, D and E of Section 23.66.130 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, are further amended as follows:

**23.66.130 Street-level uses.**

A. Uses at street level in the area designated on Map D shall require the approval of the Department of Neighborhoods Director after review and recommendation by the Preservation Board.

B. Preferred Street-level Uses.

1. Preferred uses at street level shall be highly visible and pedestrian oriented. Preferred street-level uses either display merchandise in a manner that contributes to the character and activity of the area, and/or promote residential uses, including but not limited to the following uses:

a. Art galleries, restaurants and other retail sales and service uses under three thousand (3,000) square feet in size;

b. Theaters.

2. Accessory parking garages which serve preferred street-level uses on streets or malls, parks or alleys designed for pedestrian uses shall also be preferred.

C. Discouraged Street-level Uses.

1. The following uses are discouraged at street-level in the area designated on Map ((~~D~~)) B:

a. Any use occupying more than fifty percent (50%) of any block frontage;

b. Retail sales and services over three thousand (3,000) square feet and all other uses over ten thousand (10,000) square feet;

c. Professional services establishments or offices which comprise more than twenty percent (20%) of any block frontage;

d. Parking garages which are not accessory to preferred uses.

2. Discouraged uses may be approved by the Department of Neighborhoods Director after review and recommendation by the Preservation Board if an applicant demonstrates that the proposed use is compatible with uses preferred at street level.



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D. Conditions on Street-level Uses. Approved street level uses in the area designated on Map ((~~D~~)) B shall be subject to the following conditions:

1. No use may occupy more than fifty percent (50%) of the street-level frontage of a block that is twenty thousand (20,000) square feet or more in area;

2. Human service uses and personal service establishments, such as haircutting and tanning salons, may not exceed twenty-five percent (25%) of the total street-level frontage of any block front.

E. The following uses shall be prohibited at street-level in the area designated on Map ((~~D~~)) B:

Wholesaling, storage and distribution uses;
Vocational and fine arts schools;
Research and development;
Radio and television studios;
Taxidermy shops;
Appliance repair shops;
Upholstery establishments;
Other similar uses.

F. The street-level location of entrances and exits of all vehicular-oriented uses, where permitted, shall be approved by the Department of Neighborhoods Director after review and recommendation by the Preservation Board. View-obscuring screening may be required as needed to reduce adverse visual impacts on the immediate area.

**Section 38.** Subsections A and B of Section 23.66.140 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, are further amended as follows:

**23.66.140 Height.**

A. Maximum Height. Maximum structure height is regulated by Chapter 23.49.178, Pioneer Square Mixed, structure height, and shall be as designated on the Official Land Use Map, Chapter 23.32.

B. Minimum Height. No structure shall be erected or permanent addition added to an existing structure which would result in the height of the new structure ((~~totaling~~)) of less than ((~~the minimum height established by Map G.~~)) fifty feet (50'). Height of the structure is to be measured from mean street level fronting on the property to the mean roofline of the structure.

* * *

**Section 39.** Section 23.66.150 of the Seattle Municipal Code, which Section was last amended by Ordinance 116744, is further amended as follows:

**23.66.150 Maximum setbacks.**



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Maximum permitted setbacks for ((S))structures ((~~within the Pioneer Square Preservation District located in the area designated on Map E~~)) are:

A. Structures located within Subarea A on Map C shall cover the full width of the lot along street property lines and shall abut upon street property lines.

B. Structures located within Subarea B on Map C shall abut street property lines for the full width of the structure's street front facade.

C. For both Subareas, ((~~although interior open spaces~~)) modifications to setback standards may be permitted by the Department of Neighborhoods Director following review and recommendation by the Preservation Board((~~.~~)) when the following criteria are met:

1. A larger setback will be compatible with and not adversely affect the streetscape; and

2. A larger setback will be compatible with other design elements, such as bulk and profile, of the proposed building.

**Section 40.** Subsection D of Section 23.66.170 of the Seattle Municipal Code, which Section was last amended by Ordinance 118409, is further amended as follows:

**23.66.170 Parking and access.**

* * *

D. Standards for Location of Access to Parking.

1. Access to parking and loading from alleys, and from streets which generally run east/west, is preferred to access from avenues. When a lot abuts more than one (1) right-of-way, the location of access shall be determined by the Department of Neighborhoods Director in consultation with the Director of Transportation. This determination shall be made according to the traffic classification of the street, depicted on Map ((~~F~~))D. Access shall be from rights-of-way classified as follows, from the most to least preferred, except when the Department of Neighborhoods Director, following review and recommendation by the Board, determines that access from the preferred right-of-way would create a hazardous condition: Alleys; Access streets; Class II pedestrian streets-minor arterial; Class II pedestrian streets-principal arterial; Class I pedestrian streets-minor arterial; Class I pedestrian streets-principal arterial; Principal transit street; Street parks.

