Ordinance No. 121874

Council Bill No. 115284

AN ORDINANCE relating to land use, amending Seattle Municipal Code Sections 23.49.011 and 23.49.014 to increase the amount of transferable development rights (TDR) available from a major performing arts facility that qualified for transfer prior to the effective date of Ordinance 120443 and to revise provisions for the use of such transferable development rights.

CF No.

Date Introduced: JUN 13 2005		
Date 1st Referred: JUN 13 2005	To: (committee) Urban Development & Planning	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: 8-1-05	Full Council Vote: 9-0	
Date Presented to Mayor: 8-2-05	Date Approved: 8/8/05	
Date Returned to City Clerk: 8/08/05	Date Published: Leg. 8/11/05	T.O. F.T. ✓
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Peter Steinbrueck
Councilmember

Committee Action:

3-0 PS. RC. JG

8-1-05 Passed

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

Law Department

Law Dept. Review | OMP Review | City Clerk Review | Electronic Copy Loaded | Indexed

ORDINANCE 121874

AN ORDINANCE relating to land use, amending Seattle Municipal Code Sections 23.49.011 and 23.49.014 to increase the amount of transferable development rights (TDR) available from a major performing arts facility that qualified for transfer prior to the effective date of Ordinance 120443 and to revise provisions for the use of such transferable development rights.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of SMC 23.49.011 of the Seattle Municipal Code (SMC), which section was last amended by Ordinance 121278, is amended as follows:

SMC 23.49.011 Floor area ratio.

A. General Standards.

1. The base and maximum floor area ratio (FAR) for each zone is provided in Chart 23.49.011 A.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to the provisions of this chapter.

a. In DOC1 and DOC2 zones the first one (1) FAR above the base FAR may be gained, at the applicant's option, by any combination of the following: providing one of the amenity features listed in Section 23.49.013, subject to the limits and conditions in that section; providing short-term parking meeting the basic standards in the Public Benefit Features Rule, where such parking is eligible pursuant to Map 1N; providing retail sales and service or entertainment uses as street-level uses meeting the requirements of Section 23.49.025, where such uses are eligible as indicated on Map 1N; or using development rights transferred from an open space TDR site or Landmark TDR site pursuant to Section 23.49.014. An applicant using the option allowed under this subsection A2a may achieve additional chargeable floor area consistent with subsections A2d through A2g of this section.

b. In the DMC zone chargeable floor area above the base FAR may be achieved, at the applicant's option, by qualifying for bonuses pursuant to Section 23.49.126, Downtown

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Mixed Commercial, ratios for public benefit features. Such option may be exercised only by election in writing by the applicant as part of the original application for a Master Use Permit, or within sixty (60) days of the effective date of Ordinance 120443, for the project that will use such bonus. An applicant making such election shall not be granted bonus floor area for the lot pursuant to Sections 23.49.012 or 23.49.013, but may use TDR consistent with Section 23.49.014. An applicant making such election thereby also elects to have the optional exemptions under subsection B3 of this section, and not those in subsection B1, apply in determining chargeable floor area.

c. On lots zoned DOC1 and DMC chargeable floor area above the base FAR may be achieved by using within-block TDR pursuant to Section 23.49.014, Transfer of development rights (TDR), and by meeting the requirements of subsections A2d through A2g of this section.

d. Except as provided in subsections A2a, A2b, and A2c of this section, additional chargeable floor area above the base FAR may be achieved only by qualifying for bonuses pursuant to Section((s)) 23.49.012 or 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or both, subject to the limits of this chapter and to any other applicable conditions and limitations.

e. In no event shall the use of bonuses or TDR be allowed to result in chargeable floor area in excess of the maximum as set forth in Chart A, except that a structure on a lot zoned both DOC1 and DMC may exceed the floor area ratio permitted in either zone, provided the chargeable floor area on the lot as a whole does not exceed the combined total permitted chargeable floor area.

f. Except as otherwise provided in this subsection A2f, not less than five (5) percent of all floor area above the base FAR to be gained on any lot, excluding any floor area gained under subsection A2a or A2c of this Section, shall be gained through the transfer of Landmark TDR, to the extent that Landmark TDR is available. Landmark TDR shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR for sale, at a price

