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CITY OF SEATTLE
ORDINANCE _____

COUNCIL BILL 117601

AN ORDINANCE relating to land use and zoning, amending Sections 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the current Seattle Land Use Code (SMC, Title 23) of the Seattle Municipal Code, to correct omissions from previous amendments and facilitate the use of incentive provisions within the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.49.011 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.49.011 Floor area ratio

A. General ~~((S))standards((-))~~

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

~~((Table A for 23.49.011
Base and Maximum Floor Area Ratios (FARs)))~~

Table A for 23.49.011 Base and Maximum Area Ratios (FARs)		
Zone Designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	20
Downtown Office Core 2 (DOC2)	5	14
Downtown Retail Core (DRC)	3	5
Downtown Mixed Commercial (DMC)	4 in DMC 65 4.5 in DMC 85 5 in DMC 125, DMC 160, DMC 240/290-400, and DMC 340/290-400 3 in DMC 85/65-150	4 in DMC 65 4.5 in DMC 85 7 in DMC 125, DMC 160, and DMC 240/290-400 10 in DMC 340/290-400 5 in DMC 85/65- 150

1	Downtown Mixed Residential/Residential (DMR/R)	1 in DMR/R 85/65 1 in DMR/R 125/65 1 in DMR/R 240/65	1 in DMR/R 85/65 2 in DMR/R 125/65 2 in DMR/R 240/65
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3	Downtown Mixed Residential/Commercial (DMR/C)	1 in DMR/C 85/65 1 in DMR/C 125/65 2 in DMR/C 240/125 2.5 in DMR/C 65/65-85 2.5 in DMR/C 65/65-150	4 in DMR/C 85/65 4 in DMR/C 125/65 5 in DMR/C 240/125 4 in DMR/C 65/65-85 4 in DMR/C 65/65-150
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5	Pioneer Square Mixed (PSM)	N.A.	N.A.
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7	International District Mixed (IDM)	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150	3, except as stated below* 6 for hotels** in IDM 75-85 and IDM 75/85-150 6 in IDM 150/85-150
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9	International District Residential (IDR)	1	2 if 50% or more of the total gross floor area on the lot is in residential use
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11	International District Residential/Commercial (IDR/C)	3, except hotels 6 for hotels**	3, except hotels 6 for hotels**
12			
13	Downtown Harborfront 1 (DH1)	N.A.	N.A.
14			
15	Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR
16	Pike Market Mixed (PMM)	7	7
17	Footnotes: N.A. = Not Applicable.		
18	* In the IDM 150/85-150 zone, hotel uses are subject to the base FAR of 3 FAR.		
19	** Hotel use may be combined with up to 3 FAR of other chargeable floor area, up to a total of 6 FAR.		

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

a. In DOC1, DOC2, and DMC zones that are located outside of South Downtown, if chargeable floor area above the base FAR is allowed on a lot for development that includes a new structure, the first increment of chargeable floor area above the base FAR, shown for each zone in Table B for 23.49.011, shall be gained by making a commitment satisfactory to the Director that the proposed development will earn a LEED Silver rating or meet a substantially equivalent standard approved by the Director as a Type I decision. In these zones

1 outside of South Downtown, no chargeable floor area above the base FAR is allowed for a
2 project that includes chargeable floor area in a new structure unless the applicant makes such a
3 commitment. If such a commitment is made, Section 23.49.020 applies. This subsection
4 23.49.011.A.2.a shall expire on May 12, 2011.

5 ((Table B for 23.49.011))

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Table B for 23.49.011	
Zone	First increment of FAR above the base FAR achieved through LEED Silver Rating
All DOC1 zones	1.0
All DOC2 zones	0.75
DMC 340/290-400	0.50
DMC 125, DMC 160, DMC 240/290-400	0.25

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14 b. In DOC1, DOC2, DH2, and DMC zones outside of South Downtown,
15 additional chargeable floor area above the first increment of FAR that exceeds the base FAR
16 may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or
17 Section 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or
18 both, except as otherwise expressly provided in this subsection 23.49.011.A.2. After the
19 expiration of subsection 23.49.011.A.2.a, the first increment of floor area that exceeds the base
20 FAR shall be zero.

21 * * *

22 B. Exemptions and ~~(D)~~deductions from FAR ~~(C)~~calculations~~(-)~~

23 1. The following are not included in chargeable floor area, except as specified
24 below in this Section 23.49.011:

25 a. Retail sales and service uses and entertainment uses in a DRC zone, up
26 to a maximum FAR of two for all such uses combined;

1 A. An applicant may achieve a portion of the chargeable floor area to be established in
2 addition to base FAR through bonuses for amenities, subject to the limits in this chapter.

