



SEATTLE CITY COUNCIL

Legislative Summary

CB 118783

Record No.: CB 118783

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 125163

In Control: City Clerk

File Created: 08/17/2016

Final Action: 10/07/2016

Title: AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.58D to the Seattle Municipal Code (SMC); amending SMC Sections 23.40.060, 23.41.004, 23.41.012, 23.42.056, 23.45.510, 23.45.516, 23.48.021, 23.48.221, 23.48.230, 23.49.011, 23.49.023, 23.49.180, 23.50.033, 23.66.140, 23.84A.014, 23.88.010, and 23.90.018; and repealing SMC Sections 23.45.526 and 23.49.020; to revise the Living Building Pilot Program and reorganize, consolidate, and update standards when meeting the green building standard is a condition of a permit.

Notes:

Filed with City Clerk: 10/7/2016

Mayor's Signature: 10/7/2016

Sponsors: Johnson

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Summary and Fiscal Note

Drafter: bonita.chinn@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	08/23/2016	Mayor's leg transmitted to Council	City Clerk			
1	City Clerk	08/23/2016	sent for review	Council President's Office			
Action Text: The Council Bill (CB) was sent for review. to the Council President's Office							
Notes:							
1	Council President's Office	09/01/2016	sent for review	Planning, Land Use, and Zoning Committee			
Action Text: The Council Bill (CB) was sent for review. to the Planning, Land Use, and Zoning Committee							
Notes:							

- 1 Full Council 09/06/2016 referred Planning, Land Use, and Zoning Committee
- 1 Planning, Land Use, and Zoning Committee 09/09/2016 discussed
Action Text: The Council Bill (CB) was discussed.
Notes:
- 1 Planning, Land Use, and Zoning Committee 09/20/2016 pass as amended Pass
Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).
In Favor: 3 Chair Johnson, Vice Chair O'Brien, Member Herbold
Opposed: 0
- 2 Full Council 10/03/2016 passed Pass
Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:
Notes:
In Favor: 7 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien
Opposed: 0
- 2 City Clerk 10/05/2016 submitted for Mayor's signature Mayor
- 2 Mayor 10/07/2016 Signed
- 2 Mayor 10/07/2016 returned City Clerk
- 2 City Clerk 10/07/2016 attested by City Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:
-

CITY OF SEATTLE

ORDINANCE 125163

COUNCIL BILL 118783

AN ORDINANCE relating to land use and zoning; adding a new Chapter 23.58D to the Seattle Municipal Code (SMC); amending SMC Sections 23.40.060, 23.41.004, 23.41.012, 23.42.056, 23.45.510, 23.45.516, 23.48.021, 23.48.221, 23.48.230, 23.49.011, 23.49.023, 23.49.180, 23.50.033, 23.66.140, 23.84A.014, 23.88.010, and 23.90.018; and repealing SMC Sections 23.45.526 and 23.49.020; to revise the Living Building Pilot Program and reorganize, consolidate, and update standards when meeting the green building standard is a condition of a permit.

WHEREAS, the Living Building ChallengeSM establishes goals for building owners, architects, design professionals, engineers, and contractors to build in a way that provides for a sustainable future through buildings informed by their ecoregion's characteristics that generate all of their own energy with renewable resources, capture and treat all of their water, and operate efficiently with maximum beauty; and

WHEREAS, The City of Seattle ("City") has been a leader in encouraging sustainable building since it adopted a Sustainable Building Policy in February 2000, and the City has implemented other processes, regulations, and incentives to encourage the private market to follow the City's lead; and

WHEREAS, the goal of the Living Building Pilot Program is to encourage the development of buildings that meet the Living Building ChallengeSM (full Living Building Certification or Petal Recognition), according to the criteria in the International Living Future Institute's certification programs, by allowing departures from Land Use Code requirements and providing height and floor area incentives; and

1 WHEREAS, the City Council adopted Ordinance 123206 in December 2009, Ordinance 123942
2 in July 2012, Ordinance 124535 in July 2014, and Ordinance 124843 in 2015 to establish,
3 expand, and revise the Living Building Pilot Program; and

4 WHEREAS, the City Council adopted Resolution 31400 in June 2013, requesting the
5 Department of Planning and Development, which is now known as the Seattle
6 Department of Construction and Inspections (SDCI), develop recommendations for
7 improving the Living Building Pilot Program; and

8 WHEREAS, the enrollment period for the Living Building Pilot Program will expire on June 30,
9 2017; NOW, THEREFORE,

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

11 Section 1. Section 23.40.060 of the Seattle Municipal Code, last amended by Ordinance
12 124843, is amended as follows:

13 **23.40.060 Living Building Pilot Program**

14 ~~((A. Purpose. The purpose of this section is to establish a Living Building Pilot Program.
15 The goal of the Pilot Program is to encourage the development of buildings that meet the Living
16 Building Challenge by allowing departures from code requirements that might otherwise
17 discourage or prevent buildings from meeting this standard. Overall, the Living Building Pilot
18 Program is intended to:~~

- 19 ~~1. stimulate innovative development that meets the goals of the Living Building
20 Challenge and City of Seattle design guidelines.
21 2. encourage development that will serve as a model for other projects throughout
22 the City and region and will stimulate development of new Living Buildings.
23 3. identify barriers to Living Buildings in current codes and processes.~~

1 ~~B. Project qualification))~~ A. Applications

2 ~~((1. Eligible projects. Only projects that are eligible for design review under~~
3 ~~Section 23.41.004 and located outside of the shoreline jurisdiction may qualify for the Living~~
4 ~~Building Pilot Program.~~

5 ~~2.))~~ 1. Enrollment period. The enrollment period for the Living Building Pilot
6 Program expires on the earlier of ((June 30, 2017)) December 31, 2025, or when applications
7 ((for 12 projects have been submitted for a Master Use Permit)) meeting the requirements of
8 subsection 23.40.060.A.2 have been submitted for 20 Living Building Pilot projects from the
9 date of the ordinance introduced as Council Bill 118783.

10 ~~((3.))~~ 2. Application requirements. In order to qualify for the Living Building
11 Pilot Program, an applicant ((s)) shall submit a complete Master Use Permit application pursuant
12 to Section 23.76.010 and a plan demonstrating how ((their)) the project will meet ((each of the
13 imperatives of Living Building Challenge, including an overall design concept, proposed energy
14 balance, proposed water balance, and descriptions of innovative systems)) the provisions of
15 subsection 23.40.060.B. ((In addition, an)) The applicant shall include a description of how the
16 project serves as a model for testing code improvements to stimulate and encourage Living
17 Buildings in the city.

18 ~~((4. Qualification process. An eligible project shall qualify for the Pilot Program~~
19 ~~upon determination by the Director that it has submitted a complete application pursuant to~~
20 ~~Section 23.76.010 and has complied with the application requirements of subsection~~
21 ~~23.40.060.B.3.))~~

22 B. Minimum standards. A project shall qualify for the Living Building Pilot Program if it
23 is located outside of the shoreline jurisdiction, has been reviewed in accordance with the design

1 review process provided in Section 23.41.014, and meets full Living Building Certification by
2 achieving either all of the imperatives of the International Living Future Institute’s (ILFI) Living
3 Building ChallengeSM 3.1 certification or all of the following:

4 1. The project meets ILFI Living Building ChallengeSM 3.1 Petal Recognition
5 certification by attaining at least three of the seven performance areas, or “Petals,” of the ILFI
6 Living Building ChallengeSM 3.1 program (Place, Water, Energy, Health and Happiness,
7 Materials, Equity, and Beauty), including at least one of the following three petals: Water,
8 Energy, or Materials;

9 2. Total building energy use is 75 percent or less of the energy use targets
10 established in the 2012 Seattle Energy Code’s Target Performance Path, Section C402.1.5; and

11 3. The project uses only nonpotable water except to the extent other applicable
12 local, state, or federal law requires the use of potable water.

13 C. ((Design review. All Living Building Pilot Program projects are subject to design
14 review and shall be reviewed in accordance with the design review process provided in Section
15 23.41.014.)) Extra floor area or structure height beyond otherwise applicable maximum

16 1. A project qualifying for the Living Building Pilot Program may contain:

17 a. Fifteen percent more floor area than the otherwise applicable maximum
18 floor area ratio under the provisions of the zone; or

19 b. In the case of residential development in Downtown or Seattle Mixed
20 zones, 15 percent more floor area than the maximum floor area otherwise resulting from the
21 application of development standards.

1 2. A project qualifying for the Living Building Pilot Program may employ
2 additional structure height, above the otherwise applicable maximum height, of up to 10 feet for
3 a development in a zone with a height limit of 85 feet or less.

4 3. A project qualifying for the Living Building Pilot Program may employ
5 additional structure height, above the otherwise applicable maximum height, of up to 20 feet for
6 development in a zone with a height limit greater than 85 feet.

7 4. A rooftop feature of a project qualifying for the Living Building Pilot Program
8 may extend above the structure height bonus provided in subsections 23.40.060.C.2 or
9 23.40.060.C.3 if the extension is consistent with the applicable standards established for that
10 rooftop feature within the zone.

11 5. Extra floor area or structure height available pursuant to subsections
12 23.40.060.C.1 through C.4 shall be in addition to any bonus, extra, or otherwise additional floor
13 area or structure height available according to any other provision of this Title 23, which shall be
14 obtained in compliance with the applicable provisions of this Title 23.

15 6. Extra floor area or structure height included in a project pursuant to subsections
16 23.40.060.C.1 through 23.40.060.C.4, or the units contained in such extra floor area or structure
17 height, shall be excluded for purposes of calculating performance or payment amounts pursuant
18 to subsections 23.58B.040.A.1, 23.58B.050.A.1, 23.58C.040.A.1, and 23.58C.050.A.1.

19 D. ~~((Height measurement technique. At the discretion of the applicant, the height of a~~
20 ~~qualifying project shall be determined using either the definition of building height in Section~~
21 ~~502 of the Seattle Building Code or the method described in Chapter 23.86 of the Land Use~~
22 ~~Code.)) For a project qualifying for the Living Building Pilot Program and not including extra
23 floor area or structure height pursuant to subsections 23.40.060.C.1 through 23.40.060.C.4, the~~

1 lesser of the following, or units contained therein, shall be excluded for purposes of calculating
2 performance or payment amounts pursuant to subsections 23.58B.040.A.1, 23.58B.050.A.1,
3 23.58C.040.A.1, and 23.58C.050.A.1, and shall also be exempt from satisfying any non-housing-
4 related requirements for obtaining bonus, extra, or otherwise additional floor area or structure
5 height according to Chapter 23.49 or Chapter 23.58A:

6 1. fifteen percent of floor area; and

7 2. either 10 feet of structure height for a development in a zone with a height limit
8 of 85 feet or less; or

9 3. twenty feet of structure height for development in a zone with a height limit
10 greater than 85 feet.

