

Ordinance No. 124072

Council Bill No. 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.

CF No. 312574

Date Introduced:	<u>9/24/12</u>	
Date 1st Referred:		To: (committee) <u>Planning, Land Use, and Sustainability</u>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	<u>12-10-12</u>	Full Council Vote: <u>8-0</u>
Date Presented to Mayor:	<u>12-12-12</u>	Date Approved: <u>12/17/12</u>
Date Returned to City Clerk:	<u>12/19/12</u>	Date Published: _____ T.O. <input checked="" type="checkbox"/> 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: R. Reid / Conlin

Councilmember

## Committee Action:

Approve 3-0 RC, TB, MD  
as amended  
(E) in

12-10-12 Passed 8-0 examined: TR

This file is complete and ready for presentation to Full Council. Committee: RC 12/13/12  
(initial/date)

*Law Department*

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

**CITY OF SEATTLE**  
**ORDINANCE** 124072  
**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

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

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

6

7 <b>Table B for 23.49.011</b>	
8 <b>Zone</b>	9 <b>First increment of FAR above the base FAR achieved through LEED Silver Rating</b>
10 All DOC1 zones	1.0
11 All DOC2 zones	0.75
12 DMC 340/290-400	0.50
13 DMC 125, DMC 160, DMC 240/290-400	0.25

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                   b. Street-level uses meeting the requirements of Section 23.49.009,  
2 Street-level use requirements, whether or not street-level use is required pursuant to Map 1G, if  
3 the uses and structure also satisfy the following standards:

4                               1) The street level of the structure containing the exempt space  
5 must have a minimum floor to floor height of 13 feet;

6                               2) The street level of the structure containing the exempt space  
7 must have a minimum depth of 15 feet; and

8                               3) Overhead weather protection is provided satisfying Section  
9 23.49.018.

10                   c. Shopping atria in the DRC zone and adjacent areas shown on Map 1J,  
11 provided that:

12                               1) The minimum area of the shopping atria is 4,000 square feet;

13                               2) The eligibility conditions of the Downtown Amenity Standards  
14 are met; and

15                               3) The maximum area eligible for a floor area exemption is 20,000  
16 square feet;

17                   d. Child care;

18                   e. Human service use;

19                   f. Residential use, except in the PMM ((and DH2)) zone((s)), and provided  
20 that allowable residential floor area is limited on lots from which TDP is transferred in  
21 accordance with Chapter 23.58A;

22                   g. Live-work units, except in the PMM((and DH2)) zone((s));

23   \* \* \*

24                   Section 2. Section 23.49.013 of the Seattle Municipal Code, which Section was last  
25 amended by Ordinance 123589, is amended as follows:

26 **23.49.013 Bonus floor area for amenities**

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 ~~((or))~~ 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 bonus 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

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
Hillelimb 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

\* \* \*

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 <sup>1</sup>	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 <sup>2</sup>	S, R <sup>2</sup>	X	S, R <sup>2</sup>	S, R <sup>2</sup>	R
DMC zones with maximum 10 FAR	S, R	S, R	S	S, R	S, R	R
DMC zones with maximum 7 FAR	S <sup>3</sup>	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 <sup>4</sup>	X	S, R <sup>4</sup>	S, R <sup>4</sup>	R <sup>4</sup>
IDR	X	S	X	X	S	S
IDR/C	X	S	X	X	S, R <sup>5</sup>	S
IDM	X	S, R	X	X	S, R <sup>5</sup>	S, R

**Table A for 23.49.014**

Zones <sup>1</sup>	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 <sup>5</sup>	S, R

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

**NOTES**

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

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

<sup>3</sup> Transfers are permitted only from lots zoned DMC to lots zoned DOC1.

<sup>4</sup> 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.

<sup>5</sup> 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.

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 those 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  
27

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  
27

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  
26

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:

1                                   1) Any person is receiving or will receive with respect to the  
2 housing any charitable contributions or public subsidies for housing development or operation,  
3 including, but not limited to, tax exempt bond financing, low-income housing tax credits, federal  
4 loans or grants, City of Seattle housing loans or grants, county housing funds, and State of  
5 Washington housing funds; or

6                                   2) The housing is or would be, independent of the requirements for  
7 the bonus floor area, subject to any restrictions on the income of occupants, rents or sale prices.