3 Amenities for which bonuses may be allowed are limited to:

4 1. Public open space amenities, including hillside terraces on sites shown
5 as eligible for bonuses on Map 1J, urban plazas in DOC1, DOC2 and DMC
6 340/290-400 zones, parcel parks in DOC1, DOC2, DMC, DMR, DH2, and IDM zones, public
7 atria in DOC1, DOC2, DMC 340/290-400, and DMC 85/65-150 zones, green street
8 improvements and green street setbacks on designated green streets;

9 2. Hillclimb assists or shopping corridors on sites shown as eligible for these
10 respective bonuses on Map 1J;

11 3. Human services uses as follows:

- 12 a. Information and referral for support services;
- 13 b. Health clinics;
- 14 c. Mental health counseling services;
- 15 d. Substance abuse prevention and treatment services;
- 16 e. Consumer credit counseling;
- 17 f. Day care services for adults;
- 18 g. Jobs skills training services;

19 4. Public restrooms;

20 5. For projects in a DOC1, DOC2, or DMC 340/290-400 zone, rehabilitation and
21 preservation of Landmark performing arts theaters, provided that the following conditions are
22 met:

23 a. the theater contains space that was designed for use primarily as, or is
24 suitable for use as, a performing arts theater;

25 b. the theater is located in a DOC1, DOC2, DRC, or DMC zone;

26 c. the theater is a designated Landmark pursuant to Chapter 25.12;

1 d. the theater is subject to an ordinance establishing an incentive and
2 controls, or the owner of the theater executes, prior to the approval of a floor area bonus under
3 any agreement with respect to such theater, an incentives and controls agreement approved by
4 the City Landmarks Preservation Board;

5 e. the theater has, or will have upon completion of a proposed plan ~~((e))~~ of
6 rehabilitation, a minimum floor area devoted to performing arts theater space and accessory uses
7 of at least 20,000 square feet; and

8 f. The theater will be available, for the duration of any commitment made
9 to qualify for a floor area bonus, for live theater performances no fewer than 180 days per year;
10 and

11 6. Transit station access for fixed rail transit facilities.

12 B. Standards for ~~((A))~~ amenities

13 1. Location of ~~((A))~~ amenities. Amenities provided by the applicant by
14 performance shall be located on the lot using the bonus, except as follows:

15 a. Green street improvements may be located within an abutting right-of-
16 way subject to applicable Director's rules.

17 b. An open space amenity, other than green street improvements, may be
18 on a lot other than the lot using the bonus, provided that it is within a Downtown zone and all of
19 the following conditions are satisfied:

20 1) The open space must be open to the general public without
21 charge, must meet the eligibility conditions of the Downtown Amenity Standards, and must be
22 one of the open space features cited in subsection 23.49.013.A.1.

23 2) The open space must be within ¼ mile of the lot using the
24 bonus, except as may be permitted pursuant to subsection 23.49.013.B.1.b.4.

25 3) The open space must have a minimum contiguous area of 5,000
26 square feet, except as may be permitted pursuant to subsection 23.49.013.B.1.b.4.

1 4) Departures from standards for the minimum size of off-site open
2 space and maximum distance from the project may be allowed by the Director as a Type I
3 decision if the Director determines that if such departures are approved, the proposed open space
4 will meet the additional need for open space caused by the project, and improve public access to
5 the open space compared to provision of the open space on-site.

6 5) The owner of any lot on which off-site open space is provided to
7 meet the requirements of this Section 23.49.013 shall execute and record an easement or other
8 instrument in a form acceptable to the Director assuring compliance with the requirements of this
9 Section 23.49.013, including applicable conditions of the Downtown Amenity Standards.

10 c. Public restrooms shall be on a ground floor; shall satisfy all codes and
11 accessibility standards; shall be open to the general public during hours that the structure is open
12 to the public, although access may be monitored by a person located at the restroom facility;
13 shall be maintained by the owner of the structure for the life of the structure that includes the
14 bonused space; and shall be designated by signs sufficient so that they are readily located by
15 pedestrians on an abutting street or public open space. The Director is authorized to establish
16 standards for the design, construction, operation and maintenance of public restrooms qualifying
17 for a bonus, consistent with the intent of this subsection 23.49.013.B.1.c to encourage the
18 provision of accessible, clean, safe and environmentally sound facilities.