2. Curbcut width and the number of curbcuts permitted per street frontage shall be governed by Section 23.54.030 of this Land Use Code.

3. The street-level location of entrances and exits of all parking garages, where permitted, shall be permitted only if approved by the Department of Neighborhoods Director after review and recommendation by the Preservation Board. View-obscuring screening may be required as needed to reduce adverse visual impacts on the immediate area.



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**Section 41.** Section 23.84.024 of the Seattle Municipal Code, which Section was last amended by Ordinance 118794, amends the definitions of "Low-income housing" and "Low-income housing TDR site" as follows:

**23.84.024 "L"**

* * *

((~~"Land Use and Transportation Plan for Downtown." See "Land use policies, Downtown." "Land use policies" means those policies set forth or incorporated by reference in Chapter 23.12, as such chapter is now in effect and as it maybe hereafter amended, as the same may be amended from time to time.~~
~~"Land use policies, Downtown," or "Land Use and Transportation Plan for Downtown" means the portions of the Land Use and Transportation Plan for Downtown Seattle, as amended, that are incorporated by reference in SMC Chapter 23.12, as such section is now in effect or hereafter amended.~~))

* * *

"Low((-))income housing" means any housing unit which is rented to a low((-))income household at rents not to exceed thirty (30) percent of fifty (50) percent of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Low((-))income housing <u>or low and low-moderate income housing</u> TDR site" means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones;

2. Each structure on the lot shall have ((~~the greater of~~)) <u>a minimum of</u> fifty (50) percent of total gross floor area ((~~, or the gross floor area in use as low-income housing on January 1, 1983,~~)) committed to low((-))income housing <u>or low and low-moderate income housing</u> use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule;

3. The lot has gross floor area equivalent to at least one (1) FAR committed to low-income housing use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule; and

4. The low((-))income housing <u>or low and low-moderate income housing</u> commitment on the lot has been certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule.

* * *

**Section 42.** The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.



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**Section 43.** This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 24th day of May, 1999, and signed by me in open session in authentication of its passage this 24th day of May, 1999.

President of the City Council

Approved by me this 1st day of June, 1999.

Paul Schell, Mayor

Filed by me this 1st day of June, 1999.

City Clerk

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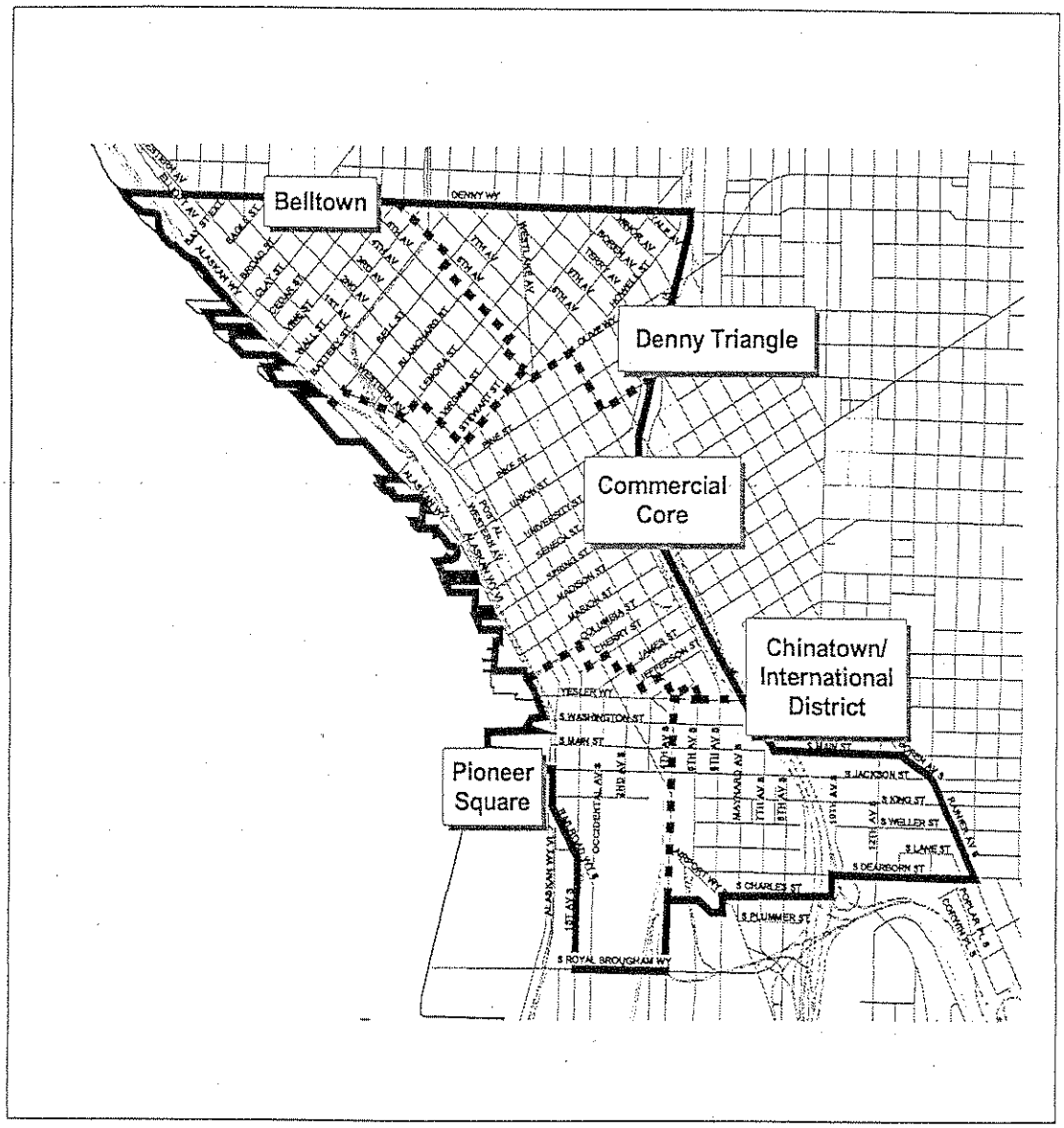
Attachment 1.