8                                   b. As exceptions to the general rule in subsection 23.49.181.E.5.a:

9                                   1) All affordable housing provided as a condition to bonus floor  
10 area within the area defined on Map A for ~~((Section))~~23.49.180 where additional height is  
11 permitted may consist wholly or in part of the same units used to satisfy terms under which the  
12 lot or a portion thereof was transferred by a public body, and ~~((up to seventy))~~any units of  
13 affordable housing provided as a condition to bonus floor area on a lot outside the area defined  
14 on Map A for ~~((Section))~~23.49.180 where additional height is permitted, may consist wholly or  
15 in part of the same units used to satisfy terms under which the lot or a portion thereof was  
16 transferred by a public body;

17                                   2) The improvements on the lot may qualify for, and affordable  
18 housing provided as a condition to bonus floor area may consist wholly or in part of the same  
19 units used to satisfy conditions of, property tax exemptions pursuant to Chapter 5.73~~((SMC))~~;  
20 and

21                                   3) The prohibition on public subsidies for affordable housing does  
22 not include Internal Revenue Code Section 45D, New Markets Tax Credits.

23                                   c. The Director of Housing may require, as a condition of any bonus floor  
24 area, that the owner of the lot upon which the affordable housing is located agree not to seek or  
25 accept any subsidies, other than as described in subsection 23.49.181.E.5.b, related to housing.  
26 The Director of Housing may require that such agreement provide for the payment to the City,  
27

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  
25  
26  
27



1  
2  
3 Section 6. This ordinance shall take effect and be in force 30 days after its approval by  
4 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
5 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

6 Passed by the City Council the 10<sup>th</sup> day of December, 2012, and  
7 signed by me in open session in authentication of its passage this  
8 10<sup>th</sup> day of December, 2012.

9  
10  
11   
12 \_\_\_\_\_  
13 President \_\_\_\_\_ of the City Council

14 Approved by me this 17<sup>th</sup> day of December, 2012.

15  
16   
17 \_\_\_\_\_  
18 Michael McGinn, Mayor

19 Filed by me this 19<sup>th</sup> day of December, 2012.

20  
21   
22 \_\_\_\_\_  
23 Monica Martinez Simmons, City Clerk

24 (Seal)

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
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

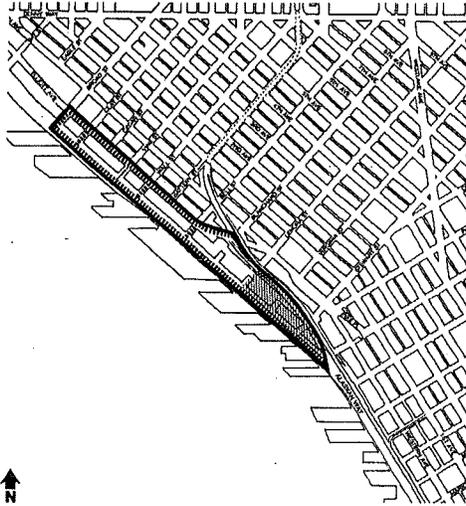
**List attachments to the fiscal note below:**

Attachment A: Location of Zones



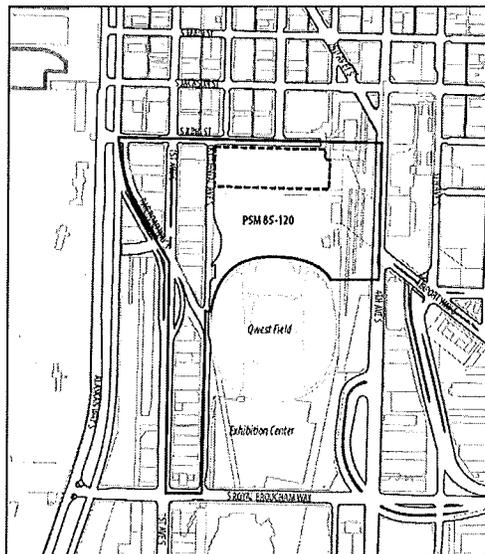
## ATTACHMENT A: Location of Zones

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, 2<sup>nd</sup> 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

Michael McGinn, Mayor  
Office of the Mayor  
600 Fourth Avenue, 7<sup>th</sup> Floor  
PO Box 94749  
Seattle, WA 98124-4749