19 2. Options for ~~(P)~~provision of ~~(A)~~amenities~~(-)~~

20 a. Amenities must be provided by performance except as expressly
21 permitted in this Section 23.49.013. The Director may accept a cash payment for green street
22 improvements and a related voluntary agreement from the applicant, subject to this Section
23 23.49.013, the Downtown Amenity Standards and the Green Street Director's Rule, DR 11-2007,
24 if the Director determines that improvement of a green street abutting or in the vicinity of the lot
25 within a reasonable time is feasible. The cash payment must be in an amount sufficient to
26 improve fully 1 square foot of green street space for each 5 square feet of bonus floor area
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1 allowed for such payment. The cash payment shall be maintained in a restricted account and
2 shall be used to improve a green street abutting or in the vicinity of the lot.

3 b. Rehabilitation and preservation of a Landmark performing arts theater
4 may consist of financial assistance provided by the applicant for rehabilitation work on a
5 Landmark performing arts theater, or for retirement of the cost of improvements made after
6 February 5, 1993, if:

7 1) The assistance is provided pursuant to a linkage agreement
8 between the applicant and the owner of the Landmark performing arts theater satisfactory to the
9 Director, in which such owner agrees to use such financial assistance to complete such
10 rehabilitation and agrees that the applicant is entitled to all or a portion of the bonus floor area
11 that may be allowed therefore;

12 2) The owner of the Landmark performing arts theater executes
13 and records covenants enforceable by the City, agreeing to maintain the structure and the
14 performing arts theater use, consistent with the Downtown Amenity Standards; and

15 3) Prior to the issuance of any building permit after the first
16 building permit for the project using the bonus, and in any event before any permit for any
17 construction activity other than excavation and shoring issued for that project, unless the
18 rehabilitation work has then been completed, the applicant posts security for completion of that
19 work, consistent with the Downtown Amenity Standards.

20 3. Ratios and limits((-))

21 a. Amenities may be used to gain floor area according to the applicable
22 ratios, and subject to the limits in Section 23.49.011 and in Table A for 23.49.013.

((Table A for 23.49.013 Downtown Amenities))

Table A for 23.49.013 Downtown Amenities									
Amenity	Zone Location of Lots Eligible to Use Bonus							Bonus Ratio	Maximum square feet (SF) of floor area eligible for a bonus or maximum floor area gain
	DOC1	DOC2	DMC 340/290- 400	DH2,DMC 125, DMC 160, DMC 85/65-150, and DMC 240/290- 400	DRC	DMR	IDM		
Hillside Terrace	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49							5:1	6,000 SF
Urban Plaza	X	X	X					5:1	15,000 SF
Commercial Parcel Park	X	X	X	X			X	5:1	7,000 SF
Residential Parcel Park			X	X		X	X	5:1	12,000 SF
Green Street Parcel Park	Eligible for bonus only on lots abutting a designated green street							5:1	7,000 SF
Public Atrium	X	X	X					5:1	5,500 SF
Green Street Improvement	Eligible for bonus only on lots abutting a designated green street							5:1	No limit
Green Street Setback	Eligible for bonus only on lots abutting a designated green street that are not subject to property line street wall requirement							1:1	10 times the length of lot's green street frontage
Hillclimb Assist	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49							Not applicable	Maximum gain of 0.5 FAR
Shopping Corridor	Only eligible for bonus at locations specified on Map 1J of Chapter 23.49							5:1	7,200 SF
Transit Station Access	X	X	X	X	X	X		Not Applicable	Maximum gain of 1.0 FAR

Table A for 23.49.013 Downtown Amenities									
Amenity	Zone Location of Lots Eligible to Use Bonus							Bonus Ratio	Maximum square feet (SF) of floor area eligible for a bonus or maximum floor area gain
Public Restroom	X	X	X	X	X	X		7:1	No limit
Human Services	X	X	X	X	X	X		7:1	10,000 SF
Preservation of Landmark Theater	X	X	X					Variable; maximum of 12:1	Maximum gain of 1.0 FAR

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Section 3. Section 23.49.014 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

23.49.014 Transfer of development rights

A. General ((S))standards((-))

1. The following types of TDR may be transferred to the extent permitted in Table A for 23.49.014, subject to the limits and conditions in this Chapter 23.49:

- a. Housing TDR;
- b. DMC housing TDR;
- c. Landmark housing TDR;
- d. Landmark TDR;
- e. Open space TDR; and
- f. South Downtown Historic TDR.

2. In addition to transfers permitted under subsection 23.49.014.A.1, TDR may be transferred from any lot to another lot on the same block, as within-block TDR, to the extent

1 permitted in Table A for 23.49.014, subject to the limits and conditions in this ((e))Chapter
2 23.49.

3 3. A lot's eligibility to be either a sending or receiving lot is regulated by Table A
4 for 23.49.014.

5 4. Except as expressly permitted pursuant to this Chapter 23.49, development
6 rights or potential floor area may not be transferred from one lot to another.