Urban Center/Village Boundaries.

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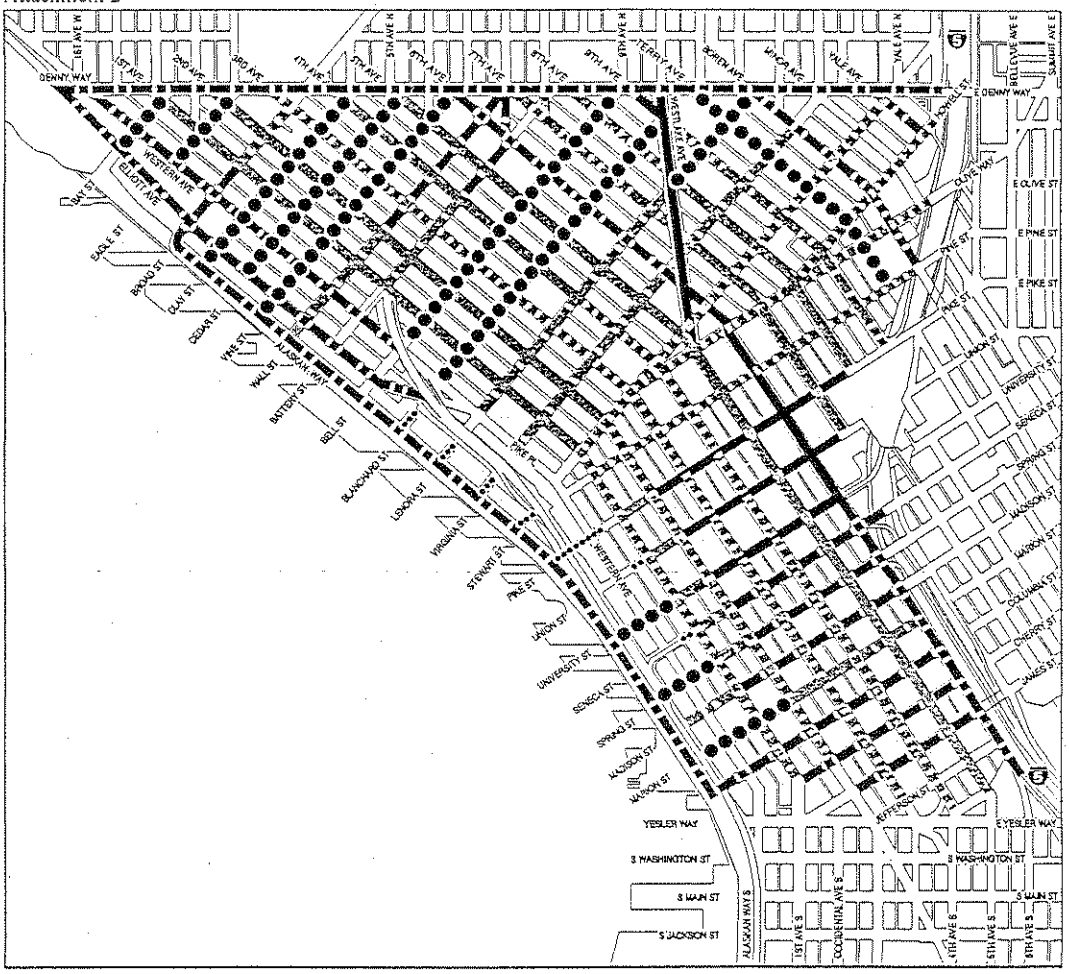


