



# SEATTLE CITY COUNCIL

## Land Use Committee

### Agenda - Revised

Wednesday, June 28, 2023

2:00 PM

### Public Hearing

Council Chamber, City Hall  
600 4th Avenue  
Seattle, WA 98104

Dan Strauss, Chair  
Tammy J. Morales, Vice-Chair  
Teresa Mosqueda, Member  
Sara Nelson, Member  
Alex Pedersen, Member

Chair Info: 206-684-8806; [Dan.Strauss@seattle.gov](mailto:Dan.Strauss@seattle.gov)

[Watch Council Meetings Live](#) [View Past Council Meetings](#)

Council Chamber Listen Line: 206-684-8566

For accessibility information and for accommodation requests, please call 206-684-8888 (TTY Relay 7-1-1), email [CouncilAgenda@Seattle.gov](mailto:CouncilAgenda@Seattle.gov), or visit <http://seattle.gov/cityclerk/accommodations>.



# SEATTLE CITY COUNCIL

## Land Use Committee

### Agenda - Revised

June 28, 2023 - 2:00 PM

### Public Hearing

#### Meeting Location:

Council Chamber, City Hall, 600 4th Avenue, Seattle, WA 98104

#### Committee Website:

<https://www.seattle.gov/council/committees/land-use>

---

This meeting also constitutes a meeting of the City Council, provided that the meeting shall be conducted as a committee meeting under the Council Rules and Procedures, and Council action shall be limited to committee business.

Members of the public may register for remote or in-person Public Comment to address the Council. Details on how to provide Public Comment are listed below:

Remote Public Comment - Register online to speak during the Public Comment period at the meeting at <http://www.seattle.gov/council/committees/public-comment>. Online registration to speak will begin two hours before the meeting start time, and registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

In-Person Public Comment - Register to speak on the Public Comment sign-up sheet located inside Council Chambers at least 15 minutes prior to the meeting start time. Registration will end at the conclusion of the Public Comment period during the meeting. Speakers must be registered in order to be recognized by the Chair.

Submit written comments to Councilmember Strauss at [Dan.Strauss@seattle.gov](mailto:Dan.Strauss@seattle.gov)

*Please Note: Times listed are estimated*

**A. Call To Order****B. Approval of the Agenda****C. Public Comment****D. Items of Business**

1. [CB 120581](#) **AN ORDINANCE relating to Design Review for affordable housing; adopting temporary regulations to exempt housing projects that meet Mandatory Housing Affordability requirements using on-site performance units from Design Review, and allowing permit applicants for all housing subject to Full Design Review the option of complying with Design Review pursuant to Administrative Design review; amending Section 23.41.004 of the Seattle Municipal Code; and adopting a work plan.**

*Supporting Documents:*

[Summary and Fiscal Note](#)

[Director's Report](#)

[SDCI Presentation \(06/14/23\)](#)

[Central Staff Memo \(6/28/23\)](#)

[Amendment 1a v2](#)

[Amendment 2](#)

**Briefing, Discussion, Public Hearing, and Possible Vote** (30 minutes)

**Presenters:** Mike Podowski, Department of Construction and Inspections (SDCI); Ketil Freeman, Council Central Staff

2. [CB 120591](#) **AN ORDINANCE relating to land use and zoning; correcting typographical and other technical errors, correcting section references, and clarifying regulations in sections that relate or may apply to low-income housing and other developments with units subject to affordability restrictions; amending, adopting new, and repealing obsolete defined terms relating to affordability of and eligibility to reside in certain housing; increase consistency and clarity of provisions that relate to low-income housing and restricted units; amending a limited number of provisions, including applicability of design review and authorization to request waiver or modification of certain development standards, to facilitate development of low-income housing; amending the title of Sections 23.44.019, 23.45.550, 23.47A.040, 23.48.100, and 23.49.007, amending Sections 22.900G.015, 23.34.012, 23.34.020, 23.41.004, 23.42.055, 23.42.057, 23.42.070, 23.44.024, 23.44.034, 23.44.041, 23.45.510, 23.45.512, 23.45.516, 23.47A.004, 23.47A.005, 23.47A.013, 23.48.005, 23.48.020, 23.48.232, 23.48.605, 23.48.920, 23.49.008, 23.49.010, 23.49.012, 23.49.014, 23.49.023, 23.49.037, 23.49.041, 23.49.058, 23.49.164, 23.49.180, 23.54.015, 23.58A.002, 23.58A.003, 23.58A.004, 23.58A.014, 23.58A.024, 23.58A.042, 23.58B.010, 23.58B.020, 23.58B.025, 23.58B.040, 23.58B.050, 23.58B.060, 23.58C.020, 23.58C.025, 23.58C.030, 23.58C.040, 23.58C.050, 23.66.100, 23.66.310, 23.70.008, 23.70.010, 23.72.002, 23.72.010, 23.73.010, 23.73.016, 23.75.020, 23.75.085, 23.76.032, 23.76.060, 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.030, 23.84A.032, 23.84A.038, 23.84A.040, and 23.86.007, and repealing Sections 23.49.015 and 23.49.181 of the Seattle Municipal Code.**

Attachments: [Full Text: CB 120591](#)

Supporting

Documents:

[Summary and Fiscal Note](#)

[Director's Report](#)

[OH Presentation \(06/14/23\)](#)

[Amendment 1](#)

**Briefing, Discussion, Public Hearing, and Possible Vote (30 minutes)**

**Presenters:** Laura Hewitt Walker, Office of Housing (OH); Ketil Freeman, Council Central Staff

3. [CB 120592](#) **AN ORDINANCE** relating to land use and zoning; updating regulations for rooftop features in the Pioneer Square Preservation District; and amending Sections 23.49.008 and 23.66.140 of the Seattle Municipal Code.

*Supporting Documents:*

[Summary and Fiscal Note](#)  
[Summary Att 1 - Map of Eligible Pioneer Square Preservation District Sites](#)  
[Director's Report](#)  
[Central Staff Memo \(6/28/23\)](#)  
[SDCI Presentation \(6/28/23\)](#)

**Briefing and Discussion** (30 minutes)

**Presenters:** Mike Podowski and Gordon Clowers, Department of Construction and Inspections (SDCI); Lish Whitson, Council Central Staff

4. **Draft Resolution on endorsing transportation strategies focused on improving the movement of people and goods in Seattle's industrial and maritime areas.**

*Supporting Documents:*

[DRAFT Industrial and Maritime Transportation Resolution](#)  
[Summary and Fiscal Note](#)  
[Central Staff Presentation \(6/28/23\)](#)

**Briefing and Discussion** (30 minutes)

**Presenter:** Lish Whitson, Council Central Staff

## E. Adjournment



Legislation Text

---

**File #:** CB 120581, **Version:** 1

---

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to Design Review for affordable housing; adopting temporary regulations to exempt housing projects that meet Mandatory Housing Affordability requirements using on-site performance units from Design Review, and allowing permit applicants for all housing subject to Full Design Review the option of complying with Design Review pursuant to Administrative Design review; amending Section 23.41.004 of the Seattle Municipal Code; and adopting a work plan.

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

Section 1. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance 126741, is amended as follows:

**23.41.004 Applicability**

A. Design review required

1. Subject to the exemptions in subsection 23.41.004.B, design review is required in the following areas or zones when development is proposed that exceeds a threshold in Table A or Table B for 23.41.004:

- a. Multifamily;
- b. Commercial;
- c. Seattle Mixed;
- d. Downtown; and
- e. Stadium Transition Area Overlay District as shown in Map A for 23.74.004, when the

width of the lot exceeds 120 feet on any street frontage.

2. Subject to the exemptions in subsection 23.41.004.B, design review is required in the

following areas or zones when commercial or institution development is proposed that exceeds a threshold in Table A or Table B for 23.41.004:

- a. Industrial Buffer; and
- b. Industrial Commercial.

3. The gross floor area of the following uses is not included in the total gross floor area of a development for purposes of determining if a threshold is exceeded:

- a. Religious facilities;
- b. Elementary and secondary schools;
- c. Uses associated with a Major Institution Master Plan (MIMP); or
- d. Development of a major institution use within a Major Institution Overlay (MIO)

district.

4. Any development proposal participating in the Living Building or 2030 Challenge High Performance Existing Building Pilot Program according to Sections 23.40.060 and 23.40.070, including a development proposal for an existing structure, regardless of size or site characteristics, is subject to full design review according to Section 23.41.014.

5. Any development proposal, regardless of size or site characteristics, is subject to the administrative design review process according to Section 23.41.016 if it receives public funding or an allocation of federal low-income housing tax credits, and is subject to a regulatory agreement, covenant, or other legal instrument recorded on the property title and enforceable by The City of Seattle, Washington State Housing Finance Commission, State of Washington, King County, U.S. Department of Housing and Urban Development, or other similar entity as approved by the Director of Housing, which restricts at least 40 percent of the units to occupancy by households earning no greater than 60 percent of median income, and controls the rents that may be charged, for a minimum period of 40 years.