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per square foot no greater than the total bonus contribution under Section 23.49.012 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in this section by purchases from private parties, by transfer from an eligible sending lot owned by the applicant, by purchase from the City, or by any combination of the foregoing. This subsection A2f does not apply to any lot in a DMR zone, or to any lot in a DMC zone for which an election has been made under subsection A2b of this section.

g. On any lot except a lot in a DMR zone or a lot in a DMC zone for which an election has been made under subsection A2b of this section, the total amount of chargeable floor area gained through bonuses under Section 23.49.012, together with any housing TDR used for the same project, shall equal seventy-five (75) percent of the amount, if any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of (i) the base FAR, as determined under this section and Section 23.49.032 if applicable, plus (ii) any chargeable floor area gained on the lot pursuant to subsection A2a or A2c of this section. ((~~The~~)) At least half of the remaining twenty-five (25) percent shall be gained by using TDR from a sending lot with a major performing arts facility, to the extent available. The balance of such 25 percent shall be gained through ((~~other~~)) bonuses under Section 23.49.013 or through ((~~other~~)) TDR other than housing TDR, or both, consistent with this chapter. TDR from a sending lot with a major performing arts facility shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering such TDR for sale, at a price per square foot not exceeding the prevailing market price for TDR other than housing TDR, as determined by the Director.

h. In order to gain chargeable floor area on any lot in a DMR zone, an applicant may (i) use any types of TDR eligible under this chapter in any proportions, or (ii) use bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for particular types of bonus under Section 23.49.013, or (iii) combine such TDR and bonuses in any proportions.

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i. Bonuses for street-level uses may be allowed only pursuant to subsection A2a or A2b of this section. Bonuses for short-term parking may be allowed only pursuant to subsection A2a of this section. The bonus ratio for street-level uses is three square feet of floor area granted per one square foot (3:1) of bonus feature. The bonus ratio for short-term parking is one (1) square foot of floor area granted per one (1) square foot (1:1) of bonus feature up to a maximum of two hundred (200) parking spaces for above grade parking and is two (2) square feet of floor area granted per one (1) square foot (2:1) of bonus feature for below grade parking up to a maximum of two hundred (200) parking spaces. Ratios and limits for the other features for which a bonus may be granted under subsection A2a are in Section 23.49.013.

* * *

Section 2. Subsections E and G of SMC 23.49.014, which section was most recently amended by Ordinance 120967, are amended as follows:

SMC 23.49.014 Transfer of development rights (TDR).

* * *

E. TDR Sales Before Base FAR Increases and Changes in Exemptions.

Except for transfers of TDR from a sending lot with a major performing arts facility, ((~~T~~))transfers of TDR from any lot from which a TDR transfer was made prior to the effective date of ((~~the o~~))Ordinance ((~~codified in this chapter~~)) 120443 are limited to the amount of TDR available from such lot immediately prior to such date.

* * *

G. TDR Satisfying Conditions to Transfer Under Prior Code.

1. If the conditions to transfer Landmark TDR, as in effect immediately prior to the effective date of Ordinance 120443, are satisfied on or before December 31, 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer as determined under the provisions of this Title in effect immediately prior to the effective date of Ordinance 120443. If the conditions to transfer ((~~of~~)) housing TDR ((~~or TDR from Major Performing Arts Facilities~~)) are satisfied prior to the effective date of Ordinance 120443 under the provisions of

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this Title then in effect, such TDR may be transferred from the sending lot in the amounts eligible for transfer immediately prior to that effective date. If the conditions to transfer TDR from a major performing arts facility are satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in effect, TDR may be transferred from the sending lot after that effective date, for use on any receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A, in an amount as determined under subsection B of this section, provided that the cumulative amount of TDR that may be transferred after June 1, 2005 from any sending lot based on the presence of a major performing arts facility is limited to 150,000 square feet.

2. For purposes of this subsection, conditions to transfer include, without limitations, the execution by the owner of the sending lot, and recording in the King County real property records, of any agreement required by the provisions of this Title or the Public Benefit Features Rule in effect immediately prior to the effective date of Ordinance 120443, but such conditions do not include any requirement for a master use permit application for a project intending to use TDR, or any action connected with a receiving lot. TDR transferable under this subsection G are eligible either for use consistent with the terms of Section 23.49.011 or for use by projects developed pursuant to permits issued under the provisions of this Title in effect prior to the effective date of Ordinance 120443. The use of TDR transferred under this subsection G on the receiving lot shall be subject only to those conditions and limits that apply for purposes of the master use permit decision for the project using the TDR.