11 E. For a project qualifying for the Living Building Pilot Program, the provisions of the
12 remainder of this Title 23 apply unless specifically modified by the provisions of this Section
13 23.40.060. In the event of a conflict, the provisions of this Section 23.40.060 prevail.

14 ~~((E.))~~ F. Compliance with minimum standards

15 ~~((1. Qualifying projects under the Living Building Pilot Program that are granted~~
16 ~~departures shall meet one of the following:~~

17 ~~a. Living Building Challenge. The intent of the Living Building Pilot~~
18 ~~Program is to encourage development of buildings that meet or exceed the goals of the Living~~
19 ~~Building Challenge. A qualifying project shall meet:~~

20 ~~1) all of the imperatives of the Living Building Challenge, version~~
21 ~~2.1; or~~

22 ~~2) at least three of the seven performance areas, or “petals,” of the~~
23 ~~Living Building Challenge, version 2.1 (Site, Water, Energy, Health, Materials, Equity, and~~

Beauty), including at least one of the following three petals: Energy, Water, or Materials, and all of the following standards:

a) total building energy usage shall be 75 percent or less of the energy consumed by a “standard reference design building,” as defined in the Seattle Energy Code in effect at the time a complete building permit application is submitted;

b) total building water usage, not including harvested rainwater, shall be 25 percent or less of the average water usage for a comparable building not in the Living Building Pilot Program, based on Seattle Public Utility estimates or other baseline approved by the Director that would provide a comparable estimate; and

e) at least 50 percent of stormwater shall be captured and used on site.

~~b. RESERVED.)~~

~~((3.))~~ 1. No later than two years after issuance of a final Certificate of Occupancy for the project, or such later date as may be allowed by the Director for good cause or a phased project, the owner shall submit to the Director a report demonstrating how the project complies with the standards contained in subsection ~~((23.40.060.E.1.a))~~ 23.40.060.B. Compliance must be demonstrated through an independent report from a third party. The report must be produced by ~~((the International Living Future Institute (ILFI)))~~ ILFI or another independent entity approved by the Director.

~~((3.))~~ 2. If the Director determines that the report submitted provides satisfactory evidence that the project has complied with the standards contained in subsection ~~((23.40.060.E.1.a))~~ 23.40.060.B, the Director shall send the owner a written statement that the project has complied with the standards of the Living Building Pilot Program. If the Director

1 determines that the project does not comply with the standards in subsection ((23.40.060.E.1.a))
2 23.40.060.B, the Director shall notify the owner of the aspects in which the project does not
3 comply. Nothing in the written statement or participation in the Living Building Pilot Program
4 shall constitute or imply certification of the project by ((~~International Living Future Institute~~
5 (~~ILFI~~)) ILFI) as a Living Building under the Living Building ChallengeSM. Components of the
6 project that are included in order to comply with the minimum standards of the Living Building
7 Pilot Program shall remain for the life of the project.

8 ((4.)) 3. Within 90 days after the Director notifies the owner of the ((ways))
9 aspects in which the project does not comply, or such longer period as the Director may allow for
10 good cause, the owner may submit a supplemental report demonstrating that ((it has made
11 alterations or improvements such that)) the project ((now meets)) complies with the standards in
12 subsection ((23.40.060.E.1.a)) 23.40.060.B.

13 ((5.)) 4. If the owner fails to timely submit the report required by subsection
14 23.40.060.F.1 or to demonstrate compliance with the standards contained in subsection
15 23.40.060.B, or if the owner fails to submit a supplemental report within the time allowed
16 pursuant to subsection ((23.40.060.E.4)) 23.40.060.F.3, the Director shall determine that the
17 project has failed to demonstrate ((full)) compliance with the standards contained in subsection
18 ((23.40.060.E.1.a)) 23.40.060.B, and the owner shall be subject to the penalty in subsection
19 ((23.90.018.B.6)) 23.40.060.G.

20 G. Penalties for the Living Building Pilot Program

21 1. Failure to submit the report required by subsection 23.40.060.F.1 by the date
22 required is subject to a penalty of \$500 per day from the date the report was due to the date it is
23 submitted.

1 2. Failure to demonstrate compliance with the provisions contained in subsection
2 23.40.060.B is subject to a maximum penalty of five percent of the construction value set forth in
3 the building permit for the structure based on the extent of noncompliance with the standards
4 contained in subsection 23.40.060.B.

5 Section 2. Subsections 23.41.004.A and 23.41.004.B of the Seattle Municipal Code,
6 which section was last amended by Ordinance 124843, are amended as follows:

7 **23.41.004 Applicability**

8 A. Design review required

9 1. Design review is required for any new multifamily, commercial, or industrial
10 development proposal that exceeds one of the following thresholds in Table A for 23.41.004:

Table A for 23.41.004		
Thresholds for Design Review		
Zone		Threshold
a.	Lowrise 2 (LR2) and Lowrise 3 (LR3)	8 dwelling units or 4,000 square feet of non-residential gross floor area
b.	Midrise (MR)	20 dwelling units or 4,000 square feet of non-residential gross floor area
c.	Highrise (HR)	20 dwelling units or 4,000 square feet of non-residential gross floor area
d.	Neighborhood Commercial (NC1, NC2, NC3)	4 dwelling units or 4,000 square feet of non-residential gross floor area
e.	Commercial (C1, C2)	4 dwelling units or 12,000 square feet of non-residential gross floor area, located on a lot in an urban center or urban village ¹ , or on a lot that abuts or is across a street or alley from a lot zoned single-family, or on a lot located in the area bounded by: NE 95 th St., NE 145 th St., 15 th Ave. NE, and Lake Washington
f.	Seattle Mixed (SM)	20 dwelling units or 12,000 square feet of non-residential gross floor area
g.	Industrial Commercial (IC) zone within all designated urban villages and urban centers	12,000 square feet of non-residential gross floor area
h.	Master Planned Community (MPC) ²	20 dwelling units or 12,000 square feet of non-residential gross floor area

**Table A for 23.41.004
Thresholds for Design Review**

i.	All zones - congregate residences, and residential uses in which more than 50 percent of dwelling units are small efficiency dwelling units ³	<p>Developments containing at least 5,000 but less than 12,000 square feet of gross floor area are subject to Streamlined Design Review (SDR) pursuant to Section 23.41.018.</p> <p>Developments containing at least 12,000 but less than 20,000 square feet of gross floor area are subject to Administrative Design Review (ADR) pursuant to Section 23.41.016.</p> <p>Developments containing 20,000 square feet or more of gross floor area are subject to Design Review pursuant to Chapter 23.41.</p>
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Footnotes to Table A for 23.41.004:

¹Urban centers and urban villages are identified in the Seattle Comprehensive Plan.

²If an application in a Master Planned Community zone does not include a request for departures, the applicable design review procedures are in Section 23.41.020. If an application in a Master Planned Community zone includes a request for departures, then the applicable design review procedures are in Section 23.41.014.

³When a congregate residence or development in which more than 50 percent of dwelling units are small efficiency dwelling units is subject to more than one design review threshold, the gross square footage threshold on line i shall apply.

1 2. Design review is required for all new Major Institution development proposals
2 that exceed any applicable threshold listed in this subsection 23.41.004.A, unless the structure is
3 located within a Major Institution Overlay (MIO) district.

4 3. Design review is required for all new development proposals located in the
5 Downtown zones listed in Table B for 23.41.004 that exceed any of the following thresholds in
6 Table B for 23.41.004:

Table B for 23.41.004 Thresholds for Downtown Design Review	
DOC1, DOC2, or DMC zones	
Use	Threshold
Non-residential	50,000 square feet of gross floor area
Residential	20 dwelling units

Table B for 23.41.004	
Thresholds for Downtown Design Review	
DRC, DMR, DH1 or DH2 zones, or PMM zone outside the Pike Place Market Historical District	
Use	Threshold
Non-residential	20,000 square feet of gross floor area
Residential	20 dwelling units

1 4. Design review is required for all new development proposals exceeding 120
2 feet in width on any single street frontage in the Stadium Transition Area Overlay District as
3 shown in Map A for 23.74.004, and all new development proposals exceeding 12,000 square feet
4 of nonresidential gross floor area and electing to add extra floor area above the base FAR that are
5 located in an IC 85-160 zone.

6 5. Streamlined administrative design review (SDR) to protect trees. As provided
7 in Sections 25.11.070 and 25.11.080, SDR pursuant to Section 23.41.018 is required for any new
8 development proposals in LR, MR, and commercial zones if an exceptional tree, as defined in
9 Section 25.11.020, is located on the lot and is not proposed to be preserved, if design review
10 would not otherwise be required by this subsection 23.41.004.A.

11 6. Design review pursuant to Section 23.41.014 is required for projects that are
12 eligible for design review under any provision of this Section 23.41.004 and that are participating
13 in the Living Building Pilot Program authorized by Section 23.40.060.

14 7. SDR pursuant to Section 23.41.018 is required for all new developments that
15 include at least three townhouse units, if design review is not otherwise required by this
16 subsection 23.41.004.A.

17 8. Except for development ((with)) within the boundaries of a Master Planned
18 Community, design review pursuant to Section 23.41.014 is required for a development proposal
19 if the proposal is (a) for three or more attached or detached dwelling units or 2,000 square feet or

1 more of non-residential gross floor area; and (b) on a lot that is abutting one or more qualifying
2 lots and the combined size of development proposals on the subject lot and abutting qualifying
3 lot or lots exceeds thresholds in Table A or Table B to Section 23.41.004. For purposes of the
4 preceding sentence, a “qualifying lot” is a lot for which, on the day a complete application is
5 submitted for a development proposal on the subject lot: (a) a complete Master Use Permit or
6 building permit application for a development proposal that does not exceed thresholds in Table
7 A or B to Section 23.41.004 is or has been submitted; and (b) a certificate of occupancy for the
8 development has not been issued or, for a project where no certificate of occupancy is required,
9 the final inspection pursuant to any issued building permit has not been completed. If complete
10 applications for development proposals are submitted for the subject lot and qualifying lot on the
11 same day, design review is required for both development proposals.

12 9. Design review pursuant to Section 23.41.014 is required for any project seeking
13 to participate in the Living Building Pilot Program, including a development proposal for an
14 existing structure.

15 B. Design review - optional

16 1. Full design review is optional to any applicant for a new multifamily,
17 commercial, or Major Institution development proposal ((s)) not otherwise subject to this
18 Chapter 23.41, if the new development proposal not otherwise subject to this Chapter 23.41 is in
19 the Stadium Transition Area Overlay District or if the new development proposal is in any
20 multifamily, commercial, or downtown zone.