6. Any development proposal that is located in a Master Planned Community zone and that

includes a request for departures, regardless of size or site characteristics, is subject to full design review according to Section 23.41.014. If a development proposal in a Master Planned Community zone does not include a request for departures, the applicable design review procedures are in Section 23.41.020. A development proposal in a Master Planned Community zone, which includes a request for departures and provides affordable housing per subsection

23.41.004.A.5, shall be subject to administrative design review according to Section 23.41.016.

7. Subject to the exemptions in subsection 23.41.004.B, design review is required for additions to existing structures when the size of the proposed addition or expansion exceeds a threshold in Table A or Table B for 23.41.004. Administrative design review, as described in Section 23.41.016, is required for certain other additions to existing structures according to rules promulgated by the Director.

\* \* \*

### C. Optional design review

1. Design review. Development proposals that are not subject to design review may elect to be reviewed pursuant to the full, administrative, or streamlined design review process if:

a. The development proposal is in any zone or area identified in subsection 23.41.004.A.1 or 23.41.004.A.2 or in the Stadium Transition Area Overlay District, except development that is within a Master Planned Community zone is not eligible for optional design review; and

b. The development proposal does not include the uses listed in subsection 23.41.004.A.3.

2. Administrative design review. According to the applicable process described in Section 23.41.016, administrative design review is optional for a development proposal that is not otherwise subject to this Chapter 23.41 and is on a site that contains an exceptional tree, as defined in Section 25.11.020, when the ability to depart from development standards may result in protection of the tree as provided in Sections 25.11.070 and 25.11.080.



D. Temporary provisions for affordable housing projects

1. Notwithstanding any contrary provision of this Title 23, a project subject to administrative design review according to subsection 23.41.004.A.5 or a project in a Master Planned Community zone that meets the requirements according to subsection 23.41.004.A.5 shall be exempt from design review if the applicant files a complete building permit application (~~((while this ordinance is in effect))~~) by January 14, 2024, except that the applicant may elect to have the project be subject to design review notwithstanding the preceding exemption.

2. Requests for departures. If a project is exempt from design review according to subsection 23.41.004.D.1, the Director may consider requests for departures from any development standard in this Title 23, except as otherwise limited in subsection 23.41.012.B (~~((the following development standards in this Title 23:~~

- ~~a. Requirements for bike rooms and the quantity of bike parking;~~
- ~~b. Requirements for the size of parking spaces;~~
- ~~c. Requirements for overhead weather protection;~~
- ~~d. Requirements for facade openings, articulation, and modulation and art on the facades of buildings but not including limitations on structure width;~~
- ~~e. Requirements for the size and design of common recreational areas, amenity areas, community rooms, and similar indoor amenities but not including any required outdoor open space;~~
- ~~f. Requirements related to residential uses, transparency, blank facades, and floor-to-floor height at street level, except as otherwise limited in subsection 23.41.012.B; and~~
- ~~g. Other similar standards as determined by the Director, not including those listed in subsection 23.41.012.B, that pertain to the interior of the building and do not affect the size of the building envelope)).~~

3. Departures decision. Requests for departures according to subsection 23.41.004.D.2 shall be

evaluated by the Director, in consultation with the Office of Housing, in light of the particular population designed to be served by the project, and may be granted by the Director as a Type I decision if the departure ((~~would not impact the overall height, bulk, and scale of the proposed building and~~)) would result in additional housing units ((~~meeting the standards of subsection 23.41.004.A.5~~)) being constructed.

E. Temporary provisions for developments with units provided on-site to comply with Chapter 23.58C through the performance option

1. A development proposal that includes at least one unit provided on-site through the performance option according to Section 23.58C.050.C shall be exempt from design review if the applicant files a valid and complete building permit application electing the exemption while this ordinance is in effect.

2. A development proposal that includes at least one unit provided on-site through the performance option according to Section 23.58C.050.C that is vested according to Section 23.76.026 prior to the effective date of this ordinance may elect to be processed as allowed by Section 23.41.004.E.

3. The design review exemption under subsection 23.41.004.E.1 shall be rescinded for a development proposal that changes from the performance option to the payment option at any time prior to issuance of a building permit.

4. Requests for departures. If a project is exempt from design review according to subsection 23.41.004.E.1, the Director may consider requests for departures from and development standard in this Title 23, except as otherwise limited in subsection 23.41.012.B.

5. Departures decision. Requests for departures according to subsection 23.41.004.D.2 shall be evaluated and may be granted by the Director as a Type I decision if the departure would result in additional housing units being constructed.

F. Temporary provisions for electing administrative design review

1. The provisions of this subsection 23.41.004.F apply notwithstanding any contrary provision of this Title 23.

2. The provisions of this subsection 23.41.004.F expire 12 months after the effective date of this ordinance.

3. While the provisions of this subsection 23.41.004.F apply:

a. An applicant may elect a project that includes residential use and subject to the full design review process according to Section 23.41.014 to be processed through the administrative design review process according to Section 23.41.016.

b. An applicant of a project that includes residential use and vested according to Section 23.76.026 prior to the effective date of this ordinance may elect a project to be processed through administrative design review as allowed by subsection 23.41.004.F.3.a.

4. An applicant that has made the election to pursue administrative design review as allowed by subsection 23.41.004.F.3 may further elect to return to the full design review process according to Section 23.41.014. If an applicant elects a project to return to full design review, all early design guidance and recommendation processes, to the extent not completed under administrative design review, shall be shifted back to full design review. The applicant election to return to full design review is subject to the Director's determination that a return to full design review would not preclude review from being completed in the time required by Section 23.76.005.

Section 2. The Council approves the following work plan for the development of permanent regulations to address the matters in this ordinance, as well as other design review-related matters as appropriate:

**WORK PLAN:**

Outreach on proposed permanent legislation	January 2, 2024 - February 12, 2024
Draft permanent legislation and conduct SEPA review on draft permanent legislation	February 12, 2024 - April 15, 2024
Mayor Transmits Legislation to Council	April 17, 2024
Council Deliberations and Public Hearing on Proposed Legislation	May 2024
Legislation Effective	By August 12, 2024

Section 3. This ordinance shall be automatically repealed without subsequent Council action 12 months after it becomes effective.

Section 4. The provisions of this ordinance are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance is held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

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

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

(Seal)

## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
Seattle Department of Construction and Inspections	Mike Podowski	Christie Parker

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to design review for affordable housing; adopting temporary regulations to exempt housing projects that meet Mandatory Housing Affordability requirements using on-site performance units from design review, and allowing permit applicants for all housing subject to full design review the option of complying with design review pursuant to administrative design review; amending Section 23.41.004 of the Seattle Municipal Code; and adopting a work plan.

**Summary and Background of the Legislation:** This legislation will allow more efficient and/or flexible permit review of development to address housing needs, including housing for low-income people. The legislation continues the City’s efforts to assist in the production of housing by temporarily exempting certain projects from Design Review and allowing, at the applicant’s option, different review processes.

This legislation will:

1. Provide a design review exemption for development projects that elect to meet the City’s Mandatory Housing Affordability (MHA) requirement with on-site performance;
2. Provide an option for any housing development proposal to be reviewed under Administrative Design Review (ADR) rather than by the Design Review Board under Full Design Review (FDR);
3. Allow the SDCI Director to waive or modify certain development standards for the MHA performance projects;
4. Allow applicants who opt for the ADR process to return to FDR at their option; and
5. Be effective for an interim period of twelve months while the City studies permanent proposals to update the Design Review process.

SDCI is producing a report that summarizes permit turnaround times for Design Review projects. This report is being prepared to respond to City Council Statement of Legislative Intent (SLI) SDCI-004-A-001 dated November 16, 2021, related to Design Review. Analysis in this report shows that Administrative Design Review projects generally are reviewed more quickly than Full Design Review projects. The report finds that this may be due to factors such as the relatively less complex nature of projects required to go through Administrative Design Review, not having to wait for an open design review board meeting, and other factors that may not be related to Design Review.

One of the intents of this legislation is to test whether Administrative Design Review can be conducted more quickly than Full Design Review for housing projects and evaluate ways to help make Design Review more efficient for housing development. After studying the results of the process flexibility afforded by this legislation, SDCI intends to make recommendations to the Mayor and City Council for permanent legislation and identify the resources needed to carry out the recommendations, including business practice development, technology support and staffing.

## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project? \_\_\_ Yes  X  No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget? \_\_\_ Yes  X  No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

No. Permit applications for development that include MHA performance housing would be exempt from Design Review and result in fewer applications that include a Design Review permit component. The ability for applicants to opt to undergo administrative review rather than Design Review Board review is anticipated to result in a range of 10 to 30 permit applications compared to current regulations. The shift of applications from board to administrative review would necessitate more staff review time to conduct the reviews compared to the time required when helping facilitate board review. To the extent more permit applicants opt for MHA performance than historically observed, MHA payment revenue would be reduced during the effective period for this legislation, commensurate with the affordable housing directly provided by the applicants. This is not anticipated to be a significant or ongoing reduction in revenue.

Given the number of projects involved, SDCI anticipates accommodating the additional administrative review with existing staff. Existing resources will be used to train staff, create public information materials, and business practice development. No significant technology changes are anticipated.

The following summarizes the number of permit applications anticipated by SDCI to utilize this temporary legislation:

MHA Exemption Proposal. Based on the number of performance projects, 10 to 15, with a recorded MHA housing agreement and issued building permits since 2020, there could be an estimated 10-15 MHA performance projects that may be eligible for this exemption during the 12-month effective period of this legislation. Since this change is designed to provide an additional incentive, the number of performance projects could be on the higher end of that range, anywhere from 15 to 30, if the number of projects doubled with passage of this legislation.

ADR Option Proposal. The number of ADR and FDR projects with issued Master Use Permits (MUPs) with housing for the full year periods since the July 2018 Design Review code major update are as follows:

<b>Design Review Projects with housing (Issued MUPs)</b>			
<b>Year</b>	<b>FDR</b>	<b>ADR</b>	<b>Total</b>
2019	75	17	92
2020	70	45	115
2021	37	50	87
2022	32	53	85
<b>Average over 4 years</b>	<b>53</b>	<b>41</b>	<b>95</b>

During the COVID pandemic while the City was under a Mayoral emergency declaration, the City allowed development projects subject to FDR to elect ADR from April 2020 until August of 2022 if they were ready to be scheduled for a Design Review Board meeting (interim Ordinances 126072 and 126188). During this period, permit applicants for 68 out of 198 FDR projects (34%) elected to go through ADR (this includes both residential and commercial projects). Applying that same percentage to the 4-year average for FDR projects with housing from the table above, 18 housing projects might make the same election during the 12-month effective period of the proposed legislation. If the election is as high as 50 percent of FDR housing projects, the number would be 27 housing projects. Some applicants will still prefer to go through FDR to get instant feedback from the Design Review Board.

**Are there financial costs or other impacts of *not* implementing the legislation?**

Yes. Not implementing the legislation could result in delay in the permitting process for development projects, which could slow housing production. In addition, this legislation is an opportunity for the City to address inequity in access to housing by BIPOC persons and others seeking more affordable housing.

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

The Office of Housing (OH) has a role in reviewing permit applicants that are subject to MHA and specifically the applications for MHA performance that would be eligible for exemption from Design Review due to this legislation. OH has been consulted in the development of this legislation and they do not anticipate fiscal impacts.

**b. Is a public hearing required for this legislation?**

Yes.

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



Yes. Notices will be published in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin. The SEPA Draft legislation, the City's Determination, pursuant to environmental review under the State Environmental Policy Act (SEPA), was published on February 27, 2023.

**d. Does this legislation affect a piece of property?**

Yes. The legislation affects properties in zones throughout the City where Design Review is required.

**e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

This legislation is intended to help increase and speed up the production of housing, including those for low-income households, many of which are comprised of BIPOC individuals. The legislation is intended to speed access to housing, including for vulnerable and historically disadvantaged communities that are most impacted by the high cost and insufficient supply of housing in Seattle.

**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

This legislation will likely result in a reduction of greenhouse gas emissions by reducing the need for low-income and other households to seek housing outside of the City, which results in greater energy consumption and emissions related to longer commute distances.

**2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

This legislation increases Seattle's resiliency and its ability to adapt to climate change by increasing housing supply, including low-income housing, in the City.

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s).**

Not applicable.

## **Director's Report and Recommendation Affordable Housing Design Review Amendments – MHA performance and ADR choice April 26, 2023**

### **Proposal Summary**

The City last enacted major reform of the Design Review program in 2018 with legislation (Ordinance 125429) that instituted organizational, structural, and procedural changes to the City's Design Review program. The changes were intended to improve the overall function of the program by enhancing the efficiency and predictability of project reviews, improving dialogue amongst project stakeholders, and making the program more transparent and accessible to the public and project applicants.

Since then, the Seattle City Council adopted, and the Mayor signed, interim Ordinances 126072, 126188, and 120464 that included provisions to assist in the production of certain low-income housing projects by providing an exemption from Design Review and allowing waiver or modification of certain development standards. In light of the continuing homelessness and affordable housing crisis, the need for provisions to address housing solutions remains.

Since the 2018 reforms and subsequent legislation, the population of people experiencing homelessness and challenged by the supply and cost of housing has increased, so have shelters, encampments and tents. The supply of housing has not kept pace with the City's growing demand and cost pressures.

This legislation would:

1. Provide a design review exemption for development projects that elect to meet the City's Mandatory Housing Affordability (MHA) requirement with on-site performance;
2. Provide an option for any housing development proposal to be reviewed under Administrative Design Review (ADR) rather than by the Design Review Board under Full Design Review (FDR);
3. Allow the SDCI Director to waive or modify certain development standards for the MHA performance projects;
4. Allow applicant who opt for the ADR process to return to FDR also at their option; and
5. Be effective for an interim period of twelve months while the City studies permanent proposals to update the Design Review process.

Adopting this legislation will allow more efficient and/or flexible permit review of development to address urgent housing needs, including for low-income people, while the City's study is underway. The legislation continues the trend of efforts to assist in the production of housing by exempting certain projects from Design Review and allowing, at the applicant's option, different review processes.

The legislation should accelerate the permitting of housing projects throughout the City, thereby reducing costs and decreasing the time needed for new housing to be available for occupancy.

## **Background and Analysis**

### MHA

Mandatory Housing Affordability (MHA) ensures that new commercial and multifamily residential development contributes to affordable housing. This is done by requiring new developments to include affordable housing (performance option) or contribute to the Seattle Office of Housing fund to support the development of affordable housing (payment option). When developers and owners apply for permits for new buildings, the Seattle Department of Construction and Inspection reviews each proposal to determine what MHA requirements the new development is subject to. Once these requirements are confirmed, the Office of Housing will review projects to coordinate with developers to comply with the MHA Program via the payment or performance option.

The MHA requirements are in the land use code:

- Chapter 23.58B—Affordable Housing Impact Mitigation Program for Commercial Development (MHA-C)
- Chapter 23.58C—MHA for Residential Development (MHA-R; this chapter also applies to development that includes live-work units).

Permit applicants can choose to comply with the MHA requirements through the payment option or the performance option.

- The payment option allows you to make a payment to the City as part of the permitting process which will be used for future affordable housing development.
- The performance option allows you to incorporate affordable units into the proposed development. When you choose the performance option, you must follow the design and locational standards in the code and document compliance in the plans and housing agreement. Affordable units provided through the performance option must comply with the standards of land use code Sections 23.58B.050 and 23.58C.050.

### Design Review

In 2021 the City Council adopted a Statement of Legislative Intent (SLI 004-A-001) that Directs SDCI to examine the Design Review process from a racial equity lense to make recommendations for improvements to the process. This work and subsequent assessment is on-going and is anticipated to provide information that can be used to inform any permanent legislative updates to be prepared by SDCI, including to help inform recommendations for racial equity improvements to the SDCI design review process. That assessment and likely recommendations are anticipated to occur after adoption of the proposed legislation addressed in this report.

Currently, Full Design Review is required for mid- and large-sized commercial and residential development projects such as:

- An office building or apartment building
- Commercial or multifamily development; not a single-family home
- Large projects that meet the size thresholds in certain zone

For Full Design Review projects, SDCI holds public meetings where the Design Review Boards review projects during the early design guidance and recommendation phases. The review process includes an opportunity for public comment and involvement before SDCI approves the design. Permit applicants may request "departures" from the Land Use Code as part of Design Review.

Three paths for design review currently in the City of Seattle:

- Streamlined Design Review (SDR): Type I Decision (not appealable to the Seattle Hearing Examiner) reviewed by SDCI staff. Includes Early Design Guidance (EDG) only and then straight to Construction permit. Includes public comment but not a design review public meeting. (*SDR is not affected by the proposed legislation*).
- Administrative Design Review (ADR): Type II Decision (appealable to the Seattle Hearing Examiner) reviewed by SDCI staff. Includes Early Design Guidance, Master Use Permit (MUP) / Recommendation, Construction permit. Reviews completed by city staff. Includes public comment but not a design review public meeting.
- Full Design Review (FDR): Type II Decision (appealable to the Seattle Hearing Examiner) reviewed by Design Review Boards. Includes Early Design Guidance, Master Use Permit / Recommendation, Construction permit. Reviews completed by city staff using recommendations from the Design Review Board. Includes public comment and public meeting(s)

### Design Review – Process Time

SDCI recently produced a report that summarizes permit turnaround times for Design Review projects. This report is dated January 2023 and prepared to respond to a City Council Statement of Legislative Intent (SLI) dated November 16, 2021, related to Design Review.