* * *

Section 3. The City Council finds that prior to August 2001 the Benaroya Hall Music Center site satisfied all the conditions required for the transfer of TDR from a major performing arts facility, so that TDR from such site transferred after the effective date of Ordinance 120443 is eligible for use by downtown projects. This ordinance is intended to continue that eligibility and to modify provisions that prevented the transfer from that site of increased base floor area allowed in the DOC 1 zone by Ordinance 120443.

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Section 4. 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.

Section 5. 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 1st day of August, 2005, and signed by me in open session in authentication of its passage this 1st day of August, 2005.

Jan Drago

President _____ of the City Council

Approved by me this 8th day of August, 2005.

Gregory J. Nickels, Mayor

Filed by me this 11 day of Aug, 2005.

Judith E. Pippin

City Clerk

(Seal)

CITY CLERK

Form revised December 9, 2004

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Rebecca Herzfeld, 615-1674	Not Applicable

Legislation Title:
AN ORDINANCE relating to land use, amending Seattle Municipal Code Sections 23.49.011 and 23.49.014 to increase the amount of transferable development rights (TDR) available from a major performing arts facility that qualified for transfer prior to the effective date of Ordinance 120443 and to revise provisions for the use of such transferable development rights.

- **Summary of the Legislation:**

This bill would amend the Land Use Code to permit up to an additional 50,000 square feet of TDR to be transferred from the Benaroya Hall Music Center site, by modifying provisions that prevented the transfer from that site of increased base floor area allowed in the Downtown Office Core 1 (DOC 1) zone by Ordinance 120443. The bill also proposes code amendments that would provide that, when available, such Concert Hall TDR (CHTDR) must be included in the package of bonuses and TDR used by a developer to gain more than 1 FAR above the base. A companion bill is also proposed that would facilitate the sale of CHTDR by providing City Council preauthorization of individual transactions, and would allow the Executive to make CHTDR "available" within the meaning of this bill.

- **Background:**

In October 1995, the City executed, pursuant to Ordinance 117855, a Master Agreement with the Seattle Symphony Orchestra regarding the development and construction of a new City-owned downtown concert hall for primary use by the Symphony. In June 1996, pursuant to Ordinance 118112, an amendment to the Master Agreement was adopted, acknowledging expectations that $5,000,000 would be received from sale of TDR from the concert hall site, and that this amount would be needed to fully fund concert hall construction. It also gave the Symphony the right to obtain additional funds from the City in an amount equal to the difference between $5,000,000 and the proceeds received from TDR sales by July 31, 1998. B H Music Center (BHMC), a nonprofit organization, was recognized in September 1996 by Resolution 29438 as the entity responsible for the construction of the concert hall, and in September 1997, the City executed, pursuant to Ordinance 118732, a Lease and Concession agreement with BHMC. BHMC agreed to pay all debt service and other transaction costs borne by the City in making the $5,000,000 available.

In June 1998, the City executed, pursuant to Ordinance 119051, the Second Amendment to the Master Agreement, and a First Amendment to and Restatement of the Lease and Concession Agreement (hereinafter the "1998 Agreement"), both with BHMC. The 1998 Agreement stated that any proceeds of the 423,000 square feet of CHTDR then existing, above the amount required to repay the principal of bonds issued by the City to raise the $5 million, would first be used to repay BHMC for any payments it made to the City in reimbursement for interest on the bonds. Any amount beyond this would be split evenly between BHMC and the City, with the

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City's funds being devoted to additional maintenance and operation expenses for Benaroya Hall, above a base level for which the City is obligated to reimburse BHMC under the Agreement.

Over the next six years, the City issued bonds for the concert hall and sold CHTDR, in accordance with the 1998 Agreement. As of the end of 2004, the debt remaining is approximately $700,000. BHMC has paid the City approximately $500,000 to cover interest on the bonds since 1998. 100,000 square feet of CHTDR have not yet been sold.