21 2. Administrative design review is optional for any applicant for new multifamily
22 or commercial development proposals if the new multifamily or commercial development
23 proposal does not exceed the thresholds provided in Table A for 23.41.004 and is not otherwise

1 subject to this Chapter 23.41 if the proposal is in the Stadium Transition Area Overlay District,
2 or is in any multifamily, commercial, or downtown zone, according to the process described in
3 Section 23.41.016. Projects that are not otherwise subject to this Chapter 23.41 and are in any
4 multifamily zone not listed in Table A for 23.41.004 are eligible only for optional full design
5 review under subsection 23.41.004.B.1 if the number of dwelling units exceeds 20. If the project
6 contains 20 dwelling units or ~~((less))~~ fewer, then the project applicant may pursue either full or
7 administrative design review.

8 3. Streamlined administrative design review is an option for:

9 a. ~~((applicants))~~ An applicant for a multifamily residential use ~~((s))~~ in an
10 LR zone ~~((s))~~ for which design review is not otherwise required by subsection 23.41.004.A; and

11 b. ~~((applicants))~~ An applicant for a new multifamily and commercial
12 development proposal ~~((s))~~ in a Lowrise, Midrise, and Commercial zone ~~((s))~~ to protect a tree
13 over 2 feet in diameter measured 4.5 feet above the ground, if design review would not otherwise
14 be required by subsection 23.41.004.A.5.

15 * * *

16 Section 3. Subsection 23.41.012.D of the Seattle Municipal Code, which section was last
17 amended by Ordinance 124883, is amended as follows:

18 **23.41.012 Development standard departures**

19 * * *

20 **D. Departures for the Living Building Pilot Program**

21 1. Criteria for departures. Departures from Land Use Code requirements for
22 projects ~~((participating in))~~ qualifying for the Living Building Pilot Program pursuant to Section
23 23.40.060 may be allowed if an applicant demonstrates that the departure would result in a

1 development that better meets the intent of adopted design guidelines, or that the departure
2 would result in a development that better meets the goals of the Living Building Pilot Program
3 and would not conflict with adopted design guidelines. In making this recommendation, the
4 Design Review Board shall consider the extent to which the anticipated environmental
5 performance of the building would be substantially compromised without the departures.

6 2. Scope of departures. In addition to the departures allowed under subsection
7 23.41.012.B, departures for projects (~~participating in~~) qualifying for the Living Building Pilot
8 Program established under Section 23.40.060 may also be granted for the following:

9 a. Permitted, prohibited, or conditional use provisions, but only for
10 accessory uses that would directly address (~~an imperative of the Living Building Challenge,~~
11 ~~version 2.1~~) the standards contained in subsection 23.40.060.B, including but not limited to uses
12 that could re-use existing waste streams or reduce the transportation impacts of people or goods;

13 b. Residential density limits;

14 (~~e. Floor area ratios up to 15 percent above the otherwise applicable limit;~~

15 ~~d.~~) c. Maximum size of use;

16 (~~e. Structure height, subject to the following:~~

17 1) ~~Structure height up to 10 feet for development in zones with~~
18 ~~height limits of 45 feet or less, to allow increased floor to floor heights;~~

19 2) ~~Structure height up to 20 feet for development in zones with~~
20 ~~height limits greater than 45 feet, to allow increased floor to floor heights;~~

21 3) ~~The additional height allowed for the structure will not allow an~~
22 ~~additional story beyond the number that could be built under the otherwise applicable height~~
23 ~~limit; and~~

1 1. Community outreach requirements that include:

2 a. Community outreach standards that the encampment operator shall
3 comply with before filing a transitional encampment interim use permit application, whether for
4 a new transitional encampment or relocation of an existing transitional encampment. At a
5 minimum, outreach standards shall contain a requirement that the encampment operator convene
6 at least one public meeting in the neighborhood where the transitional encampment interim use is
7 proposed to be established, at least 14 days prior to applying for a permit;

8 b. A requirement that the proposed encampment operator establish a
9 Community Advisory Committee that would provide advisory input on proposed encampment
10 operations including identifying methods for handling community complaints or concerns as it
11 relates to the facility or facility clients. The committee shall include one individual identified
12 by each stakeholder group in the geographic area where the proposed encampment would be
13 located as best suited to represent their interests. The committee shall consist of no more than
14 seven members. Encampment operator representatives shall attend committee meetings to
15 answer questions and shall provide regular reports to the committee concerning encampment
16 operations. City staff may attend the meetings; and

17 2. Operations standards that the encampment operator is required to implement
18 while an encampment is operating.

19 * * *

20 Section 5. Subsection 23.45.510.C of the Seattle Municipal Code, which section was last
21 amended by Ordinance 124843, is amended as follows:

1 ~~and was not built to the higher FAR, then in order for the structure or addition to gain the higher~~
2 ~~FAR, the structure shall be updated to current green building performance standards.))~~

3 2. For all categories of residential use, if the lot abuts an alley and the alley is
4 used for access, improvements to the alley shall be required as provided in subsections
5 23.53.030.E and 23.53.030.F, except that the alley shall be paved rather than improved with
6 crushed rock, even for lots containing fewer than ten dwelling units.

7 3. Parking location if parking is provided

8 a. For rowhouse and townhouse developments, parking shall be totally
9 enclosed within the same structure as the residential use, located in a structure or portion of a
10 structure that meets the requirements of subsection 23.45.510.E.5, or located in parking area of
11 structure at the rear of the lot. A parking area not within a structure that is located at the rear of
12 the lot shall be located behind all structures except, if accessed from an alley, the parking area
13 may be located no closer to the front lot line than 50 percent of the lot depth.

14 b. For apartments, parking may either:

15 1) be totally enclosed within the same structure as the residential
16 use; or

17 2) on lots located outside of urban centers, urban villages, and the
18 Station Area Overlay District, be located off an alley at the rear of the lot, provided that all
19 surface parking is limited to a single row of spaces along the alley and access to each surface
20 parking space is taken directly from the alley.

1 4. Access to parking if parking is provided

2 a. Access to required barrier-free parking spaces may be from either a
3 street or an alley. Subsections 23.45.510.C.4.b, 23.45.510.C.4.c, and 23.45.510.C.4.d do not
4 apply to required barrier-free parking spaces.

5 b. If the lot abuts an alley, access to parking shall be from the alley, unless
6 one or more of the conditions in subsection 23.45.536.C.2 are met.

7 c. If access cannot be provided from an alley, access shall be from a street
8 if the following conditions are met:

9 1) On corner lots, the driveway shall abut and run parallel to the
10 rear lot line of the lot or a side lot line that is not a street lot line.

11 2) On a non-corner lot, there is no more than one driveway per 160
12 feet of street frontage.

13 d. If access to parking does not meet one of the standards in this
14 subsection 23.45.510.C.4, or if an exception is granted that allows parking access from both an
15 alley and a street pursuant to subsection 23.45.536.C, the lower FAR limit on Table A for
16 23.45.510 applies.

17 * * *

18 Section 6. Subsection 23.45.516.A of the Seattle Municipal Code, which section was last
19 amended by Ordinance 124952, is amended as follows:

20 **23.45.516 Additional height and extra residential floor area in MR and HR zones**

21 A. General. Definitions in Section 23.58A.004 apply in this Section 23.45.516 unless
22 otherwise specified. (~~According to the provisions of this Section 23.45.516, Section 23.45.526,~~
23 ~~and Chapter 23.58A:))~~

1 ~~determination to any person other than an officer of the Seattle Department of Construction and~~
2 ~~Inspections or another City agency with regulatory authority and expertise in green building~~
3 ~~practices.~~

4 C. ~~The applicant shall demonstrate to the Director the extent to which the applicant has~~
5 ~~complied with the commitment to meet the green building performance standards no later than~~
6 ~~90 days after issuance of final Certificate of Occupancy for the new structure, or such later date~~
7 ~~as may be allowed by the Director for good cause. Performance is demonstrated through an~~
8 ~~independent report from a third party, pursuant to subsection 23.90.018.E.~~

9 D. For purposes of this Section 23.45.526:

10 1. ~~LEED Silver, Built Green 4-star or Evergreen Sustainable Development~~
11 ~~Standard rating means a level of performance for a structure that earns at least the minimum~~
12 ~~number of credits specified to achieve one of the following:~~

13 a. ~~A silver certificate either for LEED for New Construction Version 2009~~
14 ~~or for LEED for Homes Version 2008 with 2009 errata, at the election of the applicant,~~
15 ~~according to the criteria in the U.S. Green Building Council's LEED Green Building Rating~~
16 ~~System;~~

17 b. ~~A 4-Star rating either for Built Green Multi-Family Version 2008 or~~
18 ~~Built Green Single-Family/Townhome New Construction Version 2007, at the election of the~~
19 ~~applicant, according to the criteria in the Master Builders Association of King and Snohomish~~
20 ~~Counties Rating System;~~

21 c. ~~Evergreen Sustainable Development Standard Version 1.2 according to~~
22 ~~the State of Washington Department of Commerce Rating System;~~

1 ~~housing, as defined in Section 23.58A.180 may elect to meet green building performance~~
2 ~~standards by meeting the Washington Evergreen Sustainable Development Standards (ESDS).~~

3 ~~b. The Director is authorized to determine, as a Type I decision, whether~~
4 ~~the applicant has demonstrated that a new structure has earned a LEED rating or met a~~
5 ~~substantially equivalent standard. The Director may establish by rule procedures for determining~~
6 ~~whether an applicant has demonstrated that a new structure has earned a LEED rating or met any~~
7 ~~such substantially equivalent standard, provided that no rule shall assign authority for making a~~
8 ~~final determination to any person other than an officer of the Department of Planning and~~
9 ~~Development or another City agency with regulatory authority and expertise in green building~~
10 ~~practices.~~

11 ~~e. Demonstration of compliance; penalties~~

12 ~~1) The applicant shall demonstrate to the Director the extent to~~
13 ~~which the applicant has complied with the commitment to earn a LEED rating no later than 180~~
14 ~~days after issuance of final Certificate of Occupancy for the new structure, or such later date as~~
15 ~~may be allowed by the Director for good cause, by submitting a report analyzing the extent~~
16 ~~credits were earned toward such rating from the U.S. Green Building Council or another~~
17 ~~independent entity approved by the Director. Performance is demonstrated through an~~
18 ~~independent report from a third party, pursuant to subsection 23.90.018.D. For purposes of this~~
19 ~~subsection 23.48.021.D.2, if the Director shall have approved a commitment to achieve a~~
20 ~~substantially equivalent standard, the term "LEED rating" shall mean such other standard.~~

21 ~~2) Failure to submit a timely report regarding a LEED rating from~~
22 ~~an approved independent entity by the date required is a violation of the Land Use Code. The~~

1 ~~penalty for such violation is \$500 per day from the date that the report was due to the date it is~~
2 ~~submitted, without any requirement of notice to the applicant.~~