Overall, the data showed that for projects (includes commercial and multi-family development) going through ADR or FDR from July 2018 to December 2022, ADR had shorter review times compared to FDR times. Measuring overall calendar time of all steps from EDG through MUP issuance (ADR and FDR) showed:

- FDR: 739 days (24.3 months)
- ADR: 641 days (21.1 months)

In addition to the Design Review Board public meetings which may add time to FDR projects, there are other possible reasons for this difference in time:

- ADR projects are smaller in size and usually less complex
- FDR projects are larger in size and tend to be more complex with additional coordination between different departments and agencies and more complex code requirements

The report shows that Administrative Design Review projects generally are reviewed more quickly than Full Design Review projects. The report finds that this may be due to factors such

as the relatively less complex nature of projects required to go through Administrative Design Review, not having to wait for an open design review board meeting, and other factors that may not be related to Design Review. One of the intents of this legislation is to test the ability of Administrative Design Review to be conducted more quickly for consideration as part of evaluations of ways to help make Design Review more efficient for housing development.

Number of Projects

The legislation would apply to development projects that include housing and would exempt those that include MHA performance with at least one qualifying housing unit and allow any housing project required to go through Full Design Review to opt into Administrative Design Review.

MHA Exemption Proposal. Based on the number of performance projects with a recorded MHA housing agreement and issued building permit since 2020, provided by the Seattle Office of Housing, the first full year of city-wide MHA implementation, there could be an estimated 10-15 MHA performance projects during the 12-month effective period of this legislation that may be eligible for this exemption. Since this change is designed to provide an additional incentive for performance, the number of performance projects could be on the higher end of that range of 15 projects or up to 30 projects if the number of projects doubled with passage of this legislation.

ADR Option Proposal. The number of ADR and FDR projects with issued Master Use Permits (MUPs) with housing for the period full year periods since the July 2018 Design Review code major update are as follows:

<b>Design Review Projects with housing (Issued MUPs)</b>			
<b>Year</b>	<b>FDR</b>	<b>ADR</b>	<b>Total</b>
2019	75	17	92
2020	70	45	115
2021	37	50	87
2022	32	53	85
<b>Average over 4 years</b>	<b>53</b>	<b>41</b>	<b>95</b>

During the COVID pandemic while the City was under a Mayoral emergency declaration, the City allowed development projects subject to FDR to elect ADR (interim Ordinances 126072 and 126188) from April 2020 until August of 2022 if they were ready to be scheduled for a Design Review Board meeting. During this period, permit applicants for 68 out of 198 FDR projects elected to go through ADR (this includes both residential and commercial projects). Assuming that same percentage applied to the 4-year average for FDR projects with housing from the table above, applicants for approximately 34 percent of the total FDR housing projects, 18 housing projects, might make the same election during the 12-month effective period of the proposed legislation. If the election is as high as 50 percent of FDR housing projects, the number would be 27 housing projects. Some applicants will still prefer to go through FDR to get instant feedback from the Design Review Board.

### **Comprehensive Plan Goals and Policies**

The proposal is consistent with relevant goals and policies in the *Seattle 2035* Comprehensive Plan including:

- Goal H G2 - Help meet current and projected regional housing needs of all economic and demographic groups by increasing Seattle's housing supply.
- Goal H G5 - Make it possible for households of all income levels to live affordably in Seattle, and reduce over time the unmet housing needs of lower-income households in Seattle.

### **Recommendation**

The Director of SDCI recommends that the City Council adopt the proposed legislation to help facilitate the development of badly needed housing.

A panoramic view of the Seattle skyline under a clear blue sky. The Space Needle is prominent on the left. In the background, Mount Rainier is visible. The foreground shows some green trees and a building.

# Affordable Housing Design Review Amendments – MHA performance and ADR choice

Photo by John Skelton



**Seattle** Department of  
Construction & Inspections

Land Use Committee  
June 14, 2023

# Affordable Housing Design Review Amendments

---

- Intent: accelerate permitting of housing projects throughout the City, reducing costs and decreasing the time for new housing to be available.
- The legislation would be in place for 12 months. Results will be studied to inform recommendations for long-term updates.
- Adopting this legislation would allow more efficient and/or flexible permit review to address urgent housing needs, including for low-income people, while the additional study is underway\*

\*In 2021, City Council adopted Statement of Legislative Intent (SLI 004-A-001) directing SDCI to examine Design Review from a racial equity lens to make recommendations for improvements.



# Summary of Amendments

---

1. Provide a Design Review exemption for development projects that elect to meet the City's Mandatory Housing Affordability (MHA) requirement with on-site performance.
2. Provide an option for any housing development proposal to be reviewed under Administrative Design Review (ADR) rather than by the Design Review Board under Full Design Review (FDR).
3. Allow the SDCI Director to waive or modify certain development standards for the MHA performance projects.
4. Allow applicants who opt for the ADR process to return to FDR also at their option.

# MHA Requirements

---

- MHA ensures that new commercial and multifamily residential development contributes to affordable housing.
- This is done by requiring new developments to:
  - Include affordable housing (performance option); or
  - Contribute to the Office of Housing fund to support the development of affordable housing (payment option).

## MHA Performance Exemption – Number of Projects Helped

---

- 10-15 MHA performance projects – estimated to be eligible during the 12-month effective period of this legislation
- Up to 30 projects - if the number of projects doubled with passage of this legislation

# Design Review Background

---

## Design Review:

- Required for mid- and large-sized commercial and multi-family buildings.
- Permanently supported housing is exempt.

## Two types of DR:

- Administrative Design Review (ADR): Reviews completed by SDCI staff. Includes public comment but not a design review public meeting.
- Full Design Review (FDR): Reviews completed by SDCI staff using recommendations from the Design Review Board. Includes public comment and public meeting(s).
- Both types of DR are Type II Decisions (appealable to the Seattle Hearing Examiner).

# Administrative Design Review Option

---

- Administrative Design Review projects generally are reviewed more quickly than Full Design Review projects.
- This may be due to factors such as not having to wait for an open design review board meeting.
- Opportunity to test whether ADR can be conducted more quickly than FDR for housing projects and evaluate ways to make Design Review more efficient.

# Administrative Design Review Option Benefits

---

- ADR has shorter review times compared to FDR.
- Measuring overall calendar time of all steps from EDG through MUP issuance (ADR and FDR) showed:
  - FDR: 739 days (24.3 months)
  - ADR: 641 days (21.1 months)

Data analyzed by SDCI includes commercial and multi-family development from July 2018 to December 2022.

# Effects of Administrative Design Review Option

---

- Estimates for the number of applicants that may elect ADR during the 12-month effective period of the proposed legislation:
  - 18 housing projects – if 34% of applicants elect ADR
  - 27 housing projects – if 50% of applicants elect ADR
- Some applicants will still prefer to go through FDR to get instant feedback from the Design Review Board.

During the COVID pandemic, under Mayoral emergency declaration, the City allowed development projects subject to FDR to elect ADR (interim Ordinances 126072 and 126188) and approximately 34% of applicants elected ADR.

# QUESTIONS?

---

Mike Podowski  
mike.podowski@seattle.gov

[www.seattle.gov/sdci](http://www.seattle.gov/sdci)





June 26, 2023

## MEMORANDUM

**To:** Land Use Committee  
**From:** Ketil Freeman, Analyst  
**Subject:** Council Bill 120581 – Temporary Design Review Exemptions and Modifications

---

On June 28, 2023, the Land Use Committee (Committee) will hold a public hearing and may vote on Council Bill (CB) 120581, which would enact temporary exemptions and modifications to Design Review for a one-year period. The Committee received a briefing from the Seattle Department of Construction and Inspections (SDCI) on the bill at its meeting on June 14.

This memo (1) provides some background on Design Review and the Council’s ongoing review of the program, (2) describes what CB 120581 would do, and (3) identifies potential issues with the proposed bill.

### Background

Initially called Early Project Implementation, the [Design Review Program](#) (Program) was established in 1993 for three purposes: (1) to encourage better design and site planning, (2) to provide flexibility for developers in application of development standards, and (3) to “improve communication and mutual understanding among developers, neighborhoods, and the City early and throughout the development review process.”<sup>1</sup> Those purposes are codified in the Land Use Code.<sup>2</sup>

Generally, projects above established square footage thresholds are required to participate in the Program. The Program has three levels of review: Streamlined Design Review, Administrative Design Review, and Full Design Review. Projects subject to Full Design Review are reviewed by a Design Review Board with members appointed by the Council and the Mayor. All Design Review projects require public notice and community outreach.