In August, 2001, in Ordinance 120443, the City modified development regulations in downtown zones to provide, among other things, that in the principal Downtown commercial zones, for a project to achieve chargeable floor area exceeding the base Floor Area Ratio (FAR) by more than one FAR, a developer would use transferable development rights from housing, and/or bonuses for voluntary agreements to provide housing and child care, for 75 percent of such additional chargeable floor area (with certain exceptions). Ordinance 120443 also increased the base FAR in DOC1 zones by 1 FAR, but did not apply this increase to the TDRs available for sale from the Benaroya Hall site.

Ordinance 120443 removed major performing arts facilities such as Benaroya Hall as eligible sending sites for TDR. However, it allowed the use of remaining TDR, in the amount eligible prior to Ordinance 120443, from a facility that had already satisfied conditions for transfer (as Benaroya Hall had done).

At the time Ordinance 120443 was passed, in July 2001, it was considered likely that projects being developed under prior Code would absorb the remaining CHTDR, but this did not transpire, in part due to market conditions in the aftermath of the 9/11 attacks. As a result the amount of interest paid by BHMC has increased, meaning more TDR proceeds than anticipated would be required to retire the $5 million in bonds and reimburse BHMC in full for interest they have paid according to the 1998 Agreement.

The purpose of the proposed legislation is to address this situation by permitting the Benaroya Hall site to take partial advantage of the base FAR increase adopted in Ordinance 120443 and therefore increasing the amount of CHTDR that can be sold. The bill also proposes that, when available, CHTDR must be included in the package of bonuses and TDR used by a developer to gain more than 1 FAR above the base. A companion bill is also proposed that would facilitate the sale of CHTDR by providing City Council preauthorization of individual transactions, and would allow the Executive to make CHTDR "available" within the meaning of this bill.

- *Please check one of the following:*

____ **This legislation does not have any financial implications.** (*Stop here and delete the remainder of this document prior to saving and printing.)*

X **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

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Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2005 Appropriation	2006 Anticipated Appropriation
TOTAL				

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Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	**Department**	**Revenue Source**	**2005 Revenue**	**Additional Revenue—Timing Unknown**
Development Rights Subfund 00179		CHTDR Sales	$600,000	$1,650,000
TOTAL			**$600,000**	**$1,650,000**

The figures above are estimated, based on the following assumptions:

- The sale price for CHTDR is $15 per square foot, based on a sale in July 2004 (note that this assumption does not include adjustments for inflation or market fluctuations).
- 40,000 square feet of CHTDR will be sold in 2005, based on information from the Office of Housing in their work with downtown project developers. The remaining TDR would be sold in future years.

If these assumptions are correct, all but $100,000 of the bond debt would be retired in 2005. In future years, the remaining debt would be paid and BHMC reimbursed for interest paid on the bonds. An additional $1,050,000 would eventually become available from TDR sales. Of this amount, $300,000 would be split between the City and BHMC according to the 1998 Agreement. $150,000 would be remitted to BHMC, and $150,000 would be City revenue to be devoted to reimbursing BHMC for additional maintenance and operation expenses for Benaroya Hall. This would be in addition to the approximately $450,000 budgeted annually by the City for BHMC.

The final $750,000 either would be split in the same way, or would be treated as other "Special Development Revenue" according to the 1998 Agreement and remitted to BHMC to reimburse construction costs. Companion legislation to this bill proposes changes to the 1998 Agreement that would clarify how these funds would be disbursed. The proposed companion bill, which is the subject of a separate fiscal note, proposes that the $750,000 be treated as other "Special Development Revenue" and remitted to BHMC.

What is the financial cost of not implementing the legislation?
None.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

Not Applicable.

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- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

Yes, a public hearing is required and is planned for July 2005.

- **Other Issues** (*including long-term implications of the legislation*):

Not Applicable.

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CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

188978 No.
CITY OF SEATTLE,CLERKS OFFICE

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:121874 ORDINANCE

was published on

08/12/05

The amount of the fee charged for the foregoing publication is the sum of $ 357.75, which amount has been paid in full.