Access Street

Class II Pedestrian Street/ Minor Arterial

Class II Pedestrian Street/ Principal Arterial

Class I Pedestrian Street/ Minor Arterial

Class I Pedestrian Street/ Principal Arterial

Principal Transit Street

Green Street

Undeveloped Street

N

0 4 8 12
SCALE IN 100 FEET

Map IB

Downtown Zones

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Street Classifications

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1/27/99
V 4
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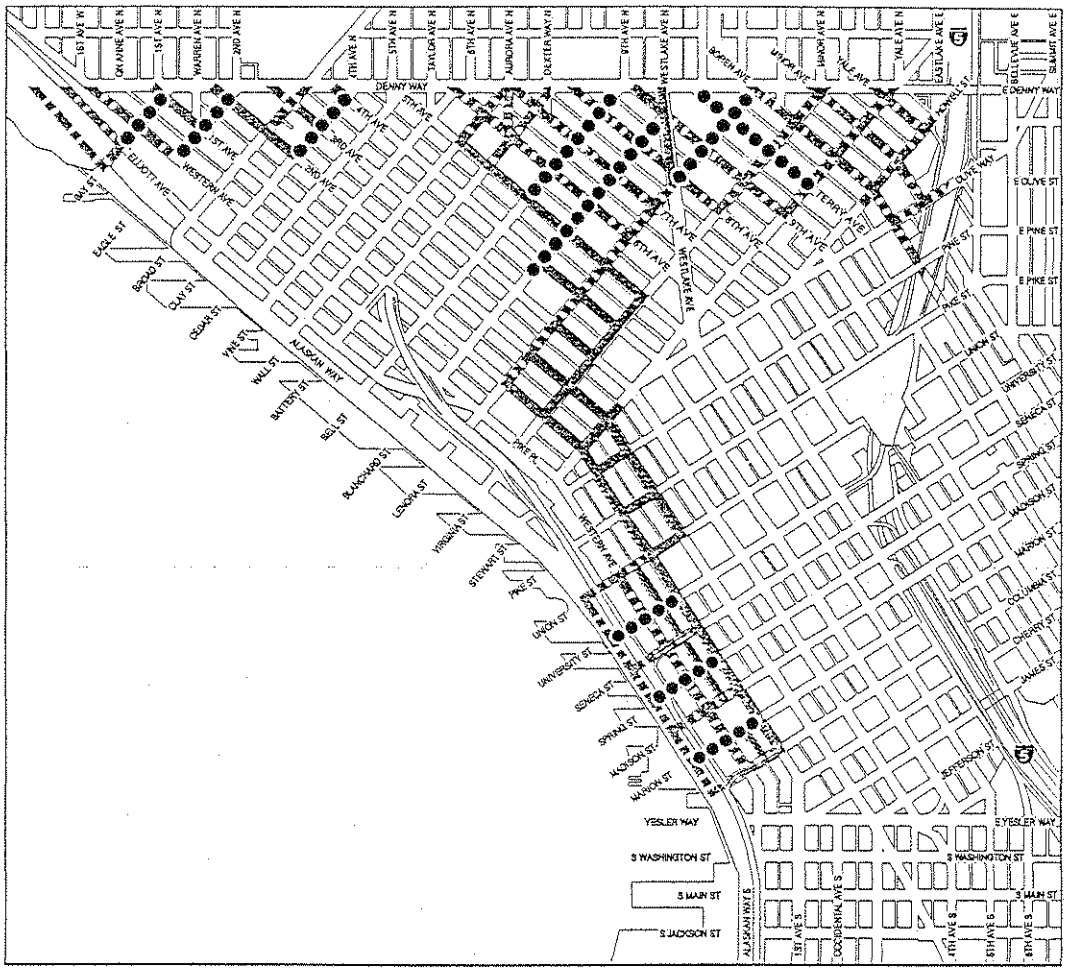


Class I
Class II
Green Street

N

0 4 8 12
SCALE IN 100 FEET

Map VD

Downtown
Mixed
Commercial

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Pedestrian Street Classifications