Under the Program developers may seek departures from otherwise applicable development standards, which can increase leasable floor area, if they can demonstrate that those departures help a project better meet citywide or neighborhood-specific [design guidelines](#).<sup>3</sup>

---

<sup>1</sup> [Ordinance 116909](#).

<sup>2</sup> See [Seattle Municipal Code \(SMC\) 23.41.002](#).

<sup>3</sup> Design guidelines are approved by ordinance. The Council most recently adopted neighborhood-specific design guidelines for Crown Hill through [Ordinance 126883](#) in November 2022.

## Evaluation of Design Review

The 2022 Adopted Budget included [Statement of Legislative Intent \(SLI\) SDCI-004-A-001](#), which requested that SDCI convene a stakeholder group and provide a report to Council on Program outcomes. The SLI requested a report with the following:

1. Program outcomes since the Program was modified in 2017, including review times by design review type and project complexity;
2. An analysis of departures sought through the program that quantifies the number and percentage of projects, by design review and project type, seeking departures, identification of departures sought, and whether those departures were granted;
3. An analysis of whether the Program increases housing costs;
4. A review of national best practices for design review programs with significant public participation components; and
5. Recommendations for how the Program should be modified to address the findings of the stakeholder group.

SDCI convened stakeholder meetings from May 2022 until January 2023. In June 2022, SDCI and the Office of Planning and Community Development (OPCD) published a [Design Review Departures and Adjustments Summary Report](#). In January 2023, SDCI published a [Permit Timelines Summary Report](#), [Assessment of Potential Housing Price Impacts](#), and [Design Review in Other Cities Report](#). A consultant has prepared proposed recommendations for Program changes, but those recommendations have not been formally transmitted to the Council.

## Racial Equity Toolkit

The SLI also requested a Racial Equity Toolkit (RET) analysis of the Program. A consultant, Paradigm Shift Seattle, conducted interviews with stakeholders, findings of which are set out in a [Stakeholder Interview Report for Design Review Statement of Legislative Intent](#).

While the consultant did not a complete full RET, the report contains recommendations for the process of reviewing the Program that are excerpted below:

- The Design Review program is one of many steps to building and development in Seattle. If the experience of Design Review is to become more equitable, the whole planning, permitting, building, and development process needs to change to become more equitable.
- Slow down the process of reviewing and making changes to the current Design Review program. It is clear the program needs to evolve and it will take the right people, openness, and time to ensure that change happens responsibly, and is replaced with a process that centers racial equity and community members.
- Gather more feedback from more voices, specifically BIPOC voices that are directly impacted by Design Review, about their experiences with racial equity and inequity in

Design Review before changes are made to Design Review. While the stakeholder group was diverse and interviews were conducted, there were varying levels of ability to speak to racial inequity and equity in Design Review. Additionally, because of ongoing changes to this process stakeholders had fewer opportunities for input.

- There are multiple necessary stakeholders involved in Design Review. Changes in the Design Review program need to address all of their needs, while at the same time centering the needs of BIPOC residents. If these needs are not addressed in a new iteration of Design Review, then those needs should be addressed elsewhere within the planning, permitting, building, and development process.
- Prioritize those most impacted by inequitable building design to understand the challenges and next steps for Design Review. We offer that the most marginalized in this context are working class/poor, disabled, queer and trans, BIPOC families and people.
- Design Review is currently the only space for community input. We caution against doing away with Design Review, or replacing it with technical Design Review, without adequately and thoroughly addressing and systematizing where community members have the opportunity to have their voices heard in the planning, permitting, building, and development process.
- Changing Design Review alone will not fix the housing crisis we are experiencing. Historical and structural understandings of how systems of oppression impact development, affordable housing, and homelessness is needed, as well as, policy and legislation that encourages developers to build more affordable housing, and more housing that keeps families in their current neighborhoods.<sup>4</sup>

### Changes to State Law

In its last session the legislature passed [Engrossed Substitute House Bill \(ESHB\) 1293](#) related to the Growth Management Act (GMA) and design review. Among other things, ESHB 1293 limits public meetings associated with design review and requires that design guidelines contain objective review standards.

Jurisdictions with design review programs must revise their programs to comply with the bill six months after the date prescribed by the GMA for the next periodic Comprehensive Plan update. Seattle's next required periodic update must be completed by June 2025.

### **What CB 120581 Would Do**

CB 120581 would, for a one-year period, modify the Program, as follows:

- *Affordable Housing Projects* - Exempt affordable housing projects from Design Review, including public notice and outreach, and allow the SDCI Director as a Type I administrative decision to grant departures from all the development standards

---

<sup>4</sup> [Stakeholder Interview Report for Design Review Statement of Legislative Intent](#), p.10.

otherwise available through Design Review without reference to approved design guidelines provided that the departures would result in additional housing units. Those additional units would not need to be rent and income restricted.

- Mandatory Housing Affordability – Residential (MHA-R) Performance Projects - Exempt projects subject to MHA-R that provide MHA units on-site from Design Review, including public notice and outreach, and allow the SDCI Director as a Type I administrative decision to grant departures from all the development standards otherwise available through Design Review without reference to approved design guidelines provided that the departures would result in additional housing units. Those additional units would not need to be rent and income restricted.
- Administrative Design Review – Allow all projects with residential uses that are otherwise subject to Full Design Review to elect to go through Administrative Design Review.<sup>5</sup>
- Work Plan – Approve the following timeline to develop permanent changes to the Program:

Outreach on proposed permanent legislation	January 2, 2024 – February 12, 2024
Draft permanent legislation and conduct SEPA review on draft permanent legislation	February 12, 2024 – April 15, 2024
Mayor Transmits Legislation to Council	April 17, 2024
Council Deliberations and Public Hearing on Proposed Legislation	May 2024
Legislation Effective	By August 12, 2024

SDCI has indicated that the interim changes are intended to inform a future recommendation to the Council on permanent changes to the Program.

### Issue Identification

It is unclear what problem CB 120581 seeks to address. The primary focus of the bill appears to be expediting permitting of residential projects otherwise subject to Design Review by exempting those projects or allowing them to be reviewed under Administrative Design Review.

With very limited exceptions, all commercial, multifamily, and downtown zones where the Program applies allow residential uses and are subject to MHA requirements. Consequently, CB 120581 provides an avenue, on an interim basis, for any project with residential uses that is eligible as an affordable housing project or chooses to perform under MHA the opportunity to receive the benefit of flexibility in the application of development standards available through

<sup>5</sup> SDCI’s [Permit Timelines Summary Report](#) indicate that the average calendar time from application to permit issuance for a project subject to Full Design Review is 739 days. For projects subject to Administrative Design Review, the average calendar time is 641 days.

Program without meeting the other purposes of the Program, specifically better design and public engagement. All other projects with residential uses could avail themselves of administrative design review.

There is a discrepancy between CB 120581 and CB 120591 about the scope of departures available to affordable housing projects that are otherwise exempt from Design Review. That issue and additional issues are identified in the table below.

Issue	Discussion
<p>1. <i>Reconciling CB 120581 and CB 120591 and clarifying the effect of CB 120581.</i></p>	<p>As introduced, a provision of CB 120581 and CB 120591 conflict. Additionally, staff has identified some areas where clarifications would address potential unintended consequences. The Chair may offer an amendment to address these.</p> <p>CB 120581 conflicts with CB 120591, which would make omnibus Land Use Code changes to how affordable housing is regulated on a permanent basis. Specifically, CB 120591 would exempt eligible affordable housing projects from design review but limit the authority of the SDCI Director to waive development standards and prohibit waivers that increase the height, bulk, and scale of a project. The Executive intends that the broader suite of development standard departures be available to affordable housing developments on an interim basis.</p> <p>CB 120581 would extend the authority of the SDCI Director to grant departures from development standards for projects performing under MHA even if those projects were not otherwise subject to Design Review, such as smaller townhouse and multifamily projects that are below Program thresholds. The Executive intends that this exemption only apply to projects performing under MHA that are also otherwise subject to Design Review.</p> <p>CB 120581 would exempt projects subject to MHA-R from the Program provided that those projects provide at least one affordable unit required by MHA on-site. Under MHA-R a developer can choose to either provide units on-site (performance) or make an in-lieu payment. Performance requirements vary by MHA suffix and location. Outside of downtown MHA performance requirements range from</p>