Subscribed and sworn to before me on

08/12/05

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

City of Seattle

ORDINANCE 121874

AN ORDINANCE relating to land use, amending Seattle Municipal Code Sections 23.49.011 and 23.49.014 to increase the amount of transferable development rights (TDR) available from a major performing arts facility that qualified for transfer prior to the effective date of Ordinance 120443 and to revise provisions for the use of such transferable development rights.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of SMC 23.49.011 of the Seattle Municipal Code (SMC), which section was last amended by Ordinance 121278, is amended as follows:

SMC 23.49.011 Floor area ratio.

A. General Standards.

1. The base and maximum floor area ratio (FAR) for each zone is provided in Chart 23.49.011 A.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to the provisions of this chapter.

a. In DOC1 and DOC2 zones the first one (1) FAR above the base FAR may be gained, at the applicant's option, by any combination of the following: providing one of the amenity features listed in Section 23.49.013, subject to the limits and conditions in that section; providing short-term parking meeting the basic standards in the Public Benefit Features Rule, where such parking is eligible pursuant to Map 1N; providing retail sales and service or entertainment uses as street-level uses meeting the requirements of Section 23.49.025, where such uses are eligible as indicated on Map 1N; or using development rights transferred from an open space TDR site or Landmark TDR site pursuant to Section 23.49.014. An applicant using the option allowed under this subsection A2a may achieve additional chargeable floor area consistent with subsections A2d through A2g of this section.

b. In the DMC zone chargeable floor area above the base FAR may be achieved, at the applicant's option, by qualifying for bonuses pursuant to Section 23.49.126, Downtown Mixed Commercial, ratios for public benefit features. Such option may be exercised only by election in writing by the applicant as part of the original application for a Master Use Permit, or within sixty (60) days of the effective date of Ordinance 120443, for the project that will use such bonus. An applicant making such election shall not be granted bonus floor area for the lot pursuant to Sections 23.49.012 or 23.49.013, but may use TDR consistent with Section 23.49.014. An applicant making such election thereby also elects to have the optional exemptions under subsection B3 of this section, and not those in subsection B1, apply in determining chargeable floor area.

c. On lots zoned DOC1 and DMC chargeable floor area above the base FAR may be achieved by using within-block TDR pursuant to Section 23.49.014, Transfer of development rights (TDR), and by meeting the requirements of subsections A2d through A2g of this section.

d. Except as provided in subsections A2a, A2b, and A2c of this section, additional chargeable floor area above the base FAR may be achieved only by qualifying for bonuses pursuant to Section((s)) 23.49.012 or 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or both, subject to the limits of this chapter and to any other applicable conditions and limitations.

State of Washington, King County

e. In no event shall the use of bonuses or TDR be allowed to result in chargeable floor area in excess of the maximum as set forth in Chart A, except that a structure on a lot zoned both DOC1 and DMC may exceed the floor area ratio permitted in either zone, provided the chargeable floor area on the lot as a whole does not exceed the combined total permitted chargeable floor area.

f. Except as otherwise provided in this subsection A2f, not less than five (5) percent of all floor area above the base FAR to be gained on any lot, excluding any floor area gained under subsection A2a or A2c of this Section, shall be gained through the transfer of Landmark TDR, to the extent that Landmark TDR is available. Landmark TDR shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR for sale, at a price per square foot no greater than the total bonus contribution under Section 23.49.012 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in this section by purchases from private parties, by transfer from an eligible sending lot owned by the applicant, by purchase from the City, or by any combination of the foregoing. This subsection A2f does not apply to any lot in a DMR zone, or to any lot in a DMC zone for which an election has been made under subsection A2b of this section.

g. On any lot except a lot in a DMR zone or a lot in a DMC zone for which an election has been made under subsection A2b of this section, the total amount of chargeable floor area gained through bonuses under Section 23.49.012, together with any housing TDR used for the same project, shall equal seventy-five (75) percent of the amount, if any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of (i) the base FAR, as determined under this section and Section 23.49.032 if applicable, plus (ii) any chargeable floor area gained on the lot pursuant to subsection A2a or A2c of this section. ((~~The~~)) At least half of the remaining twenty-five (25) percent shall be gained by using TDR from a sending lot with a major performing arts facility, to the extent available. The balance of such 25 percent shall be gained through ((~~other~~)) bonuses under Section 23.49.013 or through ((~~other~~)) TDR other than housing TDR, or both, consistent with this chapter. TDR from a sending lot with a major performing arts facility shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering such TDR for sale, at a price per square foot not exceeding the prevailing market price for TDR other than housing TDR, as determined by the Director.