7 5. No permit after the first building permit, and in any event, no permit for any
8 construction activity other than excavation and shoring or for occupancy of existing floor area by
9 any use based upon TDR, will be issued for development that includes TDR until the applicant's
10 possession of TDR is demonstrated according to rules promulgated by the Director to implement
11 this ((s))Section 23.49.014.

((Table A for 23.49.014))

Table A for 23.49.014

Zones ¹	TDR Transferable Within-block	Types of TDR Transferable Within or Between Blocks				
	Transfer from any lot within the same Downtown block	Housing TDR	DMC Housing TDR	Landmark TDR and Landmark Housing TDR	Open Space TDR	South Downtown Historic TDR
DOC1 and DOC2	S, R	S, R	X	S, R	S, R	R
DRC	S, R ²	S, R ²	X	S, R ²	S, R ²	R
DMC zones with maximum 10 FAR	S, R	S, R	S	S, R	S, R	R
DMC zones with maximum 7 FAR	S ³	S, R	S, R	S, R	S, R	R
DMC 85' and DH2	X	S, R	X	S, R	S, R	R
DMC 65' and DMC 85/65-150	X	S	X	S	S	R
DMR	X	S, R ⁴	X	S, R ⁴	S, R ⁴	R ⁴
IDR	X	S	X	X	S	S
IDR/C	X	S	X	X	S, R ⁵	S
IDM	X	S, R	X	X	S, R ⁵	S, R

Table A for 23.49.014

Zones ¹	TDR Transferable Within-block	Types of TDR Transferable Within or Between Blocks				
	Transfer from any lot within the same Downtown block	Housing TDR	DMC Housing TDR	Landmark TDR and Landmark Housing TDR	Open Space TDR	South Downtown Historic TDR
PSM	X	S	X	X	S ⁵	S, R

S = Eligible sending lot. R = Eligible receiving lot. X = Not permitted.

NOTES

¹ Development rights may not be transferred to or from lots in the ~~((following zones:))~~ PMM(~~(;))~~ or DH1 ~~((or DH2))~~ zones.

² Transfers to lots in a DRC zone are permitted only from lots that also are zoned DRC.

³ Transfers are permitted only from lots zoned DMC to lots zoned DOC1.

⁴ Transfers to lots in a DMR zone are permitted only from lots that also are zoned DMR except that transfer of TDR to a lot in a DMR zone located in South Downtown is permitted from any eligible sending lot in South Downtown.

⁵ Transfers of open space TDR to lots in South Downtown are permitted only from lots that are also located in South Downtown.

* * *

Section 4. Subsections B and E of Section 23.49.181 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, are amended as follows:

23.49.181 Bonus floor area for affordable housing in the PSM 85-120 zone

* * *

B. Permitting Conditions

1. Master Use Permit. The Master Use Permit application to establish any bonus floor area under this Section 23.49.181 shall include a calculation of the total amount of bonus floor area sought and shall identify the quantity and type of affordable housing to be provided to satisfy the conditions to such bonus floor area. The application shall include the proposed location of the affordable housing. If any of the affordable housing is proposed to be within the

1 area defined on Map A for Section 23.49.180 where additional height is permitted, the
2 application shall include the location of the affordable housing within that area and its
3 distribution within the proposed building(s). If any of the affordable housing is not to be
4 provided within the area defined on Map A for Section 23.49.180 where additional height is
5 permitted, the application shall include the address, legal description, dimensions and ownership
6 of the other lot(s), and the approval of the Director of Housing for the affordable housing to be
7 provided on the other lot(s), pursuant to subsection 23.49.181.E.3. The Director shall, at the time
8 of issuance of any Master Use Permit decision approving any bonus floor area, issue a Type I
9 decision as to the amount of bonus floor area to be allowed and the conditions to such bonus
10 floor area. A declaration signed by the applicant and any other owners of the lot(s) on which the
11 project using the bonus floor area is to be built and any other owners, or persons with control, of
12 the lot(s) where the affordable housing will be located, on a form approved by the Director,
13 specifying the amount of bonus floor area, the legal descriptions of the lot where the bonus floor
14 area will be used and each other lot where affordable housing will be located, and the conditions,
15 must be executed and recorded as a condition to issuance of the Master Use Permit for a
16 development to include bonus floor area. If a change in the total bonus floor area to be
17 developed, or a change in the location of the affordable housing approved by the Director of
18 Housing pursuant to subsection 23.49.181.E.3, results in adjustment to one or more conditions,
19 the declaration and any related conditions of the Master Use Permit may be amended, with the
20 written approval of the Director, as a Type I decision. In requesting amendment of a declaration
21 under this subsection 23.49.181.B and any related conditions of the Master Use Permit, the
22 applicant may elect, consistent with subsection 23.76.026.~~((F))~~G, that the provisions of this
23 Section 23.49.181 as in effect on the date of the Director's action on that request, rather than any
24 earlier date applicable under Section 23.76.026, apply for purposes of the amendment to the
25 Master Use Permit.