Issue	Discussion
	<p>between 5 percent and 11 percent of units in a project.<sup>6</sup> The Executive intends that the Design Review exemption apply when a developer chooses to fully perform under MHA and that the one-unit minimum performance is intended to address the circumstances of applicability of MHA requirements to smaller projects.</p>
<p>2. <i>Should the Council enact temporary modifications to the Design Review program or wait for the recommendation from SDCI requested through SLI SDCI-004-A-001?</i></p>	<p>The work requested by the Council through SLI SDCI-004-A-001 is largely complete. SDCI has developed the information requested by Council and has a recommendation from a consultant. However, because that recommendation has not been formally transmitted to the Council, it is unclear whether that recommendation is reflected in the current proposal.</p> <p>Further, as highlighted in the <i>Stakeholder Interview Report for Design Review Statement of Legislative Intent</i>. Residents are interested in having City-facilitated opportunities for engagement with developers building projects in their neighborhoods. The proposed legislation does not offer other alternatives for communities to engage with developers in-lieu of Design Review.</p>
<p>3. <i>For exempt affordable housing and MHA performance projects, should the Council delegate broad authority to the SDCI Director to grant departures from development standards, including those that increase the height, bulk and scale of a project, based solely on the criterion that a project provide additional housing units (not necessarily rent or income restricted), without regard to how the projects align with citywide or</i></p>	<p>CB 120581 would delegate authority to the SDCI Director to grant departures from the full suite of development standards available through the Program for exempt affordable housing and MHA performance projects, if it would result in the construction of additional residential units. Those units would not have to be income and rent restricted. Additionally, there would be no requirement for the SDCI Director to consider citywide or neighborhood design guidelines when granting departures from development standards.</p> <p>For market rate residential and commercial projects, Council’s current delegation of authority to the SDCI Director to grant development standards departures is informed by citywide and neighborhood design guidelines that are developed through an extensive public process and approved by ordinance. For projects subject to Full</p>

<sup>6</sup> See [SMC 23.58C.050](#).

Issue	Discussion
<i>neighborhood-specific design guidelines?</i>	<p>Design Review, a departure decision is further informed by a recommendation from a Design Review Board.</p> <p>The SDCI Director currently has authority to grant departures from specified development standards for permanent supportive housing and affordable rental projects. However, those departures cannot result in a larger building than can otherwise be permitted and must also result in more units that are rent and income restricted.<sup>7</sup></p>
<p>4. <i>For exempt affordable housing and MHA performance projects, should the Council authorize the SDCI Director to grant departures from development standards, including those that increase the height, bulk and scale of a project, as an administrative decision without the opportunity for public comment or appeal to the Hearing Examiner?</i></p>	<p>CB 120581 would authorize the SDCI Director, as a Type I decision, to grant departures from development standards for exempt affordable housing and MHA performance projects, including those that might result in additional height, bulk and scale of a building.</p> <p>Type I decisions are administrative decisions that do not require public notice or the opportunity for appeal to the Hearing Examiner.<sup>8</sup> Similar land use decisions where the SDCI Director can modify development standards, such as variances, administrative conditional uses, and special exceptions, are Type II decisions requiring public notice and the opportunity for an appeal to the Hearing Examiner.</p>

cc: Esther Handy, Director  
Aly Pennucci, Deputy Director  
Yolanda Ho, Supervising Analyst

<sup>7</sup> [SMC 23.42.057.B](#) and [SMC 23.41.004.D](#).

<sup>8</sup> See [SMC 23.76.004](#) for decision types and [SMC 23.76.012](#) for notice requirements.

## Amendment 1a Version #2 to CB 120581 – Interim Design Review Changes

**Sponsor:** Councilmember Strauss

Reconcile difference between available Design Review departures for affordable housing, make other technical clarifications, and extend the term of the bill from 12 to 24 months

**Effect:** This amendment would reconcile a difference between CB 120581 (Interim Design Review Changes) and CB 120591 (Office of Housing (OH) Land Use Code omnibus changes), make other clarifications and technical edits, and extend the term of the bill from 12 to 24 months. Specifically, the amendment would strike sections of CB 120581 that are otherwise amended by CB 120591 and add language to clarify that:

- On a temporary basis the full suite of departures available through Design Review, including those that could increase the envelope of a structure, would be available to an applicant as a Type I decision for both rental and ownership affordable housing;
- Temporary provisions that would allow applicants that elect the performance option under Mandatory Housing Affordability (MHA) to seek the full suite of departures available through Design Review, including those that could increase the envelope of a structure, would only be available to those projects subject to MHA that would otherwise also be subject to Design Review;
- Applicants that are otherwise subject to both MHA and Design Review can be exempt from Design Review only if they choose performance under MHA for all required units, not just one unit and

Additionally, the amendment would extend the term of the interim regulations from 12 to 24 months

Sections that would be struck by the amendment would be removed from the bill but not from the Land Use Code. Those sections would be amended on a permanent basis by CB 120591.

This amendment would amend Section 1 and Section 3 of CB 120581 as follows:

Section 1. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance 126741, is amended as follows:

### **23.41.004 Applicability**

~~A. Design review required~~



~~1. Subject to the exemptions in subsection 23.41.004.B, design review is required in the following areas or zones when development is proposed that exceeds a threshold in Table A or Table B for 23.41.004:~~

~~a. Multifamily;~~

~~b. Commercial;~~

~~c. Seattle Mixed;~~

~~d. Downtown; and~~

~~e. Stadium Transition Area Overlay District as shown in Map A for 23.74.004, when the width of the lot exceeds 120 feet on any street frontage.~~

~~2. Subject to the exemptions in subsection 23.41.004.B, design review is required in the following areas or zones when commercial or institution development is proposed that exceeds a threshold in Table A or Table B for 23.41.004:~~

~~a. Industrial Buffer; and~~

~~b. Industrial Commercial.~~

~~3. The gross floor area of the following uses is not included in the total gross floor area of a development for purposes of determining if a threshold is exceeded:~~

~~a. Religious facilities;~~

~~b. Elementary and secondary schools;~~

~~c. Uses associated with a Major Institution Master Plan (MIMP); or~~

~~d. Development of a major institution use within a Major Institution Overlay (MIO) district.~~

~~4. Any development proposal participating in the Living Building or 2030 Challenge High Performance Existing Building Pilot Program according to Sections 23.40.060~~

~~and 23.40.070, including a development proposal for an existing structure, regardless of size or site characteristics, is subject to full design review according to Section 23.41.014.~~

~~5. Any development proposal, regardless of size or site characteristics, is subject to the administrative design review process according to Section 23.41.016 if it receives public funding or an allocation of federal low-income housing tax credits, and is subject to a regulatory agreement, covenant, or other legal instrument recorded on the property title and enforceable by The City of Seattle, Washington State Housing Finance Commission, State of Washington, King County, U.S. Department of Housing and Urban Development, or other similar entity as approved by the Director of Housing, which restricts at least 40 percent of the units to occupancy by households earning no greater than 60 percent of median income, and controls the rents that may be charged, for a minimum period of 40 years.~~

~~6. Any development proposal that is located in a Master Planned Community zone and that includes a request for departures, regardless of size or site characteristics, is subject to full design review according to Section 23.41.014. If a development proposal in a Master Planned Community zone does not include a request for departures, the applicable design review procedures are in Section 23.41.020. A development proposal in a Master Planned Community zone, which includes a request for departures and provides affordable housing per subsection 23.41.004.A.5, shall be subject to administrative design review according to Section 23.41.016.~~

~~7. Subject to the exemptions in subsection 23.41.004.B, design review is required for additions to existing structures when the size of the proposed addition or expansion exceeds a threshold in Table A or Table B for 23.41.004. Administrative design review, as described in Section 23.41.016, is required for certain other additions to existing structures according to rules promulgated by the Director.~~

~~\*\*\*~~

~~C. Optional design review~~

~~1. Design review. Development proposals that are not subject to design review may elect to be reviewed pursuant to the full, administrative, or streamlined design review process if:~~

~~a. The development proposal is in any zone or area identified in subsection 23.41.004.A.1 or 23.41.004.A.2 or in the Stadium Transition Area Overlay District, except development that is within a Master Planned Community zone is not eligible for optional design review; and~~

~~b. The development proposal does not include the uses listed in subsection 23.41.004.A.3.~~

~~2. Administrative design review. According to the applicable process described in Section 23.41.016, administrative design review is optional for a development proposal that is not otherwise subject to this Chapter 23.41 and is on a site that contains an exceptional tree, as defined in Section 25.11.020, when the ability to depart from development standards may result in protection of the tree as provided in Sections 25.11.070 and 25.11.080.~~

~~D. Temporary provisions for affordable housing projects~~

~~1. Notwithstanding any contrary provision of this Title 23, a project subject to administrative design review according to subsection 23.41.004.A.5 or a project in a Master Planned Community zone that meets the requirements according to subsection 23.41.004.A.5 shall be exempt from design review if the applicant files a complete building permit application~~

~~((while this ordinance is in effect)) by January 14, 2024, except that the applicant may elect to have the project be subject to design review notwithstanding the preceding exemption.~~

~~2. Requests for departures. If a project is exempt from design review according to subsection 23.41.004.D.1, the Director may consider requests for departures from any development standard in this Title 23, except as otherwise limited in subsection 23.41.012.B~~