3 ~~3) Failure to demonstrate, through an independent report as~~
4 ~~provided in this subsection 23.48.021.D.2, full compliance with the applicant's commitment to~~
5 ~~earn a LEED rating, is a violation of the Land Use Code. The penalty for each violation is an~~
6 ~~amount determined as follows:~~

$$P = [(LSM - CE) / LSM] \times CV \times 0.0075, \text{ where:}$$

8 P is the penalty;

9 LSM is the minimum number of credits to earn the required LEED rating;

10 CE is the number of credits earned as documented by the report; and

11 CV is the Construction Value as set forth on the building permit for the new
12 structure.

13 Example:

Construction Value	\$200,000,000.00
Minimum LEED Credits for rating	33
Credits Earned	32
Penalty = $[(33 - 32) / 33] \times 200,000,000 \times 0.0075 =$	\$45,454.55

14 ~~4) Failure to comply with the applicant's commitment to earn a~~
15 ~~LEED rating is a violation of the Land Use Code independent of the failure to demonstrate~~
16 ~~compliance; however, such violation shall not affect the right to occupy any chargeable floor~~
17 ~~area, and if a penalty is paid in the amount determined under subsection 23.48.021.D.2.c.3, no~~
18 ~~additional penalty shall be imposed for the failure to comply with the commitment.~~

19 ~~5) If the Director determines that the report submitted provides~~
20 ~~satisfactory evidence that the applicant's commitment is satisfied, the Director shall issue a~~
21 ~~certificate to the applicant so stating. If the Director determines that the applicant did not~~

1 ~~demonstrate compliance with its commitment to earn a LEED rating in accordance with this~~
2 ~~subsection 23.48.021.D, the Director may give notice of such determination, and of the~~
3 ~~calculation of the penalty due, to the applicant.~~

4 ~~6) If, within 90 days, or such longer period as the Director may~~
5 ~~allow for good cause, after initial notice from the Director of a penalty due under this subsection~~
6 ~~23.48.021.D.2, the applicant shall demonstrate, through a supplemental report from the~~
7 ~~independent entity that provided the initial report, that it has made sufficient alterations or~~
8 ~~improvements to earn a LEED rating, or to earn more credits toward such a rating, then the~~
9 ~~penalty owing shall be eliminated or recalculated accordingly. The amount of the penalty as so~~
10 ~~re-determined shall be final. If the applicant does not submit a supplemental report in accordance~~
11 ~~with this subsection 23.48.021.D.2 by the date required under this subsection 23.48.021.D.2,~~
12 ~~then the amount of the penalty as set forth in the Director's original notice shall be final.~~

13 ~~7) Any owner, other than the applicant, of any lot on which the~~
14 ~~bonus development was obtained or any part thereof, shall be jointly and severally responsible~~
15 ~~for compliance and liable for any penalty due under this subsection 23.48.021.D.2.~~

16 ~~d. Use of penalties. A subfund shall be established in the City's General~~
17 ~~Fund to receive revenue from penalties under subsection 23.48.021.D.2. Revenue from penalties~~
18 ~~under that subsection 23.48.021.D.2 shall be allocated to activities or incentives to encourage~~
19 ~~and promote the development of sustainable buildings. The Director shall recommend to the~~
20 ~~Mayor and City Council how these funds should be allocated.~~

21 ~~3-))~~ 2. Transportation Management Program (TMP). The applicant will provide a
22 TMP for non-residential development, consistent with requirements for TMPs in any applicable
23 Director's Rule, that demonstrates, to the satisfaction of the Director in consultation with the

1 Director of Transportation, that no more than 40 percent of trips to and from the development
2 will be made using single-occupant vehicles (SOVs). The TMP shall be submitted with the
3 Master Use Permit application.

4 a. For purposes of measuring the percent of trips to and from the
5 development made using SOVs in the TMP, the number of SOV trips shall be calculated for the
6 p.m. peak hour in which an applicant expects the largest number of vehicle trips to be made by
7 employees at the site (the p.m. peak hour of the generator).

8 b. Compliance with this subsection (~~(23.48.021.D.3)~~) 23.48.021.D.2 does
9 not affect the responsibility of any employer to comply with Seattle's Commute Trip Reduction
10 (CTR) Ordinance.

11 Section 9. Subsection 23.48.221.C of the Seattle Municipal Code, which section was
12 enacted by Ordinance 124883, is amended as follows:

13 **23.48.221 Extra floor area in South Lake Union Urban Center**

14 * * *

15 C. Minimum requirement. (~~(Development containing any extra floor area in South Lake~~
16 ~~Union Urban Center shall meet the following requirements:~~

17 **1. LEED requirement**

18 a. ~~Except as described in subsection 23.48.021.C.1.b, the applicant will~~
19 ~~earn a LEED Gold rating or meet a substantially equivalent standard, and shall demonstrate~~
20 ~~compliance with that commitment, in accordance with the provisions of subsection~~
21 ~~23.48.021.D.2.~~

22 b. ~~An applicant may choose to earn at least a LEED Silver rating, if the~~
23 ~~Director of the Office of Sustainability and Environment determines that the development is~~

1 ~~served by a district energy provider. A building is considered served by a district energy provider~~
2 ~~if it is capable of connecting to a district energy system and has a contract with a district energy~~
3 ~~utility to serve primary heating and/or cooling needs. A district energy provider is an entity with~~
4 ~~a franchise agreement with the City that maintains a closed-loop district energy utility system~~
5 ~~that is either currently or scheduled to primarily use renewable and/or waste heat sources, per the~~
6 ~~system development plans and timeframes of an agreement with the City and the district energy~~
7 ~~provider. A district energy provider may, subject to City approval, rely on a temporary on-site or~~
8 ~~nearby transitional plant that is installed and maintained by the provider prior to connection of~~
9 ~~the development to a permanent district energy system.)) The applicant shall make a~~
10 ~~commitment that the proposed development will meet the green building standard and shall~~
11 ~~demonstrate compliance with that commitment, all in accordance with Chapter 23.58D.~~

12 Section 10. Subsection 23.48.230.D of the Seattle Municipal Code, which section was
13 enacted by Ordinance 124883, is amended as follows:

14 **23.48.230 ((Extra)) Additional height in certain SM-zoned areas in the South Lake**
15 **Union Urban Center**

16 * * *

17 D. ~~((LEED requirement. The applicant will strive to achieve a LEED Gold rating or~~
18 ~~better and at a minimum earn a LEED Silver rating or meet a substantially equivalent standard,~~
19 ~~and shall demonstrate compliance with that commitment, all in accordance with the provisions of~~
20 ~~Section 23.48.021.D.2.)) The applicant shall make a commitment that the proposed development~~
21 ~~will meet the green building standard and shall demonstrate compliance with that commitment,~~
22 ~~all in accordance with Chapter 23.58D.~~

23 * * *

1 Section 11. Subsection 23.49.011.A of the Seattle Municipal Code, which section was
 2 last amended by Ordinance 124883, is amended as follows:

3 **23.49.011 Floor area ratio**

4 A. General standards

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

Table A for 23.49.011		
Base and ((Maximum Floor Area Ratios)) maximum floor area ratios (FARs)		
Zone ((Designation)) 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 5 in DMC 160, except 8 for hotels 7 in DMC 125 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)	NA	NA
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 percent or more of the total gross floor area on the lot is in residential use

Table A for 23.49.011		
Base and ((Maximum Floor Area Ratios)) maximum floor area ratios (FARs)		
International District Residential/Commercial (IDR/C)	3, except hotels 6 for hotels**	3, except hotels 6 for hotels**
Downtown Harborfront 1 (DH1)	NA	NA
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR
Pike Market Mixed (PMM)	7	7
Footnotes to Table A for 23.49.011 NA = 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.		

1 2. Chargeable floor area shall not exceed the applicable base FAR except as
 2 expressly authorized pursuant to this Chapter 23.49.

3 a. In DOC1, DOC2, and DMC zones that are located outside of South
 4 Downtown, if chargeable floor area above the base FAR is allowed on a lot for development that
 5 includes a new structure and the project is located within the Local Infrastructure Project Area
 6 for Downtown and South Lake Union as shown on Map A for 23.58A.044, the first increment of
 7 chargeable floor area above the base FAR, shown for each zone in Table B for 23.49.011, shall
 8 be gained by acquiring regional development credits pursuant to Section 23.58A.044.

Table B for 23.49.011	
<u>First increment of FAR above the base FAR achieved through acquisition of regional development credits</u>	
Zone	((First increment of FAR above the base FAR achieved acquisition of regional development credits)) <u>Increment of FAR</u>
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

9 b. In DOC1, DOC2, DH2, and DMC zones outside of South Downtown,
 10 additional chargeable floor area above the first increment of FAR that exceeds the base FAR

1 may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or
2 23.49.013, or by the transfer of (~~transferable development rights~~) TDR pursuant to Section
3 23.49.014, or both, except as otherwise expressly provided in this subsection 23.49.011.A.2. If
4 the requirements of subsection 23.49.011.A.2.a do not apply, the first increment of floor area that
5 exceeds the base FAR shall be zero.

6 c. In no event shall the use of bonuses, TDR, or regional development
7 credits, or any combination of them, be allowed to result in chargeable floor area in excess of the
8 maximum as set forth in Table A for 23.49.011, except that a structure on a lot in a planned
9 community development pursuant to Section 23.49.036 or a combined lot development pursuant
10 to Section 23.49.041 may exceed the floor area ratio otherwise permitted on that lot, provided the
11 chargeable floor area on all lots included in the planned community development or combined
12 lot development as a whole does not exceed the combined total permitted chargeable floor area.

13 d. Except as otherwise provided in this subsection 23.49.011.A.2.d or
14 subsections 23.49.011.A.2.f or 23.49.011.A.2.h, and except in South Downtown, not less than 5
15 percent of all floor area above the base FAR to be gained on any lot, excluding any floor area
16 gained under subsections 23.49.011.A.2.a, 23.49.011.A.2.j, and 23.49.011.A.2.k, shall be gained
17 through the transfer of Landmark TDR, to the extent that Landmark TDR are available.

18 Landmark TDR shall be considered “available” only to the extent that, at the time of the Master
19 Use Permit application to gain the additional floor area, (~~the~~) The City of Seattle is offering
20 Landmark TDR for sale, at a price per square foot no greater than the total bonus contribution
21 under Section 23.49.012 for a project using the cash option for both housing and childcare
22 facilities. An applicant may satisfy the minimum Landmark TDR requirement in this Section
23 23.49.011 by purchases from private parties, by transfer from an eligible sending lot owned by

1 the applicant, by purchase from the City, or by any combination of the foregoing. This
2 subsection 23.49.011.A.2.d does not apply to any lot in a DMR zone.