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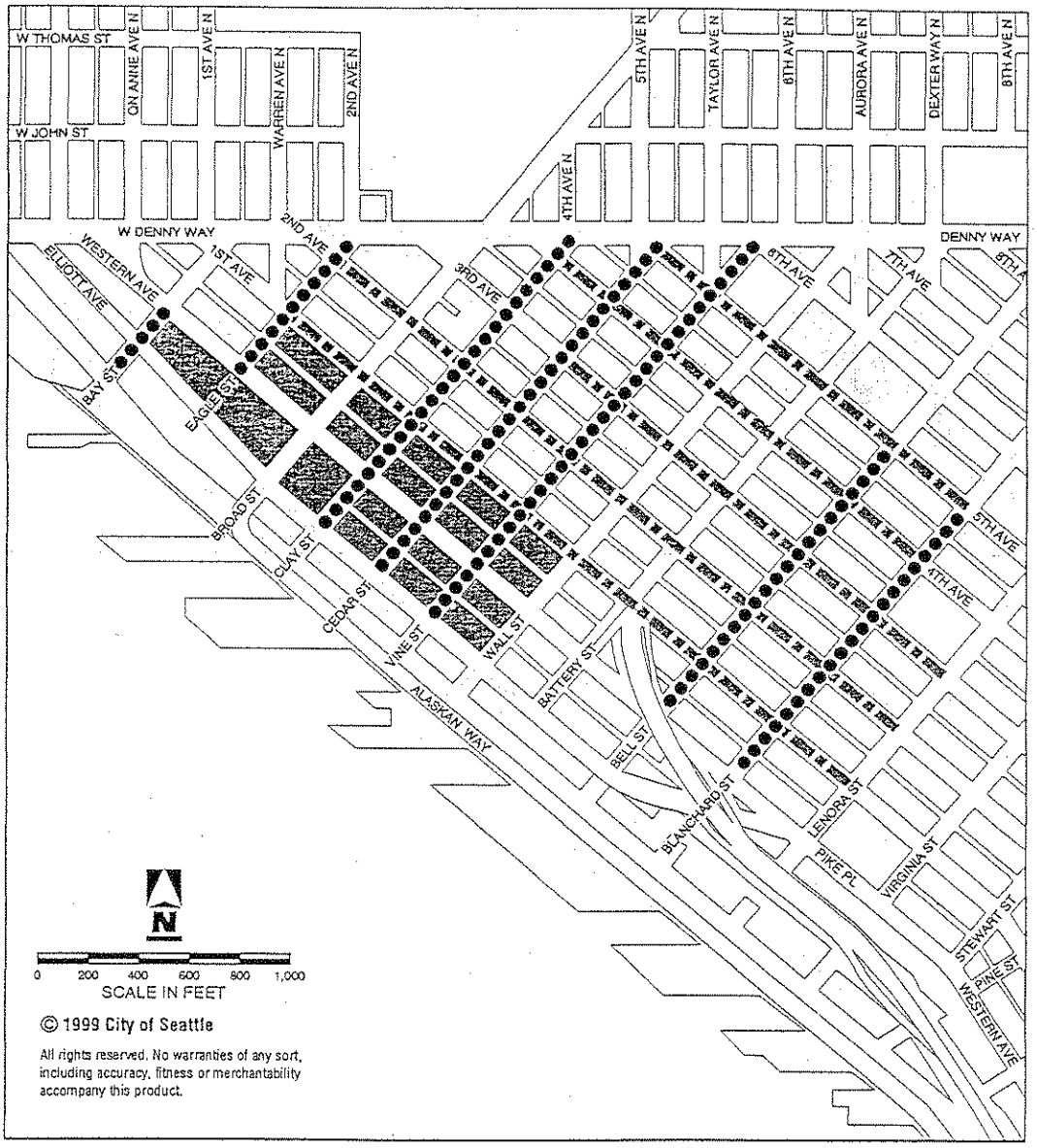