~~((the following development standards in this Title 23:~~

~~a. Requirements for bike rooms and the quantity of bike parking;~~  
~~b. Requirements for the size of parking spaces;~~  
~~c. Requirements for overhead weather protection;~~  
~~d. Requirements for facade openings, articulation, and modulation and art on the facades of buildings but not including limitations on structure width;~~

~~e. Requirements for the size and design of common recreational areas, amenity areas, community rooms, and similar indoor amenities but not including any required outdoor open space;~~

~~f. Requirements related to residential uses, transparency, blank facades, and floor-to-floor height at street level, except as otherwise limited in subsection 23.41.012.B; and~~

~~g. Other similar standards as determined by the Director, not including those listed in subsection 23.41.012.B, that pertain to the interior of the building and do not affect the size of the building envelope)).~~

~~3. Departures decision. Requests for departures according to subsection 23.41.004.D.2 shall be evaluated by the Director, in consultation with the Office of Housing, in light of the particular population designed to be served by the project, and may be granted by the~~

~~Director as a Type I decision if the departure ((would not impact the overall height, bulk, and scale of the proposed building and)) would result in additional housing units ((meeting the standards of subsection 23.41.004.A.5)) being constructed.~~

\*\*\*

#### E. Temporary provisions

1. ~~for~~ Developments with units provided on-site to comply with Chapter 23.58C through the performance option

~~1. a.~~ A development proposal ~~subject to design review under subsection 23.41.004.A~~ that is complying with Chapter 23.58C solely through the performance option by providing ~~includes at least one unit provided affordable units~~ on-site ~~through the performance option~~ according to Section 23.58C.050.C shall be exempt from design review if the applicant files a valid and complete building permit application electing the exemption while this ordinance is in effect.

~~2. b.~~ A development proposal ~~subject to design review under subsection 23.41.004.A~~ that is complying with Chapter 23.58C solely through the performance option by providing ~~includes at least one unit provided affordable units~~ on-site ~~through the performance option~~ according to Section 23.58C.050.C that is vested according to Section 23.76.026 prior to the effective date of this ordinance may elect to be processed as allowed by Section 23.41.004.E.

~~3. c.~~ The design review exemption under subsection 23.41.004.E.1 shall be rescinded for a development proposal that changes from the performance option to the payment option at any time prior to issuance of a building permit.

~~4. d.~~ Requests for departures. If a project ~~subject to design review under subsection 23.41.004.A~~ is exempt from design review according to subsection 23.41.004.E.1, the

Director may consider requests for departures from ~~and any~~ development standard in this Title 23, except as otherwise limited in subsection 23.41.012.B.

~~S. e.~~ Departures decision. Requests for departures according to subsection 23.41.004.~~D.2~~ E.1.d shall be evaluated and may be granted by the Director as a Type I decision if the departure would result in additional housing units being constructed.

2. Low-income housing

a. Notwithstanding any contrary provision of this Title 23, the Director may consider requests for departures from any development standard in this Title 23, except as otherwise limited in subsection 23.41.012.B, for low-income housing.

b. Departures decision. Requests for departures shall be evaluated by the Director, in consultation with the Office of Housing, in light of the particular population designed to be served by the project, and may be granted by the Director as a Type I decision if the departure would result in additional housing units being constructed.

~~F. 3. Temporary provisions for electing~~ Electing administrative design review

~~1. The provisions of this subsection 23.41.004.F apply notwithstanding any contrary provision of this Title 23.~~

~~2. The provisions of this subsection 23.41.004.F expire 12 months after the effective date of this ordinance.~~

~~3. While the provisions of this subsection 23.41.004.F apply:~~

a. While the provisions of this subsection 23.41.004.E.3 apply and notwithstanding any contrary provisions of this Title 23, ~~An~~ an applicant may elect a

project that includes residential use and subject to the full design review process according to Section 23.41.014 to be processed through the administrative design review process according to Section 23.41.016.

b. An applicant of a project that includes residential use and vested according to Section 23.76.026 prior to the effective date of this ordinance may elect a project to be processed through administrative design review as allowed by subsection 23.41.004.~~F.3.a~~ E.3.a.

~~4~~ c. An applicant that has made the election to pursue administrative design review as allowed by subsection 23.41.004.~~F.3~~ E.3.a may further elect to return to the full design review process according to Section 23.41.014. If an applicant elects a project to return to full design review, all early design guidance and recommendation processes, to the extent not completed under administrative design review, shall be shifted back to full design review. The applicant election to return to full design review is subject to the Director's determination that a return to full design review would not preclude review from being completed in the time required by Section 23.76.005.

\*\*\*

Section 3. This ordinance shall be automatically repealed without subsequent Council action ~~12~~ 24 months after it becomes effective.

## Amendment 2 Version #1 to CB 120581 – Interim Design Review Changes

**Sponsor:** Councilmember Pedersen

Exempt housing projects that meet MHA performance requirements but maintain Full Design Review for projects that could otherwise choose Administrative Design Review

**Effect:** This amendment would allow the exemption for projects that provide all on-site units by performing under Mandatory Housing Affordability (MHA) but maintain Full Design Review (FDR) for those projects with residential uses that are currently subject to FDR that would otherwise have the option of choosing Administrative Design Review (ADR).

CB 120581 would allow projects with residential units that would otherwise be subject to FDR to elect to be reviewed under ADR. That option would extend not just to new projects but also to projects that are currently vested. For projects subject to Design Review vesting occurs at early design guidance, provided that the applicant applies for a Master Use Permit within 90 – 150 days, depending on whether there is more than one early design guidance meeting.<sup>1</sup> Projects that elect ADR could return to FDR without having to restart design review.

During the pandemic, projects subject to FDR could opt for ADR. Approximately 34 percent of projects elected ADR. Based on the prior four-year average of residential projects subject to FDR and assuming the same percentage of projects electing ADR as during the pandemic, SDCI estimates that approximately 18 projects could elect ADR under the proposed provisions.

This amendment would amend Section 1 of CB 120581 as follows:

Section 1. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance 126741, is amended as follows:

### **23.41.004 Applicability**

\*\*\*

~~F. Temporary provisions for electing administrative design review~~

~~1. The provisions of this subsection 23.41.004.F apply notwithstanding any contrary provision of this Title 23.~~

---

<sup>1</sup> [Seattle Municipal Code Section 23.76.026.C.](#)



~~2. The provisions of this subsection 23.41.004.F expire 12 months after the effective date of this ordinance.~~

~~3. While the provisions of this subsection 23.41.004.F apply:~~

~~a. An applicant may elect a project that includes residential use and subject to the full design review process according to Section 23.41.014 to be processed through the administrative design review process according to Section 23.41.016.~~

~~b. An applicant of a project that includes residential use and vested according to Section 23.76.026 prior to the effective date of this ordinance may elect a project to be processed through administrative design review as allowed by subsection 23.41.004.F.3.a.~~

~~4. An applicant that has made the election to pursue administrative design review as allowed by subsection 23.41.004.F.3 may further elect to return to the full design review process according to Section 23.41.014. If an applicant elects a project to return to full design review, all early design guidance and recommendation processes, to the extent not completed under administrative design review, shall be shifted back to full design review. The applicant election to return to full design review is subject to the Director's determination that a return to full design review would not preclude review from being completed in the time required by Section 23.76.005.~~

\*\*\*



## Legislation Text

---

**File #:** CB 120591, **Version:** 1

---

AN ORDINANCE relating to land use and zoning; correcting typographical and other technical errors, correcting section references, and clarifying regulations in sections that relate or may apply to low-income housing and other developments with units subject to affordability restrictions; amending, adopting new, and repealing obsolete defined terms relating to affordability of and eligibility to reside in certain housing; increase consistency and clarity of provisions that relate to low-income housing and restricted units; amending a limited number of provisions, including applicability of design review and authorization to request waiver or modification of certain development standards, to facilitate development of low-income housing; amending the title of Sections 23.44.019, 23.45.550, 23.47A.040, 23.48.100, and 23.49.007, amending Sections 22.900G.015, 23.34.012, 23.34.020, 23.41.004, 23.42.055, 23.42.057, 23.42.070, 23.44.024, 23.44.034, 23.44.041, 23.45.510, 23.45.512, 23.45.516, 23.47A.004, 23.47A.005, 23.47A.013, 23.48.005, 23.48.020, 23.48.232, 23.48.605, 23.48.920, 23.49.008, 23.49.010, 23.49.012, 23.49.014, 23.49.023, 23.49.037, 23.49.041, 23.49.058, 23.49.164, 23.49.180, 23.54.015, 23.58A.002, 23.58A.003, 23.58A.004, 23.58A.014, 23.58A.024, 23.58A.042, 23.58B.010, 23.58B.020, 23.58B.025, 23.58B.040, 23.58B.050, 23.58B.060, 23.58C.020, 23.58C.025, 23.58C.030, 23.58C.040, 23.58C.050, 23.66.100, 23.66.310, 23.70.008, 23.70.010, 23.72.002, 23.72.010, 23.73.010, 23.73.016, 23.75.020, 23.75.085, 23.76.032, 23.76.060, 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.030, 23.84A.032, 23.84A.038, 23.84A.040, and 23.86.007, and repealing Sections 23.49.015 and 23.49.181 of the Seattle Municipal Code.