26 2. First Building Permit.
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1 a. Except as otherwise provided in this subsection 23.49.181.B.2.a,
2 ~~((P))~~ prior to issuance, and as a condition to issuance, of the first building permit for a structure
3 using bonus floor area, the owner of each lot that will include the affordable housing for that
4 bonus floor area shall execute and record an agreement in a form acceptable to the Director of
5 Housing that shall commit to provide that affordable housing, and shall run with the land to bind
6 successors. The applicant shall submit an acceptable agreement, fully signed, as part of the
7 building permit application, and if there is any change in ownership or if the location at which
8 any affordable housing is to be provided is modified pursuant to subsection 23.49.181.B.1 prior
9 to the issuance of the building permit, the new owners or any other owners of the lot(s) where the
10 affordable housing is to be provided, or both, as applicable, shall execute the agreement or an
11 addendum, substitute or separate agreement, acceptable to the Director of Housing. This
12 subsection 23.49.181.B.2.a does not apply with respect to bonus floor area that is based on an
13 amount of affordable housing for which a certification by the Director of Housing is delivered
14 pursuant to subsection 23.49.181.B.3.

15 b. If the affordable housing is to be located on any lot(s) not owned by the
16 applicant, then the applicant shall demonstrate that the applicant is providing the affordable
17 housing on the other lot(s) in connection with the applicant's project, as set forth below in this
18 subsection 23.49.181.B.2.b. Prior to issuance, and as a condition to issuance, of the first building
19 permit for a structure using bonus floor area, the applicant shall provide to the Director of
20 Housing a copy of a signed and binding linkage agreement ~~((with the owner(s) of these lots)),~~
21 acceptable to the Director of Housing, with the owner(s) or person(s) in control of those lots,
22 pursuant to which only the applicant has the right to claim such housing for purposes of bonus
23 development under this Section 23.49.181 or any other bonus or benefit under this Title 23, and
24 shall demonstrate that the applicant has made a financial contribution to the affordable housing,
25 or has promised such contribution in that linkage agreement and has provided to the City an
26 irrevocable, unconditional letter of credit to ensure its payment, in form and content satisfactory
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1 to the Director of Housing, in either case in an amount determined by the Director of Housing to
2 be, when reduced by the value of any expected benefits to be received for such contribution other
3 than the bonus development, approximately equal to the subsidy gap for construction in South
4 Downtown of at least the minimum amount of affordable housing determined under this Section
5 23.49.181 for the amount of bonus floor area sought by the applicant. The Director of Housing
6 may require that one or more parties to a linkage agreement enter into an agreement with the
7 City to establish performance criteria to be met in the development of the affordable housing, to
8 provide for control of the financial contribution from the applicant to ensure its use for the
9 affordable housing, and to provide for its use for alternative affordable housing if performance
10 criteria are not met. The Director of Finance is authorized to establish any funds or accounts that
11 the Director of Housing may deem necessary for the deposit of funds under any agreement
12 authorized in this subsection 23.49.181.B.2.b., and to make disbursements from such funds or
13 accounts as directed by the Director of Housing, but the monies in such funds or accounts shall
14 not become property of the City unless applied against obligations owing to the City, and the
15 expenditure of those monies on any project or contract shall not cause it to be treated as a public
16 work or contract of the City.

17 3. Effect of Certification by Director of Housing. If the Director of Housing
18 certifies to the Director that either (a) the applicant has provided the City with (i) a satisfactory
19 linkage agreement; (ii) evidence of a sufficient financial contribution, a letter of credit, or other
20 sufficient security pursuant to subsection 23.49.181.B.2.b; and (iii) such other agreements as the
21 Director of Housing requires pursuant to subsection 23.49.181.B.2.b, all sufficient for purposes
22 of providing a specified amount of affordable housing consistent with this Section 23.49.181; or
23 (b) there have been recorded one or more agreements or instruments satisfactory to the Director
24 of Housing providing for occupancy and affordability restrictions on affordable housing with the
25 minimum floor area determined under this Section 23.49.181 for the amount of bonus floor area
26 sought by the applicant, all affordable housing has been completed, and the affordable housing
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1 either is on a different lot from the bonus floor area or is located in one or more condominium
2 units separate from the bonus floor area under condominium documents acceptable to the
3 Director of Housing; then any failure of the affordable housing to be completed or to satisfy the
4 requirements of subsection 23.49.181.E shall not affect the right to maintain or occupy the bonus
5 floor area and shall not cause the applicant or owner of the lot with the bonus floor area to be in
6 violation of this Title 23. If all conditions to the certification in clause (a)(i) and (a)(iii) of this
7 subsection 23.49.181.B.3, but not clause (a)(ii), are satisfied, the Director of Housing may
8 deposit a certification with an escrow agent, with irrevocable instructions to date and deliver the
9 certification when the escrow agent holds the necessary funds for delivery to an appropriate
10 account as a contribution to the affordable housing, and delivery of the certification by the
11 escrow agent shall then have the same effect as certification by the Director of Housing on the
12 date of that delivery.