3 e. Except as otherwise permitted under subsections 23.49.011.A.2.g,
4 23.49.011.A.2.h, or 23.49.011.A.2.l, on any lot outside of South Downtown except a lot in a
5 DMR zone, the total amount of chargeable floor area gained through bonuses under Section
6 23.49.012, together with any housing TDR and Landmark housing TDR used for the same
7 project, shall equal 75 percent of the amount, if any, by which the total chargeable floor area to
8 be permitted on the lot exceeds the sum of:

9 1) the base FAR, as determined under this Section 23.49.011 and
10 Section 23.49.032 if applicable, plus

11 2) any chargeable floor area gained on the lot pursuant to
12 subsections 23.49.011.A.2.a, 23.49.011.A.2.g, 23.49.011.A.2.h, 23.49.011.A.2.j, and
13 23.49.011.A.2.k. Except in South Downtown, at least half of the remaining 25 percent shall be
14 gained by using TDR from a sending lot with a major performing arts facility, to the extent
15 available, and the balance of the 25 percent shall be gained through bonuses under Section
16 23.49.013 or through TDR other than housing TDR, or both, consistent with this Chapter 23.49.
17 TDR from a sending lot with a major performing arts facility shall be considered “available”
18 only to the extent that, at the time of the Master Use Permit application to gain the additional
19 floor area, ~~((the))~~ The City of Seattle is offering such TDR for sale, at a price per square foot not
20 exceeding the prevailing market price for TDR other than housing TDR, as determined by the
21 Director.

22 f. In order to gain chargeable floor area on any lot in a DMR zone outside
23 of South Downtown, an applicant may:

1 1) use any types of TDR eligible under this Chapter 23.49 in any
2 proportions, or

3 2) use bonuses under Section 23.49.012 or 23.49.013, or both,
4 subject to the limits for particular types of bonus under Section 23.49.013, or

5 3) combine such TDR and bonuses in any proportions.

6 g. On any lot in a DMC zone allowing a maximum FAR of 7, in addition
7 to the provisions of subsection 23.49.011.A.2.e, an applicant may gain chargeable floor area
8 above the first increment of FAR above the base FAR through use of DMC housing TDR, or any
9 combination of DMC housing TDR with floor area gained through other TDR and bonuses as
10 prescribed in subsection 23.49.011.A.2.e.

11 h. If the amount of bonus development sought in any permit application
12 does not exceed 5,000 square feet of chargeable floor area, the Director may permit such floor
13 area to be achieved solely through the bonus for housing and child care.

14 i. No chargeable floor area above the base FAR shall be granted to any
15 proposed development that would result in significant alteration to any designated feature of a
16 Landmark structure, unless a certificate of approval for the alteration is granted by the
17 Landmarks Preservation Board.

18 j. On a lot entirely in a DOC1 zone, additional chargeable floor area equal
19 to 1.0 FAR may be permitted above the increment achieved through a commitment as prescribed
20 in subsection 23.49.011.A.2.a, or above the base FAR after expiration of that subsection
21 23.49.011.A.2.a, on a lot that includes one or more qualifying Landmarks, subject to the
22 following conditions:

1 1) the structure is rehabilitated to the extent necessary so that all
2 features and characteristics controlled or designated by ordinance pursuant to Chapter 25.12 or
3 Ordinance 102229 are in good condition and consistent with the applicable ordinances and with
4 any certificates of approval issued by the Landmarks Preservation Board, all as determined by
5 the Director of Neighborhoods; and

6 2) a notice shall be recorded in the King County real estate records,
7 in form satisfactory to the Director, regarding the bonus allowed and the effect thereof under the
8 terms of this Chapter 23.49. For purposes of this Section 23.49.011, a “qualifying Landmark” is
9 a structure that:

10 a) has a gross floor area above grade of at least 5,000
11 square feet;

12 b) is separate from the principal structure or structures
13 existing or to be developed on the lot, except that it may abut and connect with one such
14 structure along one exterior wall;

15 c) is subject, in whole or in part, to a designating ordinance
16 pursuant to Chapter 25.12, or was designated pursuant to Ordinance 102229; and

17 d) is on a lot on which no improvement, object, feature, or
18 characteristic has been altered or removed contrary to any provision of Chapter 25.12 or any
19 designating ordinance. A qualifying Landmark for which a bonus is allowed under this
20 subsection 23.49.011.A.2.j shall be considered a public benefit feature, but shall not be
21 considered an amenity for purposes of Section 23.49.013. For so long as any of the chargeable
22 floor area allowed under this subsection 23.49.011.A.2.j remains on the lot, each qualifying
23 Landmark for which such bonus was granted shall remain designated as a Landmark under

1 Chapter 25.12 and the owner shall maintain the exterior and interior of each qualifying
2 Landmark in good condition and repair and in a manner that preserves the features and
3 characteristics that are subject to designation or controls by ordinance, and that maintains
4 compliance with all applicable requirements of federal, state, and local laws, ordinances,
5 regulations, and restrictions.

6 k. On a lot entirely in a DOC1 zone, as an incentive to maintain diversity
7 in the scale of downtown development, additional floor area equal to 0.5 FAR may be granted
8 above the increment achieved through a commitment as prescribed in subsection
9 23.49.011.A.2.a, or above the base FAR after expiration of ~~((that))~~ subsection
10 ~~((23.48.011.A.2.a))~~ 23.49.011.A.2.a, on a lot that includes one or more qualifying small
11 structures, subject to the conditions in this subsection 23.49.011.A.2.k.

12 1) A “qualifying small structure” is one that satisfies all of the
13 following standards:

14 a) the gross floor area of the structure above grade is a
15 minimum of 5,000 square feet and does not exceed 50,000 square feet;

16 b) the height of the structure is 125 feet or less, not
17 including rooftop features as specified in subsection 23.49.008.D;

18 c) the structure was not constructed or substantially
19 structurally modified since July 13, 1982; and

20 d) the structure is not occupied by parking above the
21 ground floor.

22 2) If the structure is removed from the lot or ceases to be a
23 qualifying small structure, then any development on the portion of the lot previously occupied by

1 the structure, defined by a rectangle enclosing the exterior walls of the structure as they exist at
2 the time the bonus is granted and extended to the nearest street frontage, shall be limited to a
3 maximum floor area of 50,000 square feet for all uses and a maximum height of 125 feet,
4 excluding any rooftop features as specified in subsection 23.49.008.D.

5 3) A notice shall be recorded in the King County real estate
6 records, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof
7 under the terms of this Chapter 23.49.

8 4) Bonus floor area under this subsection 23.49.011.A.2.k may not
9 be granted on the basis of a Landmark structure for which bonus floor area is allowed under
10 subsection 23.49.011.A.2.j, but may be allowed on the basis of a different structure or structures
11 that are on the same lot as a Landmark structure for which such bonus floor area is allowed.

12 1. Chargeable floor area in excess of the base FAR in the PSM 85-120
13 zone may be gained only in accordance with Section 23.49.180.

14 m. In IDM, DMR₂ and DMC zones within South Downtown, chargeable
15 floor area in excess of the base FAR may be obtained only by qualifying for floor area bonuses
16 pursuant to Sections 23.58A.024 and 23.49.013, or by the transfer of ~~((transferable development
17 rights))~~ TDR pursuant to Section 23.49.014, or both, and except as permitted in subsection
18 23.49.011.A.2.h, only if the conditions of this subsection 23.49.011.A.2.m also are satisfied:

19 1) For a new or existing structure, ~~((the applicant makes a
20 commitment, approved by the Director as a Type I decision, that the proposed development will
21 earn a LEED Silver rating or meet a substantially equivalent standard. If such a commitment is
22 made, Section 23.49.020 applies))~~ the applicant shall make a commitment that the proposed

1 development will meet the green building standard and shall demonstrate compliance with that
2 commitment, all in accordance with Chapter 23.58D.

3 2) Seventy-five percent of the chargeable floor area in excess of
4 base FAR shall be gained through bonuses under Section 23.58A.024 or through use of Housing
5 TDR from within South Downtown.

6 3) Twenty-five percent of the chargeable floor area in excess of
7 base FAR shall be gained by one or any combination of (~~transferable development rights~~) TDR
8 or public open space amenities, subject to the conditions and limits of this Section 23.49.011,
9 Section 23.49.013, and Section 23.49.014:

10 a) TDR that may be used on a lot in South Downtown are
11 limited to South Downtown Historic TDR, open space TDR from within South Downtown, or
12 any combination of these consistent with this Chapter 23.49.

13 b) Amenities eligible for a bonus on a lot in South
14 Downtown are limited to public open space amenities pursuant to Section 23.49.013.

15 3. In a DOC1, DOC2, DRC, or DMC zone, for a lot that includes a qualifying
16 Landmark structure with a performing arts theater, the base FAR specified in Table A for
17 23.49.011 is increased by 4 FAR, or by the amount of FAR between the base and maximum FAR
18 of the zone, whichever is less, provided that the conditions of this subsection 23.49.011.A.3 are
19 met.

20 a. For purposes of this subsection 23.49.011.A.3, a “qualifying Landmark
21 structure with a performing arts theater” is a structure that is a designated Landmark pursuant to
22 Chapter 25.12 and that meets the following:

23 1) the structure was built before 1930;

1 2) the structure contains performing arts theater space that has
2 combined seating capacity in one or more venues for at least 800; and

3 3) the structure is subject to an ordinance granting incentives for
4 and imposing controls on the Landmark structure.

5 b. At the time a qualifying Landmark structure with a performing arts
6 theater uses the additional base FAR, either on the site or through transfer of TDR to another
7 site, the following conditions shall be met:

8 1) the performing arts theater use established under approved
9 permits, including combined seating capacity in one or more venues for at least 800, shall be
10 ensured by binding covenants between the property owner and the City for at least 40 years from
11 the first use of any of the additional base FAR, either on the site or through the first transfer of
12 any TDR to another site; and

13 2) the Director, after consulting with the property owner,
14 determines, as a Type I decision, that the property owner has executed a contract(s) with one or
15 more theater groups or performing arts organizations for regularly scheduled use of the
16 Landmark structure for live performances and that the anticipated use of the Landmark theater
17 structure for live theater performances, combined with any other use of the structure, is adequate
18 to contribute sufficiently to the presence of live theater in the Downtown Historic Theatre
19 District established by Resolution 31341 and to support the desired level of activity in the area
20 near the Landmark structure. In making this determination, the Director shall consider the
21 following:

1 a) the extent and duration of the contract(s) between the
2 property owner and one or more theater groups or performing arts organizations for regularly
3 scheduled use of the Landmark structure for live performances;

4 b) the presence of uses in the structure that will contribute
5 to activity in the area beyond the typical workday hours; and

6 c) programmed use of the Landmark structure by other
7 activities during periods when the structure is not in use for live performances; and

8 3) any use of the additional base FAR on the site complies with all
9 provisions of the designating ordinance and Chapter 25.12.

10 c. If a Landmark structure is on a lot that is not entirely regulated by a
11 designating ordinance, then the area used to calculate the additional base FAR is the area of the
12 footprint of the Landmark structure.