Tel (206) 684-4000  
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TDD (206) 615-0476  
mike.mcgin@seattle.gov



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

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
Downtown Mixed	1 in DMR/R 85/65	1 in DMR/R 85/65

**THIS VERSION IS NOT ADOPTED**



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

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

a. In DOC1, DOC2, DH2, 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 outside of South Downtown, no chargeable floor area above the base FAR is

THIS VERSION IS NOT ADOPTED



1 allowed for a project that includes chargeable floor area in a new structure unless the applicant  
2 makes such a commitment. If such a commitment is made, Section 23.49.020 applies. This  
3 subsection 23.49.011.A.2.a shall expire on May 12, 2011.

4 ((Table B for 23.49.011))

5 **Table B for 23.49.011**

6 <b>Zone</b>	7 <b>First increment of FAR above the base FAR achieved through LEED Silver Rating</b>
8 All DOC1 zones	1.0
9 All DOC2 zones	0.75
10 DMC 340/290-400	0.50
11 DMC 125, DMC 160, DMC 240/290-400	0.25

12  
13 b. In DOC1, DOC2, DH2, and DMC zones outside of South Downtown,  
14 additional chargeable floor area above the first increment of FAR that exceeds the base FAR  
15 may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or  
16 Section 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or  
17 both, except as otherwise expressly provided in this subsection 23.49.011.A.2. After the  
18 expiration of subsection 23.49.011.A.2.a, the first increment of floor area that exceeds the base  
19 FAR shall be zero.

20 \* \* \*

21 B. Exemptions and ~~((D))~~deductions from FAR ~~((C))~~calculations~~((:))~~

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

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

26 b. Street-level uses meeting the requirements of Section 23.49.009,

1 Street-level use requirements, whether or not street-level use is required pursuant to Map 1G, if  
2 the uses and structure also satisfy the following standards:

3 1) The street level of the structure containing the exempt space  
4 must have a minimum floor to floor height of 13 feet;

5 2) The street level of the structure containing the exempt space  
6 must have a minimum depth of 15 feet; and

7 3) Overhead weather protection is provided satisfying Section  
8 23.49.018.

9 c. Shopping atria in the DRC zone and adjacent areas shown on Map 1J,  
10 provided that:

11 1) The minimum area of the shopping atria is 4,000 square feet;

12 2) The eligibility conditions of the Downtown Amenity Standards  
13 are met; and

14 3) The maximum area eligible for a floor area exemption is 20,000  
15 square feet;

16 d. Child care;

17 e. Human service use;

18 f. Residential use, except in the PMM (~~and DH2~~) zone(s), and provided  
19 that allowable residential floor area is limited on lots from which TDP is transferred in  
20 accordance with Chapter 23.58A;

21 g. Live-work units, except in the PMM(~~and DH2~~) zone(s);

22 \* \* \*

23 Section 2. Section 23.49.013 of the Seattle Municipal Code, which Section was last  
24 amended by Ordinance 123589, is amended as follows:

25 **23.49.013 Bonus floor area for amenities**

THIS VERSION IS NOT ADOPTED



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;

**THIS VERSION IS NOT ADOPTED**



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

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

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

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

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

13 B. Standards for ((A))amenities

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

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

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

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

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

THIS VERSION IS NOT ADOPTED





1 if the Director determines that improvement of a green street abutting or in the vicinity of the lot  
2 within a reasonable time is feasible. The cash payment must be in an amount sufficient to  
3 improve fully 1 square foot of green street space for each 5 square feet of bonus floor area  
4 allowed for such payment. The cash payment shall be maintained in a restricted account and  
5 shall be used to improve a green street abutting or in the vicinity of the lot.

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

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

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

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

23 3. Ratios and limits((-))

24 a. Amenities may be used to gain floor area according to the applicable  
25 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	X	X	X	X	X	X		Not Applicable	Maximum gain of 1.0 FAR

THIS VERSION IS NOT ADOPTED



**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
Access								able	
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

\* \* \*

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.

THIS VERSION IS NOT ADOPTED



1           2. In addition to transfers permitted under subsection 23.49.014.A.1, TDR may be  
2 transferred from any lot to another lot on the same block, as within-block TDR, to the extent  
3 permitted in Table A for 23.49.014, subject to the limits and conditions in this ~~((e))~~Chapter  
4 23.49.