h. In order to gain chargeable floor area on any lot in a DMR zone, an applicant may (i) use any types of TDR eligible under this chapter in any proportions, or (ii) use bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for particular types of bonus under Section 23.49.013, or (iii) combine such TDR and bonuses in any proportions.

i. Bonuses for street-level uses may be allowed only pursuant to subsection A2a or A2b of this section. Bonuses for short-term parking may be allowed only pursuant to subsection A2a of this section. The bonus ratio for street-level uses is three square feet of floor area granted per one square foot (3:1) of bonus feature. The bonus ratio for short-term parking is one (1) square foot of floor area granted per one (1) square foot (1:1) of bonus feature up to a maximum of two hundred (200) parking spaces for above grade parking and is two (2) square feet of floor area granted per one (1) square foot (2:1) of bonus feature for below grade parking up to a maximum of two hundred (200) parking spaces. Ratios and limits for the other features for which a bonus may be granted under subsection A2a are in Section 23.49.013.

* * *

Section 2. Subsections E and G of SMC 23.49.014, which section was most recently amended by Ordinance 120967, are amended as follows:

SMC 23.49.014 Transfer of development rights (TDR).

* * *

E. TDR Sales Before Base FAR Increases and Changes in Exemptions.

Except for transfers of TDR from a sending lot with a major performing arts facility, ((~~T~~))transfers of TDR from any lot from which a TDR transfer was made prior to the effective date of ((~~the o~~)) Ordinance ((~~codified in this chapter~~)) 120443 are limited to the amount of TDR available from such lot immediately prior to such date.

* * *

G. TDR Satisfying Conditions to Transfer Under Prior Code.

1. If the conditions to transfer Landmark TDR, as in effect immediately prior to the effective date of Ordinance 120443, are satisfied on or before December 31, 2001, such TDR may be transferred from the sending lot in the amounts eligible for transfer as determined under the provisions of this Title in effect immediately prior to the effective date of Ordinance 120443. If the conditions to transfer ((~~of~~)) housing TDR ((~~or TDR from Major Performing Arts Facilities~~)) are satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in effect, such TDR may be transferred from the sending lot in the amounts eligible for transfer immediately prior to that effective date. If the conditions to transfer TDR from a major performing arts facility are satisfied prior to the effective date of Ordinance 120443 under the provisions of this Title then in effect, TDR may be transferred from the sending lot after that effective date, for use on any receiving lots in zones where housing TDR may be used according to Chart 23.49.014 A, in an amount as determined under subsection B of this section, provided that the cumulative amount of TDR that may be transferred after June 1, 2005 from any sending lot based on the presence of a major performing arts facility is limited to 150,000 square feet.

2. For purposes of this subsection, conditions to transfer include, without limitations, the execution by the owner of the sending lot, and recording in the King County real property records, of any agreement required by the provisions of this Title or the Public Benefit Features Rule in effect immediately prior to the effective date of Ordinance 120443, but such conditions do not include any requirement for a master use permit application for a project intending to use TDR, or any action connected with a receiving lot. TDR transferable under this subsection G are eligible either for use consistent with the terms of Section 23.49.011 or for use by projects developed pursuant to permits issued under the provisions of this Title in effect prior to the effective date of Ordinance 120443. The use of TDR transferred under this subsection G on the receiving lot shall be subject only to those conditions and limits that apply for purposes of the master use permit decision for the project using the TDR.

* * *

Section 3. The City Council finds that prior to August 2001 the Benaroya Hall Music Center site satisfied all the conditions required for the transfer of TDR from a major performing arts facility, so that TDR from such site transferred after the effective date of Ordinance 120443 is eligible for use by downtown projects. This ordinance is intended to continue that eligibility and to modify provisions that prevented the transfer from that site of increased base floor area allowed in the DOC 1 zone by Ordinance 120443.

Section 4. 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.

Section 5. 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 1st day of August, 2005, and signed by me in open session in authentication of its passage this 1st day of August, 2005.

Jan Drago

President of the City Council

Approved by me this 8th day of August, 2005.

Gregory J. Nickels, Mayor

Filed by me this 8th day of August, 2005.

(Seal) Judith Pippin

City Clerk

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