Hillside Terrace
Green Street
Retail Shopping Bonus

Public Benefit Features

**Map VIA**

Downtown Mixed Residential

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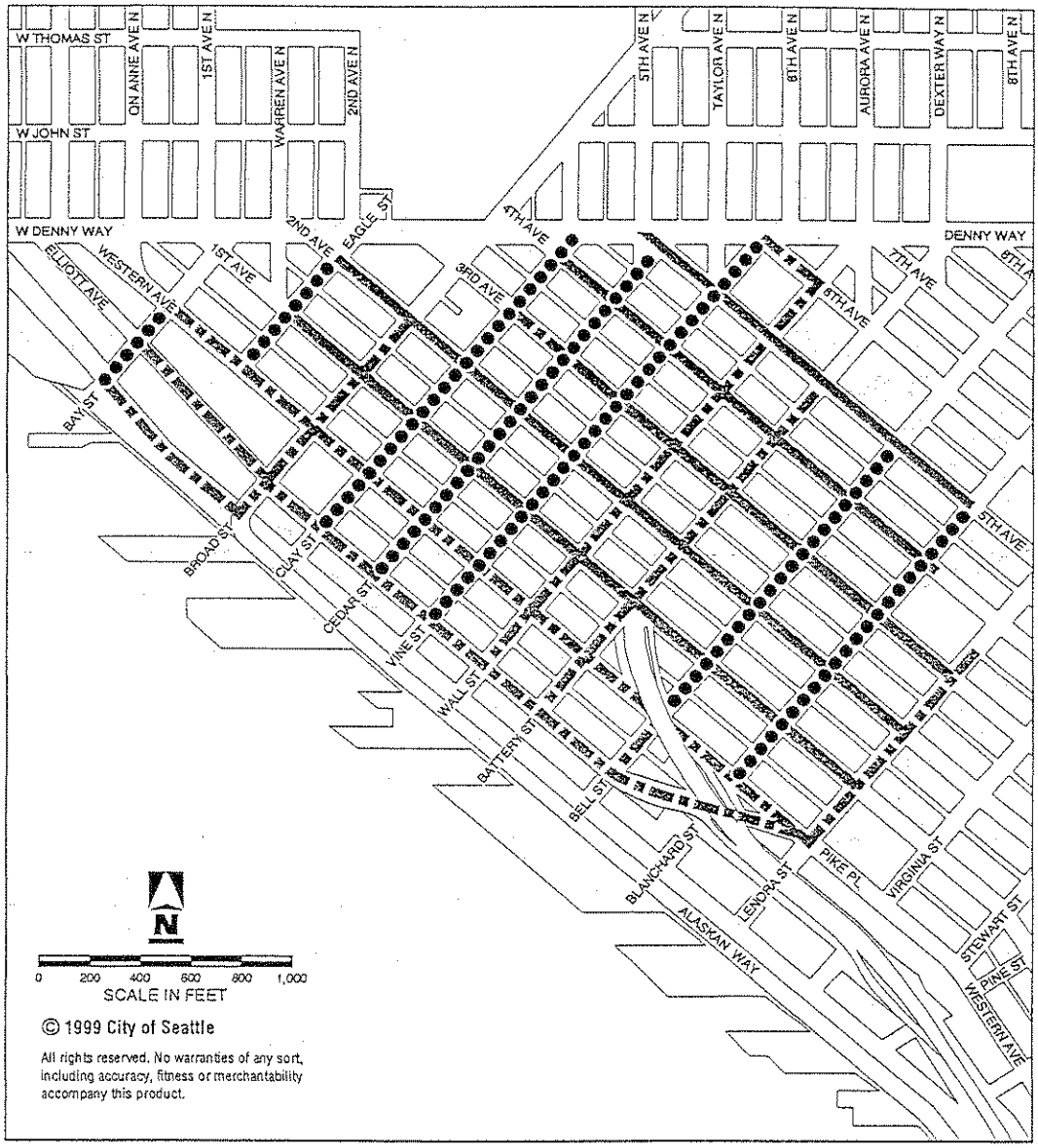


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Class I
Class II
Green Street

Pedestrian Street Classification

**Map VID**

Downtown
Mixed
Residential

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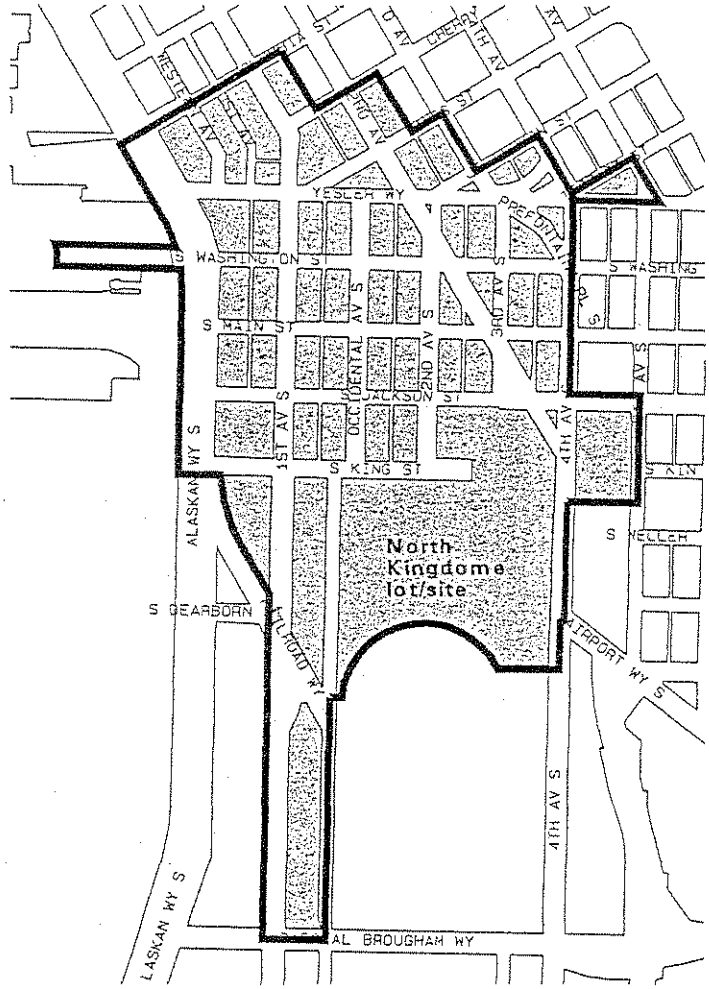