13 d. A lot that uses the additional base FAR on the site as allowed by this
14 subsection 23.49.011.A.3 is not allowed to gain chargeable floor area under subsection
15 23.49.011.A.2.j.

16 e. If a qualifying Landmark structure with a performing arts theater is on a
17 lot that is not entirely regulated by a designating ordinance, then the additional base FAR may be
18 transferred as TDR to another site, or may be used on the site on the portion of the lot that is
19 within the footprint of the Landmark structure, but shall not be used elsewhere on the lot.

20 4. The Master Use Permit application to establish any bonus development under
21 this subsection 23.49.011.A.4 shall include a calculation of the amount of bonus development
22 sought and shall identify the manner in which the conditions to such bonus development shall be
23 satisfied. The Director shall, at the time of issuance of any Master Use Permit decision approving

1 any such bonus development, issue a Type I decision as to the amount of bonus development to
2 be allowed and the conditions to such bonus development, which decision may include
3 alternative means to achieve bonus development, at the applicant's option, if each alternative
4 would be consistent with this Section 23.49.011 and any other conditions of the permit, including
5 Design Review if applicable.

6 * * *

7 Section 12. Section 23.49.020 of the Seattle Municipal Code, last amended by Ordinance
8 124919 and that currently reads as follows, is repealed:

9 ~~**((23.49.020 Demonstration of LEED Silver rating**~~

10 ~~A. Applicability. This section applies if a commitment to earn a LEED Silver rating or~~
11 ~~substantially equivalent standard is a condition of a permit.~~

12 ~~B. The Director is authorized to determine, as a Type I decision, whether the applicant~~
13 ~~has demonstrated that a new structure has earned a LEED Silver rating or met a substantially~~
14 ~~equivalent standard. The Director may establish by rule procedures for determining whether an~~
15 ~~applicant has demonstrated that a new structure has earned a LEED Silver rating or met any such~~
16 ~~substantially equivalent standard, provided that no rule shall assign authority for making a final~~
17 ~~determination to any person other than an officer of the Seattle Department of Construction and~~
18 ~~Inspections or another City agency with regulatory authority and expertise in green building~~
19 ~~practices.~~

20 ~~C. Demonstration of Compliance; Penalties.~~

21 ~~1. The applicant shall demonstrate to the Director the extent to which the~~
22 ~~applicant has complied with the commitment to earn a LEED Silver rating no later than 180 days~~
23 ~~after issuance of final Certificate of Occupancy for the new structure, or such later date as may~~

1 be allowed by the Director for good cause, by submitting a report analyzing the extent credits
2 were earned toward such rating from the U.S. Green Building Council or another independent
3 entity approved by the Director. For purposes of this Section 23.49.020, if the Director has
4 approved a substantially equivalent standard, the term "LEED Silver rating" shall mean such
5 other standard.

6 2. Failure to submit a timely report regarding a LEED Silver rating from an
7 approved independent entity by the date required is a violation of the Land Use Code. The
8 penalty for such violation is \$500 per day from the date that the report was due to the date it is
9 submitted. The owner is subject to this fine regardless of whether the City provides the owner
10 with notice that the report is overdue or that the fine is accruing.

11 3. Failure to demonstrate, through an independent report as provided in this
12 subsection, full compliance with the applicant's commitment to earn a LEED Silver rating, is a
13 violation of the Land Use Code. The penalty for each violation is an amount determined as
14 follows:

$$P = [(LSM - CE) / LSM] \times CV \times 0.0075,$$

15 where:

16 P is the penalty;

17 LSM is the minimum number of credits to earn a LEED Silver rating;

18 CE is the number of credits earned as documented by the report; and

19 CV is the Construction Value as set forth on the building permit for the new structure.

20 Example:

Construction Value	\$200,000,000.00
Minimum LEED Credits for Silver rating	33
Credits Earned	32

$\text{Penalty} = [(33 - 32) / 33] \times 200,000,000 \times .0075 =$	$\$45,454.55$
---	---------------

1 4. ~~Failure to comply with the applicant's commitment to earn a LEED Silver~~
2 ~~rating is a violation of the Land Use Code independent of the failure to demonstrate compliance;~~
3 ~~however, such violation shall not affect the right to occupy any chargeable floor area, and if a~~
4 ~~penalty is paid in the amount determined under subsection 23.49.020.C.3, no additional penalty~~
5 ~~shall be imposed for the failure to comply with the commitment.~~

6 5. ~~If the Director determines that the report submitted provides satisfactory~~
7 ~~evidence that the applicant's commitment is satisfied, the Director shall issue a certificate to the~~
8 ~~applicant so stating. If the Director determines that the applicant did not demonstrate compliance~~
9 ~~with its commitment to earn a LEED Silver rating in accordance with this section, the Director~~
10 ~~may give notice of such determination, and of the calculation of the penalty due, to the applicant.~~

11 6. ~~If, within 90 days, or such longer period as the Director may allow for good~~
12 ~~cause, after initial notice from the Director of a penalty due under this subsection 23.49.020.C,~~
13 ~~the applicant shall demonstrate, through a supplemental report from the independent entity that~~
14 ~~provided the initial report, that it has made sufficient alterations or improvements to earn a~~
15 ~~LEED Silver rating, or to earn more credits toward such a rating, then the penalty owing shall be~~
16 ~~eliminated or recalculated accordingly. The amount of the penalty as so re-determined shall be~~
17 ~~final. If the applicant does not submit a supplemental report in accordance with this subsection~~
18 ~~23.49.020.C by the date required under this subsection 23.49.020.C, then the amount of the~~
19 ~~penalty as set forth in the Director's original notice shall be final.~~

20 7. ~~Any owner, other than the applicant, of any lot on which the bonus~~
21 ~~development was obtained or any part thereof, shall be jointly and severally responsible for~~
22 ~~compliance and liable for any penalty due under this subsection 23.49.020.C.~~

1 ~~D. Use of Penalties. A subfund shall be established in the City's General Fund to receive~~
2 ~~revenue from penalties under subsection 23.49.020.C. Revenue from penalties under that~~
3 ~~subsection shall be allocated to activities or incentives to encourage and promote the~~
4 ~~development of sustainable buildings. The Director shall recommend to the Mayor and City~~
5 ~~Council how these funds should be allocated.))~~

6 Section 13. Subsection 23.49.023.F of the Seattle Municipal Code, which section was last
7 amended by Ordinance 124172, is amended as follows:

8 **23.49.023 Extra residential floor area and hotel floor area in South Downtown;**
9 **transferable development potential (TDP); limits on TDP sending sites**

10 * * *

11 F. (~~LEED Silver rating.~~) For new structures in PSM, IDM, DMR, and DMC zones
12 within South Downtown that include extra residential floor area pursuant to Chapter 23.58A, the
13 applicant shall make a commitment (~~(satisfactory to the Director that the proposed development~~
14 ~~shall earn a LEED Silver rating or meet a substantially equivalent standard approved by the~~
15 ~~Director as a Type I decision. If such commitment is made, Section 23.49.020 applies)) that the
16 proposed development will meet the green building standard and shall demonstrate compliance
17 with that commitment, all in accordance with Chapter 23.58D.~~

18 * * *

19 Section 14. Subsection 23.49.180.H of the Seattle Municipal Code, which section was
20 enacted by Ordinance 123034, is amended as follows:

1 Section 16. A new Chapter 23.58D of the Seattle Municipal Code is added as follows:

2 **Chapter 23.58D GREEN BUILDING STANDARD**

3 **23.58D.002 Green building standard**

4 A. When a commitment to meet the green building standard is required to qualify for
5 additional height or extra floor area in the applicable zone, the owner shall make a commitment
6 that the proposed development will meet the green building standard, or a substantially
7 equivalent or superior standard, and shall demonstrate compliance with that commitment in
8 accordance with the provisions of Section 23.58D.004.

9 B. If a site contains existing structures developed according to a version of the Land Use
10 Code in effect before April 19, 2011, the existing structures and any additions to those structures
11 are not required to be upgraded to the current green building standard to qualify for additional
12 height or extra floor area for those structures. Any entirely new structure proposed to be built on
13 the lot shall meet the current green building standard to gain the extra FAR for the site or
14 additional height for the structure. If a structure is developed under the Land Use Code in effect
15 on or after April 19, 2011, and was not built using all available extra FAR, then in order for the
16 structure or addition to gain the extra FAR, the structure shall be updated to the current green
17 building standard.

18 C. The Director shall adopt and amend rules establishing the green building standard and
19 enabling an owner to demonstrate compliance with a commitment to meet the standard using a
20 substantially equivalent or superior standard.

21 **23.58D.004 Demonstration of compliance**

22 A. The Director may adopt and amend rules establishing procedures for documenting an
23 owner's commitment that a proposed development will meet the green building standard and

1 determining whether the development complies with that commitment. No rule may assign
2 authority for making a final determination to any person other than an officer of the Department
3 or another City agency with regulatory authority and expertise in green building practices.

4 B. No later than 180 days after issuance of a final Certificate of Occupancy for a
5 development (or after the final inspection if a Certificate of Occupancy is not required), or by
6 such later date as may be allowed by the Director for good cause, the owner shall demonstrate to
7 the Director the extent to which the development complies with the commitment to meet the
8 green building standard. Compliance shall be demonstrated through a report from an independent
9 third party.

10 C. If the Director determines that the report provides satisfactory evidence that the
11 development complies with the owner's commitment, the Director shall send the owner a written
12 statement that the development complies with the commitment. If the Director determines that
13 the report does not provide satisfactory evidence that the development complies with the owner's
14 commitment, the Director shall send the owner a written statement that the development does not
15 comply with the commitment.

16 D. No later than 180 days after the Director sends notice that the report does not provide
17 satisfactory evidence that the development complies with the owner's commitment, or by such
18 later date as may be allowed by the Director for good cause, the owner shall demonstrate,
19 through a supplemental report from an independent third party, that the development complies
20 with the owner's commitment. If the Director determines that the supplemental report
21 demonstrates compliance, the Director shall send the owner a written statement that the
22 development complies with the owner's commitment. If the owner does not timely submit a
23 supplemental report, or if the Director determines that the supplemental report does not

1 demonstrate compliance, the Director shall send the owner a written statement that the
2 development does not comply with the owner's commitment.

3 **23.58D.006 Penalties**

4 A. Failure to timely submit the report required by subsection 23.58D.004.B is a violation
5 of the Land Use Code. The penalty for such violation shall be \$500 per day from the date when
6 the report was due to the date it is submitted. The penalty shall accrue even if the owner is not
7 notified of the violation.

8 B. Failure to demonstrate compliance with the owner's commitment to meet the green
9 building standard is a violation of the Land Use Code. The penalty for each violation is subject to
10 a maximum penalty of two percent of the construction value set forth in the building permit for
11 the development based on the extent of noncompliance with the commitment.