13 ***

14 D. Defined Terms. For purposes of this Section 23.49.181:

15 1. "Affordable housing" means a unit or units of low-income housing provided as
16 a condition to bonus floor area.

17 2. "Base FAR" or "base floor area ratio" means a FAR of 4.

18 3. "Bonus floor area" means all chargeable floor area allowed in addition to the
19 base FAR.

20 4. "Income-eligible households" means:

21 a. In the case of rental housing, households with incomes no higher than 80
22 percent of median income as defined in Section 23.84A.025.

23 b. In the case of owner occupancy housing units, households with incomes no
24 higher than the median income as defined in Section 23.84A.025.

1 5. "Low-income housing" means housing that serves income-eligible households
2 as determined in subsection 23.49.181.E.

3 6. "Net bonus floor area" means gross square footage of bonus floor area,
4 multiplied by an efficiency factor of 80 percent.

5 E. Affordable Housing

6 1. Amount. An applicant using bonus floor area shall provide an amount of net
7 rentable floor area of low-income housing, applicable to units for sale or rent, equal to at least
8 17.5 percent of the net bonus floor area obtained. For purposes of this subsection
9 23.49.181.E, "net rentable floor area" is equal to 80% of the gross floor area of the low-income
10 housing.

11 2. Serving income-eligible households. For the purposes of this Section
12 23.49.181, a housing unit serves income-eligible households only if either:

13 a. For a period of 50 years beginning upon the issuance of a final
14 certificate of occupancy by the Department of Planning and Development for ~~((a structure~~
15 ~~using))~~the ~~((bonus floor area for which that))~~affordable housing~~((is provided))~~, the housing is
16 used as rental housing solely for income-eligible households at rent limited so that annual
17 housing costs, including rent and basic utilities, do not exceed 30 percent of 80 percent of
18 median income, and the housing unit and the structure in which it is located are maintained in
19 decent and habitable condition, including basic appliances in the housing unit; or

20 b. The unit is sold for owner-occupancy to an income-eligible household
21 at an initial sale price limited so that the annual housing costs, including mortgage principal and
22 interest, real estate taxes, insurance, plus homeowner dues if applicable, are not expected to
23 exceed 35 percent of median income, according to a calculation based on reasonable assumptions
24 and approved by the Director of Housing, and the unit is subject to a recorded instrument
25 satisfactory to the Director of Housing with a term extending until 50 years after the issuance of
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1 a final certificate of occupancy by the Department of Planning and Development for the structure
2 using the bonus floor area for which that affordable housing is provided, providing for sales
3 prices on any resale consistent with affordability on the same basis as the initial sale, allowing
4 resales only to income-eligible households, and requiring that upon any resale, the housing unit
5 be in decent and habitable condition, including adequate basic appliances in the housing unit.

6 3. Location, size and other requirements. Affordable housing may be provided
7 within the area defined on Map A for ((Section))23.49.180 where additional height is permitted.
8 Alternatively, affordable housing may be provided on one or more different lots within South
9 Downtown, subject to approval by the Director of Housing under the criteria in this subsection
10 23.49.181.E and to the conditions in subsection 23.49.181.B.2. Approval requires a
11 determination by the Director of Housing that the affordable housing will

12 (a) provide a public benefit; and

13 (b) be more affordable than market rents

14 or sale prices, as applicable, for housing in South Downtown. The affordable housing shall be
15 provided in a range of unit sizes consistent with RCW 36.70A.540 and comply with all
16 requirements of RCW 36.70A.540.

17 4. Time of completion. Unless affordable housing is to be provided on a lot other
18 than that of the project using the bonus and the Director of Housing has made all approvals
19 described in subsections 23.49.181.B.2 and 23.49.181.E.3, the affordable housing shall be
20 completed and ready for occupancy at or before the time when a certificate of occupancy is
21 issued for any bonus floor area that is based on the affordable housing and as a condition to any
22 right of the applicant to such a certificate of occupancy.

23 5. No ((S))subsidies for affordable housing; exceptions.