# Pioneer Square Preservation District

0 300 600
FEET

Map A
23.66.100
Pioneer Square
N

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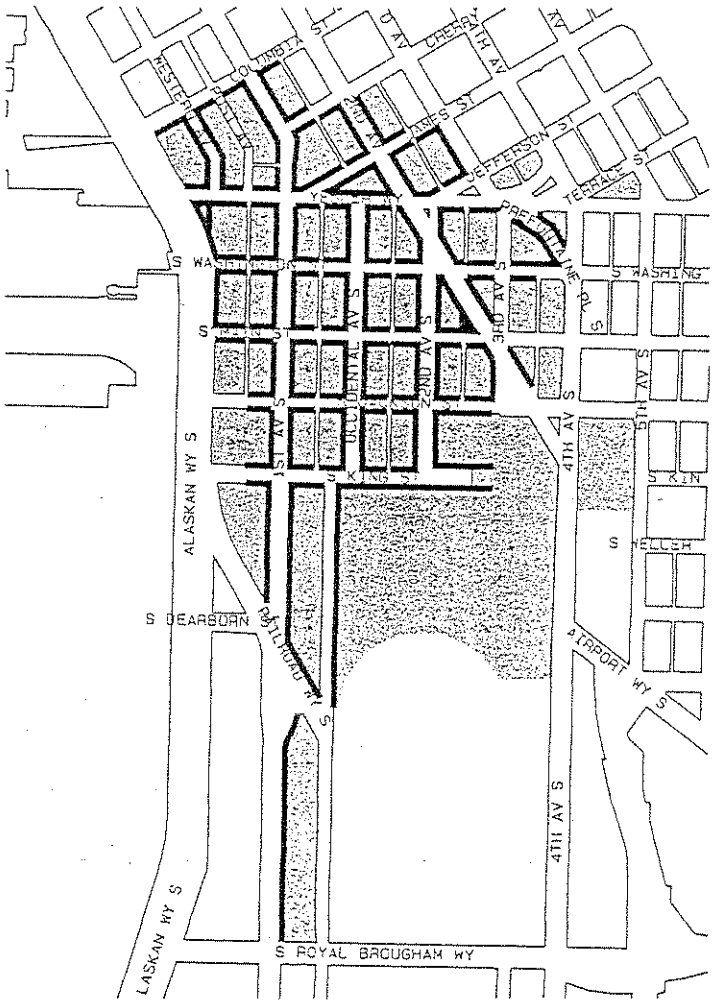


# Pioneer Square

Approval of street level uses required on lots with frontage on designated streets and alleys.

0 300 600

FEET

**Map B**
23.66.130
Pioneer Square

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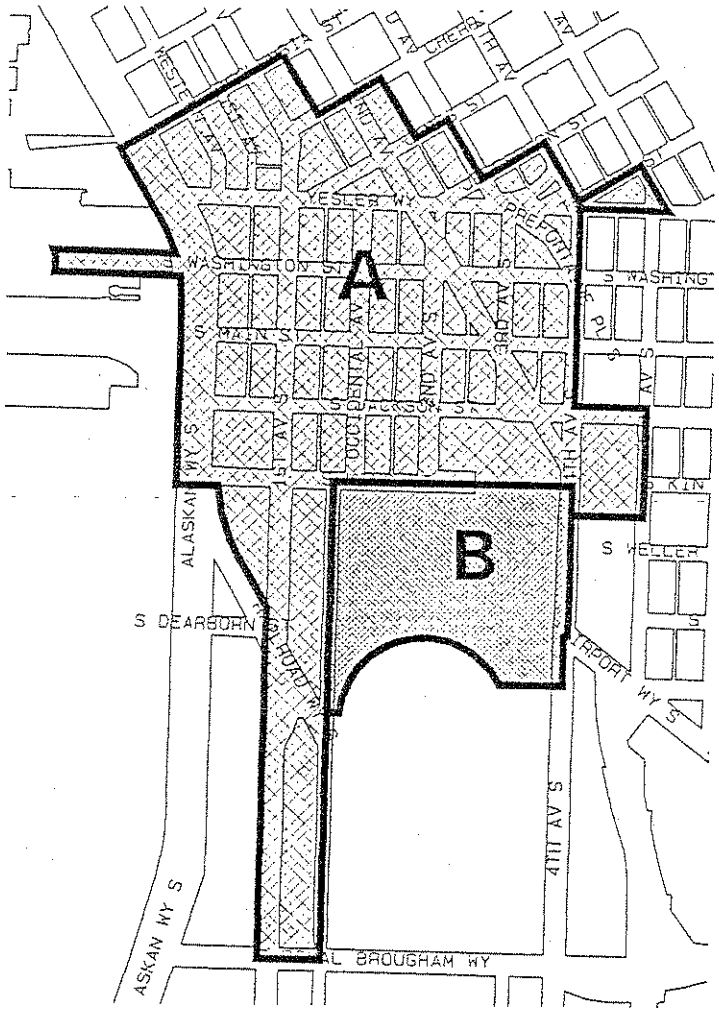