12 C. Failure to comply with the owner's commitment that the development will meet the
13 green building standard is a violation of the Land Use Code independent of the failure to
14 demonstrate compliance; however, failure to comply with the owner's commitment shall not
15 affect the right to occupy any extra floor area, and if a penalty is paid in the amount determined
16 under subsection 23.58D.006.B, no additional penalty shall be imposed for the failure to comply
17 with the commitment.

18 D. In addition to the owner, the applicant for the development for which additional height
19 or extra floor area was obtained in exchange for a commitment to meet the green building
20 standard shall be jointly and severally responsible for compliance and liable for any penalty
21 imposed pursuant to this Section 23.58D.006.

22 E. Use of penalties. A subfund shall be established in the City's General Fund to receive
23 revenue from penalties under this Section 23.58D.006. Revenue from penalties under this

1 Section 23.58D.006 shall be allocated to activities or incentives to encourage and promote the
2 development of sustainable buildings. The Director shall recommend to the Mayor and City
3 Council how these funds should be allocated.

4 Section 17. Subsection 23.66.140.C of the Seattle Municipal Code, which section was
5 last amended by Ordinance 124883, is amended as follows:

6 **23.66.140 Height**

7 * * *

8 C. Rooftop features and additions to structures

9 1. The height limits established for the rooftop features described in this Section
10 23.66.140 may be increased by the average height of the existing street parapet or a historically
11 substantiated reconstructed parapet on the building on which the rooftop feature is proposed.

12 2. For development in the PSM 85-120 zone in the area shown on Map A for
13 23.49.180 and subject to the provisions of Section 23.49.180, the height limits for rooftop
14 features are provided in subsection 23.49.008.D. The standards contained in subsections
15 23.66.140.C.1 and 23.66.140.C.4 do not apply to rooftop features on development subject to the
16 provisions of Section 23.49.180.

17 3. The setbacks required for rooftop features may be modified by the Department
18 of Neighborhoods Director, after a sight line review by the Preservation Board to ensure that the
19 features are minimally visible from public streets and parks within 300 feet of the structure.

20 4. Height limits for rooftop features

21 a. Religious symbols for religious institutions, smokestacks, and flagpoles
22 may extend up to 50 feet above the roof of the structure or the maximum height limit, whichever

1 is less, except as regulated in Chapter 23.64 (~~of this Land Use Code~~), provided that they are a
2 minimum of 10 feet from all lot lines.

3 b. For existing structures, open railings, planters, clerestories, skylights,
4 play equipment, parapets, and firewalls may extend up to 4 feet above the roof of the structure or
5 the maximum height limit, whichever is less. For new structures, such features may extend up to
6 4 feet above the maximum height limit. No rooftop coverage limits apply to such features
7 regardless of whether the structure is existing or new.

8 c. Solar collectors, excluding greenhouses, may extend up to 7 feet above
9 the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop
10 coverage, provided they are a minimum of 10 feet from all lot lines. For new structures, solar
11 collectors may extend up to 7 feet above the maximum height limit, except as provided in
12 subsection 23.66.140.C.4.j.1, and provided that they are a minimum of 10 feet from all lot lines.

13 d. The following rooftop features may extend up to 8 feet above the roof
14 or maximum height limit, whichever is less, if they are set back a minimum of 15 feet from the
15 street and 3 feet from an alley. They may extend up to 15 feet above the roof if set back a
16 minimum of 30 feet from the street. A setback may not be required at common wall lines subject
17 to review by the Preservation Board and approval by the Department of Neighborhoods Director.

18 The combined coverage of the following listed rooftop features shall not exceed 15 percent of
19 the roof area:

- 20 1) solar collectors, excluding greenhouses;
- 21 2) stair and elevator penthouses;
- 22 3) mechanical equipment;

1 4) minor communication utilities and accessory communication
2 devices, except that height is regulated according to the provisions of Section 23.57.014.

3 Additional combined coverage of these rooftop features, not to exceed 25
4 percent of the roof area, may be permitted subject to review by the Preservation Board and
5 approval by the Department of Neighborhoods Director.

6 e. On structures existing prior to June 1, 1989, and on additions to such
7 structures permitted according to subsection 23.66.140.C.4.i or otherwise, new or replacement
8 mechanical equipment and stair and elevator penthouses may extend up to 8 feet above the
9 elevation of the existing roof or addition, as applicable, when they are set back a minimum of 15
10 feet from the street and 3 feet from an alley; or may extend up to 12 feet above the elevation of
11 the existing roof or addition, as applicable, if they are set back a minimum of 30 feet from the
12 street, subject to review by the Preservation Board and approval by the Department of
13 Neighborhoods Director. On structures where rooftop features are allowed under subsection
14 23.66.140.C.4.e, the combined coverage of these rooftop features and any other features listed in
15 subsection 23.66.140.C.4.d shall not exceed the limit provided in subsection 23.66.140.C.4.d, as
16 it may be increased pursuant to ~~((that))~~ subsection 23.66.140.C.4.d.

17 f. Residential and office penthouses

18 1) Residential penthouses may cover a maximum of 50 percent of
19 the total roof surface and may extend up to 8 feet above the roof if set back a minimum of 15 feet
20 from the street property line, or 12 feet above the roof if set back a minimum of 30 feet from the
21 street property line.

22 2) Office penthouses are permitted only if the footprint of the
23 existing structure is greater than 10,000 square feet and the structure is at least 60 feet in height.

1 When permitted, office penthouses shall be set back a minimum of 15 feet from all property lines
2 and may cover a maximum of 50 percent of the total roof surface. Office penthouses may extend
3 up to 12 feet above the roof of the structure and shall be functionally integrated into the existing
4 structure.

5 3) The combined height of the structure and a residential penthouse
6 or office penthouse, if permitted, shall not exceed the maximum height limit for that area of the
7 District in which the structure is located.

8 g. Screening of ~~((Roof-top Features))~~ rooftop features. Measures may be
9 taken to screen rooftop features from public view subject to review by the Preservation Board
10 and approval by the Department of Neighborhoods Director. The amount of ~~((roof-top))~~ rooftop
11 area enclosed by rooftop screening may exceed the maximum percentage of the combined
12 coverage of rooftop features listed in subsection 23.66.140.C.4.d ~~((above))~~. In no circumstances
13 shall the height of rooftop screening exceed 15 feet above the maximum height limit or height of
14 an addition permitted according to subsection 23.66.140.C.4.i or otherwise, whichever is higher.

15 h. See Section 23.57.014 for regulation of communication utilities and
16 accessory devices.

17 i. For a structure that has existed since before June 10, 1985, and is
18 nonconforming as to structure height, an addition to the structure may extend to the height of the
19 roof of the existing structure if:

20 ~~((+))~~ 1) the use of the addition above the limit on structure height
21 applicable under Section 23.49.178 is limited to residential use; and

1 ((~~three~~)) 3 feet from all alleys. Solar collectors shall be set back as provided in subsections
2 23.66.140.C.4.c and 23.66.140.C.4.d.

3 5) Owners of structures with enclosed rooftop recreational spaces
4 permitted pursuant to this subsection 23.66.140.C.4.j shall submit to the Director, the Pioneer
5 Square Preservation Board, and the Director of Neighborhoods a report documenting compliance
6 with the LEED Gold rating commitment and Green Factor requirements set forth ((~~above~~)) in
7 Chapter 23.58D.

8 * * *

9 Section 18. Section 23.84A.014 of the Seattle Municipal Code, last amended by
10 Ordinance 124952, is amended as follows:

11 **23.84A.014 “G ((~~r~~))”**

12 * * *

13 “Grade.” See “Lot grade.”

14 “Green building standard” means a performance-based standard adopted by the Director
15 by rule that is equivalent or superior to standards accepted in the building industry for high-level
16 development strategies and practices that apply to a range of structure types, save resources, and
17 promote renewable, clean energy. As of the effective date of the ordinance introduced as Council
18 Bill 118783, the green building standard could consist of requirements, at a minimum, sufficient
19 to attain the credits needed to achieve a Gold level in the Building Design and Construction
20 rating system in the U.S. Green Building Council LEED v4 green building certification program,
21 or passive house certification from either the Passive House Institute (version 9f) or Passive
22 House Institute US (version 1.03).

1 “Green Factor” means a scoring system for required landscaping, as described in Section
2 23.86.019.

3 * * *

4 Section 19. Section 23.88.010 of the Seattle Municipal Code, last amended by Ordinance
5 124919, is amended as follows:

6 **23.88.010 Rulemaking**

7 ((A.)) The Director may promulgate rules consistent with this ((title)) Title 23 pursuant to
8 the authority granted in Section 3.06.040 and pursuant to the procedures established for
9 rulemaking in the Administrative Code, Chapter 3.02. In addition to the notice provisions of
10 Chapter 3.02, notice of the proposed adoption of a rule shall be placed in the Land Use
11 Information Bulletin.

12 ~~((B. The Director may adopt and amend, by rule, performance standards for determining
13 whether a proposed new structure has earned, at a minimum, a Leadership in Energy and
14 Environmental Design (LEED) Silver rating, a Built Green 4-star rating of the Master Builders
15 Association of King and Snohomish Counties, or meets the Washington Evergreen Sustainable
16 Development Standards (ESDS). No rule may assign authority for making a final determination
17 of whether a proposed new structure has earned, at a minimum, a LEED Silver rating, a Built
18 Green 4-star rating of the Master Builders Association of King and Snohomish Counties, or
19 meets the Washington Evergreen Sustainable Development Standards (ESDS) to any person
20 other than an officer of the Seattle Department of Construction and Inspections or another City
21 agency with regulatory authority and expertise in green building practices.))~~

22 Section 20. Section 23.90.018 of the Seattle Municipal Code, last amended by the
23 ordinance introduced as Council Bill 118736, is amended as follows:

1 **23.90.018 Civil enforcement proceedings and penalties**

2 A. In addition to any other remedy authorized by law or equity, any person violating or
3 failing to comply with any of the provisions of this Title 23 shall be subject to a cumulative
4 penalty of up to \$150 per day for each violation from the date the violation begins for the first
5 ten days of noncompliance; and up to \$500 per day for each violation for each day beyond ten
6 days of noncompliance until compliance is achieved, except as provided in subsection
7 23.90.018.B. In cases where the Director has issued a notice of violation, the violation will be
8 deemed to begin for purposes of determining the number of days of violation on the date
9 compliance is required by the notice of violation. In addition to the per diem penalty, a violation
10 compliance inspection charge equal to the base fee set by Section 22.900B.010 shall be charged
11 for the third inspection and all subsequent inspections until compliance is achieved. The
12 compliance inspection charges shall be deposited in the General Fund.

13 B. Specific violations

14 1. Violations of Section 23.71.018 are subject to penalty in the amount specified
15 in subsection 23.71.018.H.