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

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

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

**THIS VERSION IS NOT ADOPTED**



((Table A for 23.49.014))

Table A for 23.49.014						
Zones <sup>1</sup>	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 <sup>2</sup>	S, R <sup>2</sup>	X	S, R <sup>2</sup>	S, R <sup>2</sup>	R
DMC zones with maximum 10 FAR	S, R	S, R	S	S, R	S, R	R
DMC zones with maximum 7 FAR	S <sup>3</sup>	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 <sup>4</sup>	X	S, R <sup>4</sup>	S, R <sup>4</sup>	R <sup>4</sup>
IDR	X	S	X	X	S	S
IDR/C	X	S	X	X	S, R <sup>5</sup>	S
IDM	X	S, R	X	X	S, R <sup>5</sup>	S, R
PSM	X	S	X	X	S <sup>5</sup>	S, R

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

THIS VERSION IS NOT ADOPTED



**Table A for 23.49.014**

	<b>TDR Transferable Within-block</b>	<b>Types of TDR Transferable Within or Between Blocks</b>				
<b>Zones<sup>1</sup></b>	<b>Transfer from any lot within the same Downtown block</b>	<b>Housing TDR</b>	<b>DMC Housing TDR</b>	<b>Landmark TDR and Landmark Housing TDR</b>	<b>Open Space TDR</b>	<b>South Downtown Historic TDR</b>

**NOTES**

<sup>1</sup> Development rights may not be transferred to or from lots in the ~~((following zones:))~~ PMM(~~(;))~~ or DH1 (~~(or DH2))~~ zones. <sup>2</sup> Transfers to lots in a DRC zone are permitted only from lots that also are zoned DRC. <sup>3</sup> Transfers are permitted only from lots zoned DMC to lots zoned DOC1. <sup>4</sup> 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. <sup>5</sup> Transfers of open space TDR to lots in South Downtown are permitted only from lots that are also located in South Downtown.

\* \* \*

Section 4. Section 23.49.181 of the Seattle Municipal Code, which Section was last amended by Ordinance 123589, is amended as follows:

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

\* \* \*

**E. Affordable ~~((H))~~ housing**

1. Amount. An applicant using bonus floor area shall provide an amount of net rentable floor area of low-income housing, applicable to units for sale or rent, equal to at least 17.5 percent of the net bonus floor area obtained.

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

a. For a period of 50 years beginning upon the issuance of a final certificate of occupancy by the Department of Planning and Development for ~~((a structure~~

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1 using))the ((bonus floor area for which that))affordable housing((is provided)), the housing is  
2 used as rental housing solely for income-eligible households at rent limited so that annual  
3 housing costs, including rent and basic utilities, do not exceed 30 percent of 80 percent of  
4 median income, and the housing unit and the structure in which it is located are maintained in  
5 decent and habitable condition, including basic appliances in the housing unit; or

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

17 3. Location, size and other requirements. Affordable housing may be provided  
18 within the area defined on Map A for ((Section))23.49.180 where additional height is permitted.  
19 Alternatively, affordable housing may be provided on one or more different lots within South  
20 Downtown, subject to approval by the Director of Housing under the criteria in this subsection  
21 23.49.181.E and to the conditions in subsection 23.49.181.B.2. Approval requires a  
22 determination by the Director of Housing that the affordable housing will

- 23 (a) provide a public benefit; and  
24 (b) be more affordable than market rents  
25  
26  
27

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

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

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

11 a. In general, and except as may be otherwise required by applicable  
12 federal or state law, no bonus floor area may be earned by providing affordable housing if:

13 1) Any person is receiving or will receive with respect to the  
14 housing any charitable contributions or public subsidies for housing development or operation,  
15 including, but not limited to, tax exempt bond financing, low-income housing tax credits, federal  
16 loans or grants, City of Seattle housing loans or grants, county housing funds, and State of  
17 Washington housing funds; or

18 2) The housing is or would be, independent of the requirements for  
19 the bonus floor area, subject to any restrictions on the income of occupants, rents or sale prices.