# Pioneer Square

Structure Setbacks

Subarea A  Subarea B

0 300 600

FEET

**Map C**

23.66.122 and .150

Pioneer Square

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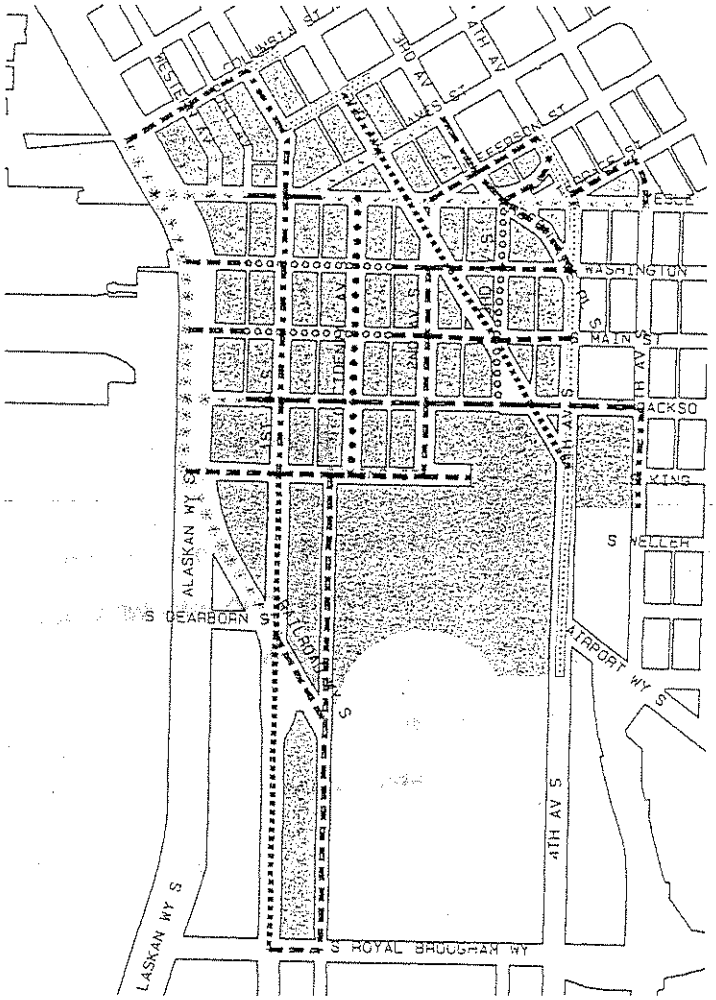


# Pioneer Square

Street Classifications

0 300 600

FEET

Class I Pedestrian/Minor Arterial
Class II Pedestrian/Principal Arterial
Class II Pedestrian/Minor Arterial
Green Street
Class I Pedestrian/Principal Transit Street
Class II Pedestrian/Principal Transit Street
Class I Pedestrian/Access Street
Class II Pedestrian/Access Street

Map D
23.66.170
Pioneer Square
N

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**From:** Mike Podowski
**To:** Joyce Kling, Margaret Carter
**Date:** 5/12/99 12:08pm
**Subject:** new title for intro today...

attached

CITY CLERK

**ORDINANCE _____**

**AN ORDINANCE** relating to land use and zoning, amending Sections: 3.20.320; 23.34.100; 23.34.114; 23.34.116; 23.49.035; 23.49.036; 23.49.046; 23.49.048; 23.49.050; 23.49.052; 23.49.066; 23.49.068; 23.49.070; 23.49.072; 23.49.096; 23.49.098; 23.49.100; 23.49.102; 23.49.122; 23.49.124; 23.49.126; 23.49.128; 23.49.148; 23.49.150; 23.49.152; 23.49.154; 23.49.180; 23.49.212; 23.49.240; 23.49.324; 23.66.100; 23.66.122; 23.66.124; 23.66.130; 23.66.140; 23.66.150; 23.66.170; and 23.84.024 of Titles 3 and 23 of the Seattle Municipal Code; and amending the Official Land Use Map to implement the Downtown Urban Center Neighborhood Plan.

CITY CLERK

# STATE OF WASHINGTON - KING COUNTY

106753
City of Seattle, City Clerk

—ss.

No. IN FULL ORDI

## Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 119484w/MAPS

was published on

06/17/99

The amount of the fee charged for the foregoing publication is the sum of $ , which amount has been paid in full.

Subscribed and sworn to before me on

06/17/99

Notary Public for the State of Washington, residing in Seattle