24 a. In general, and except as may be otherwise required by applicable
25 federal or state law, no bonus floor area may be earned by providing affordable housing if:
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1 for deposit in an appropriate sub-fund or account, of the value of any subsidies received in
2 excess of any amounts allowed by such agreement.

3 d. As an exception to the restriction on subsidies, the Director of Housing
4 may allow the building or buildings in which the affordable housing is located to be financed in
5 part with subsidies based on determinations that:

6 1) the total amount of affordable housing is at least 300 net
7 residential square feet greater than the minimum amount of affordable housing that would be
8 needed to satisfy the conditions of this Section 23.49.181;

9 2) the public benefit of the affordable housing net of those
10 subsidies, as measured through an economic analysis, exceeds the public benefit from the
11 minimum amount of affordable housing; and

12 3) the subsidies being allowed would not be sufficient to leverage
13 private funds for production of the affordable housing, under restrictions required in this Section
14 23.49.181, without additional City subsidy.

15 6. Agreements and approvals. The Director of Housing is authorized to accept
16 and execute agreements and instruments to implement this Section 23.49.181. Except with
17 respect to bonus floor area based on an amount of affordable housing for which a certification by
18 the Director of Housing is delivered pursuant to subsection 23.49.181.B.3, ((F))issuance of the
19 Master Use Permit, building permit, or certificate of occupancy for the project using the bonus
20 floor area may be conditioned on satisfactory agreements and instruments signed by applicants
21 and other owners. An applicant or prospective applicant may request, and the Director of
22 Housing may provide, a determination that a linkage agreement or security arrangement, or both,
23 would satisfy specific provisions of this Section 23.49.181, whether or not an applicant has
24 proposed a specific development to use bonus floor area, but no such approval or agreement shall
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1 affect the determination, under Chapter 23.76 or other applicable law, of the date as of which any
2 development regulations apply to a permit application.

3 7. Reports and fees. An applicant for bonus floor area shall pay a review fee and
4 ~~((F))~~the housing owner shall provide annual reports and pay an annual monitoring fee to the
5 Office of Housing for each affordable housing unit, as specified under Chapter 22.900G.

6 * * *

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8 Section 5. Any act pursuant to the authority of this ordinance, following passage by the
9 City Council but prior to the effective date of the ordinance, is ratified and confirmed.

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Section 6. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2012, and signed by me in open session in authentication of its passage this ____ day of _____, 2012.

President _____ of the City Council

Approved by me this ____ day of _____, 2012.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Dennis Meier 684-8270	Melissa Lawrie 684-5805

Legislation Title: AN ORDINANCE relating to land use and zoning, amending Sections 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the current Seattle Land Use Code (SMC, Title 23) of the Seattle Municipal Code, to correct omissions from previous amendments and facilitate the use of incentive provisions within the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

Summary of the Legislation:

The proposed legislation includes minor amendments to Section 23.49.011, 23.49.013, 23.49.014, and 23.49.181 of the Downtown Chapter of the City's Land Use Code (SMC, Title 23) to correct omissions and facilitate the use of incentive provisions within two downtown zones, the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

Background:

The changes to 23.49.011, 23.49.013, and 23.49.014 would exempt residential use in the DH2 zone from FAR calculations and reestablish incentive provisions for nonresidential uses to enable projects to gain the extra floor area permitted above the current base FAR limit. Previous Code amendments (Ordinance #120443) inadvertently eliminated the original provisions that regulated how projects could gain extra floor area above the base FAR without providing any alternative mechanism. Section 23.49.011 Floor area ratio would be amended to include the DH2 zone among the other downtown zones that exempt residential use from FAR calculations, thereby making it unnecessary for residential development to use incentives to gain extra floor area. Sections 23.49.011 Floor area ratio, 23.49.013 Bonus floor area for amenities and 23.49.014 Transfer of development rights would also be amended to include the DH2 zone among the other downtown zones where non-residential uses must achieve extra floor area above the base FAR through the use of incentives established in the Downtown Code.

Section 23.49.181 Bonus floor area for affordable housing in the PSM 85-120 zone applies to a specific mapped area within the PSM 85-120 zone in the Pioneer Square Special Review District, and establishes the affordable housing bonus provisions that enable development in this mapped area to gain added height and extra residential floor area. The amendments to Section 23.49.181 are intended to accomplish the following:



- Clarify that the starting point for a 50-year affordability term attaches to the structure in which the affordable housing is provided, rather than the structure proposing to use the bonus floor area; and
- Remove an existing cap on the number of off-site units that can satisfy City-required developer contributions to affordable housing.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Appropriations:

Not applicable

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Not applicable

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Not applicable

Do positions sunset in the future?