20 b. As exceptions to the general rule in subsection 23.49.181.E.5.a:

21 1) All affordable housing provided as a condition to bonus floor  
22 area within the area defined on Map A for ~~((Section))~~ 23.49.180 where additional height is  
23 permitted may consist wholly or in part of the same units used to satisfy terms under which the  
24 lot or a portion thereof was transferred by a public body, and ~~((up to seventy))~~ any units of  
25 affordable housing provided as a condition to bonus floor area on a lot outside the area defined  
26

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

\* \* \*

4                                   Section 5. This ordinance shall take effect and be in force 30 days after its approval by  
5 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
6 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

7                                   Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2012, and  
8 signed by me in open session in authentication of its passage this  
9 \_\_\_\_ day of \_\_\_\_\_, 2012.

12                                   \_\_\_\_\_  
13                                   President \_\_\_\_\_ of the City Council

14                                   Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

17                                   \_\_\_\_\_  
18                                   Michael McGinn, Mayor

19                                   Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

22                                   \_\_\_\_\_  
23                                   Monica Martinez Simmons, City Clerk

24 (Seal)

**THIS VERSION IS NOT ADOPTED**



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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292029  
CITY OF SEATTLE, CLERKS OFFICE

No. 124068,069,070,071,072

**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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

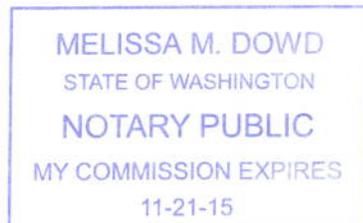
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

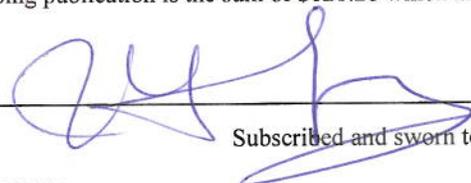
CT:TITLE ONLY ORDINANCE

was published on

01/02/13

The amount of the fee charged for the foregoing publication is the sum of \$121.28 which amount has been paid in full.



  
Subscribed and sworn to before me on

01/02/2013

  
Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication

# State of Washington, King County

## City of Seattle Title Only Ordinances

The full text of the following legislation, passed by the City Council on December 10, 2012, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>.

Contact: Office of the City Clerk at (206) 684-8344.

### ORDINANCE NO. 124068

AN ORDINANCE relating to the Cedar River Watershed; authorizing five years of ecological thinning, in accordance with the Cedar River Watershed Habitat Conservation Plan, in Sections 8, 9, 13, 21, 22, 23, and 28, Township 22, North, Range 7, East, W.M., Sections 26, 27, 34, and 35, Township 22, North, Range 8, East, W.M., Sections 29, 30, 31, and 32, Township 22, North, Range 9, East, W.M., and Sections 10, 11, 14, and 15, Township 21, North, Range 10, East, W.M.; declaring the logs resulting from ecological thinning to be surplus to the City's needs; authorizing the sale of such logs pursuant to applicable City contracting and surplus property sale procedures; and directing deposit of the proceeds therefrom to the Water Fund for the purposes of the Habitat Conservation Plan implementation.

### ORDINANCE NO. 124069

AN ORDINANCE relating to Seattle Public Utilities; declaring property interests that may have been acquired by Seattle Public Utilities surplus to utility needs; and authorizing the exchange of quitclaim deeds between the City of Seattle and King County to clarify the northern boundary line of a portion of Seattle Public Utilities' Lake Youngs Supplyline right-of way in the Southwest Quarter of Section 5, Township 22 North, Range 6 East, W.M., and in the Southeast Quarter of Section 6, Township 22 North, Range 6 East, W.M., in King County, Washington.

### ORDINANCE NO. 124070

AN ORDINANCE relating to Seattle Public Utilities' property on the northeast corner of North 140th Street and Lenora Place North, Seattle, Washington; declaring fee ownership of this property to be surplus to the City of Seattle's utility needs; authorizing Seattle Public Utilities to sell the surplus property and to execute documents and agreements necessary to complete the sale; and ratifying and confirming certain prior acts.

### ORDINANCE NO. 124071

AN ORDINANCE relating to Seattle Public Utilities; adopting the 2013 Water System Plan.

### ORDINANCE NO. 124072

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.

Date of publication in the Seattle Daily Journal of Commerce, January 2, 2013.

1/2(292029)