16 2. Violations of the requirements of subsection 23.44.041.C are subject to a civil
17 penalty of \$5,000, which shall be in addition to any penalty imposed under subsection
18 23.90.018.A. Falsely certifying to the terms of the covenant required by subsection
19 23.44.041.C.3 or failure to comply with the terms of the covenant is subject to a penalty of
20 \$5,000, in addition to any criminal penalties.

21 3. Violation ((s)) of ((~~Section 23.49.011, 23.49.015, 23.49.023, or 23.50.051 with~~
22 ~~respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings~~
23 ~~under applicable sections are subject to penalty in amounts determined under Section 23.49.020,~~

1 ~~and not to any other penalty, but final determination and enforcement of penalties under that~~
2 ~~Section 23.49.020 are subject to subsection 23.90.018.C))~~ Chapter 23.58D with respect to a
3 failure to timely submit the report required by subsection 23.58D.004.B or to demonstrate
4 compliance with a commitment to meet the green building standard is subject to a penalty in an
5 amount determined by subsection 23.58D.006.

6 ~~((4. Violations of Sections 23.45.510 and 23.45.526 with respect to failure to~~
7 ~~demonstrate compliance with commitments to earn a LEED Silver rating or a 4-Star rating~~
8 ~~awarded by the Master Builders Association of King and Snohomish Counties or other eligible~~
9 ~~green building ratings systems under applicable sections are subject to penalty in amounts~~
10 ~~determined under subsection 23.90.018.E, and not to any other penalty.))~~

11 ~~((5.))~~ 4. Violation of subsection 23.40.007.B with respect to failure to demonstrate
12 compliance with a waste diversion plan for a structure permitted to be demolished under
13 subsection 23.40.006.D is subject to a penalty in an amount determined as follows:

14
$$P = SF \times .02 \times RDR,$$

15 where:

16 P is the penalty;

17 SF is the total square footage of the structure for which the demolition permit was issued;

18 and

19 RDR is the refuse disposal rate, which is the per ton rate established in Chapter 21.40,
20 and in effect on the date the penalty accrues, for the deposit of refuse at City recycling and
21 disposal stations by the largest class of vehicles.

1 ~~((6. Violations of subsection 23.40.060.E.2 by failing to submit the report~~
2 ~~required by subsection 23.40.060.E.2 by the date required are subject to a penalty of \$500 per~~
3 ~~day from the date the report was due to the date it is submitted.~~

4 ~~7. Violation of subsection 23.40.060.E.1.a by failing to demonstrate full~~
5 ~~compliance with the standards contained in subsection 23.40.060.E.1.a is subject to a maximum~~
6 ~~penalty of 10 percent of the construction value set forth in the building permit for the structure~~
7 ~~and a minimum penalty of 1 percent of construction value, based on the extent of compliance~~
8 ~~with standards contained in subsection 23.40.060.E.1.a.))~~

9 ~~((8.))~~ 5. Violation ~~((s))~~ of subsections 23.55.030.E.3.a.3, 23.55.030.E.3.b,
10 23.55.034.D.2.a, and 23.55.036.D.3.b, or, if the Seattle Department of Construction and
11 Inspections has issued an on-premises sign permit for a particular sign and the actual sign is not
12 being used for on-premises purposes or does not meet the definition of an on-premises sign as
13 defined in Chapter 23.84A, are subject to a civil penalty of \$1,500 per day for each violation
14 from the date the violation begins until compliance is achieved.

15 C. Civil actions to enforce this Title 23 shall be brought exclusively in Seattle Municipal
16 Court except for violations of permit terms related to Chapter 23.58C or as otherwise required by
17 law or court rule. The Director shall request in writing that the City Attorney take enforcement
18 action. The City Attorney shall, with the assistance of the Director, take appropriate action to
19 enforce this Title 23. In any civil action filed pursuant to this Chapter 23.90, the City has the
20 burden of proving by a preponderance of the evidence that a violation exists or existed. The
21 issuance of the notice of violation or of an order following a review by the Director is not itself
22 evidence that a violation exists.

1 D. Except in cases of violations of (~~Section 23.45.510, 23.45.526, 23.49.011, 23.49.015,~~
2 ~~23.49.023, or 23.50.051~~) Chapter 23.58D with respect to failure to demonstrate compliance with
3 a commitment to (~~earn LEED Silver, Built Green 4 Star, or ESDS ratings~~) meet the green
4 building standard or satisfy alternative standards, the violator may show as full or partial
5 mitigation of liability:

6 1. That the violation giving rise to the action was caused by the willful act, or
7 neglect, or abuse of another; or

8 2. That correction of the violation was commenced promptly upon receipt of the
9 notice thereof, but that full compliance within the time specified was prevented by inability to
10 obtain necessary materials or labor, inability to gain access to the subject structure, or other
11 condition or circumstance beyond the control of the defendant.

12 (~~E. Demonstration of green building certification pursuant to LEED Silver or Built~~
13 ~~Green 4 Star or ESDS ratings for certain development in multifamily zones.~~

14 1. ~~Applicability. This section applies whenever a commitment to earn a LEED~~
15 ~~Silver rating, or a Built Green 4 Star or ESDS rating, or a substantially equivalent standard, as~~
16 ~~approved by the Director, is a condition of a permit in a multifamily zone.~~

17 2. ~~Demonstration of Compliance; Penalties.~~

18 a. ~~The applicant shall demonstrate to the Director the extent to which the~~
19 ~~applicant has complied with the commitment to meet the green building performance~~
20 ~~requirements no later than 90 days after issuance of final Certificate of Occupancy for the new~~
21 ~~structure, or such later date as may be allowed by the Director for good cause. Performance is~~
22 ~~demonstrated through an independent report from a third party.~~

1 ~~P is the penalty;~~

2 ~~CV is the Construction Value as set forth on the building permit for the new structure.~~

3 ~~d. Failure to comply with the applicant's commitment to meet green~~
4 ~~building performance requirements is a violation of the Land Use Code independent of the~~
5 ~~failure to demonstrate compliance; however, such violation shall not affect the right to occupy~~
6 ~~any chargeable floor area, and if a penalty is paid in the amount determined under subsection~~
7 ~~23.90.018.E.2, no additional penalty shall be imposed for the failure to comply with the~~
8 ~~commitment.~~

9 ~~e. If the Director determines that the report submitted provides satisfactory~~
10 ~~evidence that the applicant's commitment is satisfied, the Director shall issue a certificate to the~~
11 ~~applicant so stating. If the Director determines that the applicant did not demonstrate compliance~~
12 ~~with its commitment to meet green building performance requirements in accordance with this~~
13 ~~Section 23.90.018, the Director may give notice of such determination, and of the calculation of~~
14 ~~the penalty due, to the applicant.~~

15 ~~f. If, within 90 days, or such longer period as the Director may allow for~~
16 ~~good cause, after initial notice from the Director of a penalty due under this subsection, the~~
17 ~~applicant shall demonstrate, through a supplemental report from the independent entity that~~
18 ~~provided the initial report, that it has made sufficient alterations or improvements to earn the~~
19 ~~required green building performance rating, then the penalty owing shall be eliminated. If the~~
20 ~~applicant does not submit a supplemental report in accordance with this subsection by the date~~
21 ~~required under this subsection, or if the Director determines that the supplemental report does not~~
22 ~~demonstrate compliance, then the amount of the penalty as set forth in the Director's original~~
23 ~~notice shall be final, subject to subsection 23.90.018.C.~~

1 ~~g. Any owner, other than the applicant, of any lot on which the bonus~~
2 ~~development or extra floor area was obtained or any part thereof, shall be jointly and severally~~
3 ~~responsible for compliance and liable for any penalty due under this subsection 23.90.018.E.~~


4 F.)) E. Use of ((Penalties)) penalties. ~~((A subfund shall be established in the City's~~
5 ~~General Fund to receive revenue from penalties under subsections 23.90.018.B.3, 23.90.018.B.5~~
6 ~~and 23.90.018.E. Revenue from penalties under that subsection shall be allocated to activities or~~
7 ~~incentives to encourage and promote the development of sustainable buildings. The Director~~
8 ~~shall recommend to the Mayor and City Council how these funds should be allocated.)) A~~
9 subfund shall be established in the City's General Fund to receive revenue from penalties under
10 subsection ~~((23.90.018.B.8))~~ 23.90.018.B.5, which shall annually be directed to the Seattle
11 Department of Construction and Inspections' Operations Division, after ten percent of the gross
12 receipts are paid to the Parks and Recreation Fund as required by Article XI, Section 3 of the
13 Charter.

14 Section 21. The Council requests that the Seattle Department of Construction and
15 Inspections (SDCI), in coordination with the Office of Sustainability and the Environment, work
16 with stakeholders, including the Seattle 2030 District and the International Living Future
17 Institute, develop recommendations for: (1) a green building pilot program for existing buildings;
18 and (2) allowing a project located on an upland lot in the Urban Harborfront Shoreline
19 Environment to participate in a green building pilot program for new or existing buildings. The
20 Council requests that SDCI presents those recommendations for any proposed legislative updates
21 to the Living Building Pilot Program or legislation establishing a separate green building pilot
22 program for existing buildings. Proposed recommendations should be submitted to Council no
23 later than April 1, 2017.

1 Section 22. If any section or subsection of the Seattle Municipal Code affected by this
2 ordinance is amended by another ordinance without reference to amendments made by this
3 ordinance, each ordinance shall be given effect to the extent that the amendments do not conflict
4 in purpose, and the code reviser may publish the section or subsection in the official code with
5 all amendments incorporated therein.

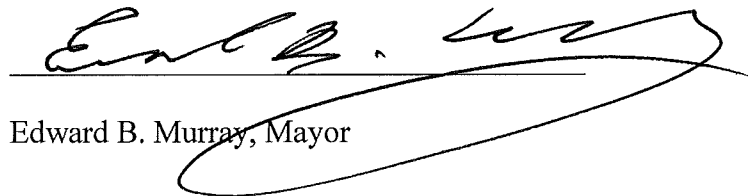
1 Section 23. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 3rd day of October, 2016, and
5 signed by me in open session in authentication of its passage this 3rd day of
6 October, 2016.

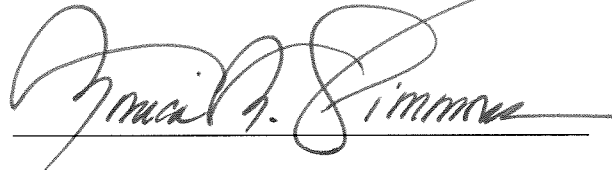
7 
8 _____

9 President _____ of the City Council

10
11 Approved by me this 7th day of October, 2016.

12 
13 _____
14 Edward B. Murray, Mayor

15
16 Filed by me this 7th day of OCTOBER, 2016.

17 
18 _____

19 Monica Martinez Simmons, City Clerk

20
21 (Seal)