Not applicable

Spending/Cash Flow:

Not applicable

Other Implications:

- a) Does the legislation have indirect financial implications, or long-term implications?**
Not applicable
- b) What is the financial cost of not implementing the legislation?**
No financial costs would result from not implementing the legislation. However, it is necessary to amend provisions in the DH2 zone to allow the use of properties as intended under the current Code. Property owners intending to move forward with plans to redevelop sites will likely seek action from the City to redress the matter.
- c) Does this legislation affect any departments besides the originating department?**
The legislation would not result in additional work for other departments that would be involved in the review of projects subject to the Land Use Code provisions that would be affected by the amendments.



d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

Not applicable

e) Is a public hearing required for this legislation?

A public hearing before the City Council is required for this legislation. The hearing has not yet been scheduled

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

Notice of the public hearing in the Daily Journal of Commerce is required. A notice of a land use code text amendment and determination of non-significance, as required under SEPA, will be published on August 30, 2012 in the DPD Land Use Information Bulletin and the Daily Journal of Commerce.

g) Does this legislation affect a piece of property?

The legislation affects development standards that would apply to properties within two downtown zones, the DH2 zone and a mapped area within the PSM 85-120 zone. The locations of these zones are shown on Attachment A: Location of Zones

h) Other Issues:

None

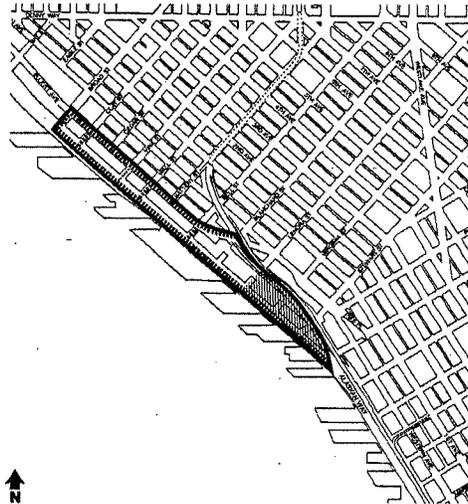
List attachments to the fiscal note below:

Attachment A: Location of Zones



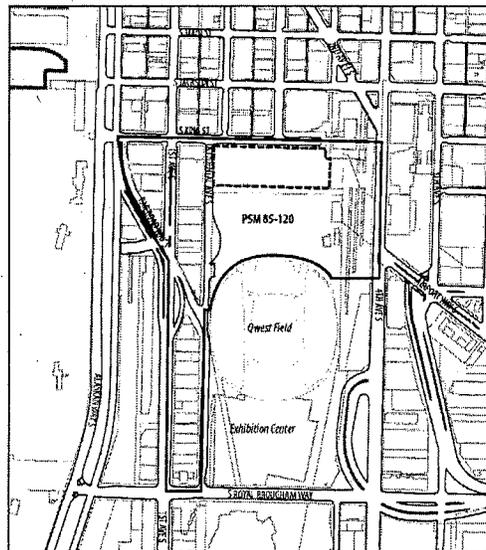
ATTACHMENT A: Location of Zones

The maps are intended for illustrative or informational purposes only and not intended to modify anything in the legislation



Downtown Harborfront 2 (DH2) zone

Map for 23.49.180



Area where additional height is permitted according to the provisions of Section 23.49.180 of the Seattle Municipal Code

PSM 85-120 Zone





City of Seattle
Office of the Mayor

September 11, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would amend the Land Use Code to correct omissions and facilitate the use of incentive provisions within two downtown zones, the Downtown Harborfront 2 (DH2) zone and the Pioneer Square Mixed (PSM) 85-120 zone.

In the DH2 zone, previous Code amendments inadvertently eliminated the original provisions that regulated how projects could gain extra floor area. To remedy this omission, the proposed amendments would:

- Include the DH2 zone among the other downtown zones that exempt residential use from floor area calculations, making the use of incentives to gain extra floor area unnecessary; and
- For non-residential uses, include the DH2 zone among the other downtown zones that require the use of existing incentive provisions to gain extra floor area.

The amendments to the PSM 85-120 zone apply to a mapped area where additional height and density is allowed through the use of an affordable housing bonus. The proposed amendments would clarify how a 50 year affordability term applies to the affordable housing units provided for bonus floor area and remove a cap on the number of units that could be provided off-site to satisfy affordable housing requirements. The added flexibility these changes will provide will enable a project developer and a non-profit housing provider to enter into a mutually beneficial arrangement that provides the developer with the amount of bonus floor area while enhancing the economic feasibility for the off-site low-income housing project.

Thank you for your consideration of this legislation. Should you have questions, please contact Dennis Meier in the Department of Planning and Development at 684-8270.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