The full text of this Council Bill is attached to the legislative file.

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to land use and zoning; correcting typographical and other technical errors, correcting section references, and clarifying regulations in sections that relate or may apply to low-income housing and other developments with units subject to affordability restrictions; amending, adopting new, and repealing obsolete defined terms relating to affordability of and eligibility to reside in certain housing; increase consistency and clarity of provisions that relate to low-income housing and restricted units; amending a limited number of provisions, including applicability of design review and authorization to request waiver or modification of certain development standards, to facilitate development of low-income housing; amending the title of Sections 23.44.019, 23.45.550, 23.47A.040, 23.48.100, and 23.49.007, amending Sections 22.900G.015, 23.34.012, 23.34.020, 23.41.004, 23.42.055, 23.42.057, 23.42.070, 23.44.024, 23.44.034, 23.44.041, 23.45.510, 23.45.512, 23.45.516, 23.47A.004, 23.47A.005, 23.47A.013, 23.48.005, 23.48.020, 23.48.232, 23.48.605, 23.48.920, 23.49.008, 23.49.010, 23.49.012, 23.49.014, 23.49.023, 23.49.037, 23.49.041, 23.49.058, 23.49.164, 23.49.180, 23.54.015, 23.58A.002, 23.58A.003, 23.58A.004, 23.58A.014, 23.58A.024, 23.58A.042, 23.58B.010, 23.58B.020, 23.58B.025, 23.58B.040, 23.58B.050, 23.58B.060, 23.58C.020, 23.58C.025, 23.58C.030, 23.58C.040, 23.58C.050, 23.66.100, 23.66.310, 23.70.008, 23.70.010, 23.72.002, 23.72.010, 23.73.010, 23.73.016, 23.75.020, 23.75.085, 23.76.032, 23.76.060, 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.030, 23.84A.032, 23.84A.038, 23.84A.040, and 23.86.007, and repealing Sections 23.49.015 and 23.49.181 of the Seattle Municipal Code.

..body

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

Section 1. Section 22.900G.015 of the Seattle Municipal Code, last amended by Ordinance 125982, is amended as follows:

**22.900G.015 Fees for review by the Office of Housing**

~~((An applicant))~~ At application for a Master Use Permit, or for the first building permit that includes the structural frame for the structure if no Master Use Permit is required, where the application includes a proposal to provide or make a financial contribution for ~~((affordable housing or low income housing through the transfer of development rights or transfer of development potential, or as a condition of incentives, or to mitigate housing impacts according~~

1 ~~to~~) restricted units required by Section 23.34.004, (~~(Section 23.49.012,)~~) Section 23.49.014,  
2 (~~(Section 23.49.015, Section 23.49.181,)~~) Section 23.54.015, Chapter 23.58A, Chapter 23.58B,  
3 Chapter 23.58C, or Section 23.75.085, the applicant shall pay a housing review fee (~~(with~~  
4 ~~application for the permit)~~) in the amount of \$550 to the Office of Housing (~~(for review of the~~  
5 ~~application)~~).

6 Section 2. Section 23.34.012 of the Seattle Municipal Code, last amended by Ordinance  
7 126509, is amended as follows:

8 **23.34.012 Neighborhood Residential Small Lot (RSL) zone, function, and locational criteria**

9 A. Function. An area within an urban village that provides for the development of homes  
10 on small lots that may be more affordable compared to detached homes on larger lots and  
11 appropriate (~~(and affordable to)~~) for households with children (~~(and other households which~~  
12 ~~might otherwise choose existing detached houses on larger lots)~~).

13 \* \* \*

14 Section 3. Section 23.34.020 of the Seattle Municipal Code, last amended by Ordinance  
15 123495, is amended as follows:

16 **23.34.020 Lowrise 3 (LR3) zone, function, and locational criteria**

17 \* \* \*

18 C. The LR3 zone is also appropriate in (~~(areas located in)~~) the Delridge High Point  
19 Neighborhood Revitalization Area, as shown in Map A for 23.34.020, provided that the LR3  
20 zone designation would facilitate a mixed-income housing development initiated by the Seattle  
21 Housing Authority or other public agency(~~(;))~~ , a property use and development agreement is  
22 executed subject to the provisions of Chapter 23.76 as a condition to any rezone(~~(;))~~ , and the  
23 development would serve a broad public purpose.

\* \* \*

Section 4. Section 23.41.004 of the Seattle Municipal Code, last amended by Ordinance 126741, is amended as follows:

**23.41.004 Applicability**

A. Design review required

1. Subject to the exemptions in subsection 23.41.004.B, design review is required in the following areas or zones when development is proposed that exceeds a threshold in Table A or Table B for 23.41.004:

- a. Multifamily;
- b. Commercial;
- c. Seattle Mixed;
- d. Downtown; and
- e. Stadium Transition Area Overlay District as shown in Map A for

23.74.004, when the width of the lot exceeds 120 feet on any street frontage.

2. Subject to the exemptions in subsection 23.41.004.B, design review is required in the following areas or zones when commercial or institution development is proposed that exceeds a threshold in Table A or Table B for 23.41.004:

- a. Industrial Buffer; and
- b. Industrial Commercial.

3. The gross floor area of the following uses is not included in the total gross floor area of a development for purposes of determining if a threshold is exceeded:

- a. Religious facilities;
- b. Elementary and secondary schools;

- 1 c. Uses associated with a Major Institution Master Plan (MIMP); or
- 2 d. Development of a major institution use within a Major Institution
- 3 Overlay (MIO) district.

4 4. Any development proposal participating in the Living Building or 2030  
5 Challenge High Performance Existing Building Pilot Program according to Sections 23.40.060  
6 and 23.40.070, including a development proposal for an existing structure, regardless of size or  
7 site characteristics, is subject to full design review according to Section 23.41.014.

8 ~~((5. Any development proposal, regardless of size or site characteristics, is subject~~  
9 ~~to the administrative design review process according to Section 23.41.016 if it receives public~~  
10 ~~funding or an allocation of federal low-income housing tax credits, and is subject to a regulatory~~  
11 ~~agreement, covenant, or other legal instrument recorded on the property title and enforceable by~~  
12 ~~The City of Seattle, Washington State Housing Finance Commission, State of Washington, King~~  
13 ~~County, U.S. Department of Housing and Urban Development, or other similar entity as~~  
14 ~~approved by the Director of Housing, which restricts at least 40 percent of the units to occupancy~~  
15 ~~by households earning no greater than 60 percent of median income, and controls the rents that~~  
16 ~~may be charged, for a minimum period of 40 years.~~

17 6.)) 5. Any development proposal that is located in a Master Planned Community  
18 zone and that includes a request for departures, regardless of size or site characteristics, is subject  
19 to full design review according to Section 23.41.014. If a development proposal in a Master  
20 Planned Community zone does not include a request for departures, the applicable design review  
21 procedures are in Section 23.41.020. A development proposal in a Master Planned Community  
22 zone, which includes a request for departures and provides affordable housing per subsection  
23 23.41.004.A.5, shall be subject to administrative design review according to Section 23.41.016.

1                   ((7.)) 6. Subject to the exemptions in subsection 23.41.004.B, design review is  
2 required for additions to existing structures when the size of the proposed addition or expansion  
3 exceeds a threshold in Table A or Table B for 23.41.004. Administrative design review, as  
4 described in Section 23.41.016, is required for certain other additions to existing structures  
5 according to rules promulgated by the Director.

6   \* \* \*

7                   B. Exemptions. The following are exempt from design review:

- 8                   1. Development located in special review districts established by Chapter 23.66;
- 9                   2. Development in Landmark districts established by Title 25;
- 10                  3. Development within the historic character area of the Downtown Harborfront 1  
11 zone;
- 12                  4. Development that is subject to shoreline design review pursuant to Chapter  
13 23.60A;
- 14                  5. New light rail transit facilities that are subject to review by the Seattle Design  
15 Commission;
- 16                  6. City facilities that are subject to review by the Seattle Design Commission;
- 17                  7. Development within neighborhood residential or residential small lot zones;
- 18 and
- 19                  8. ((Permanent supportive)) Low-income housing.

20   \* \* \*

21                   ~~((D. Temporary provisions for affordable housing projects~~

- 22                   1. ~~Notwithstanding any contrary provision of this Title 23, a project subject to~~
- 23 ~~administrative design review according to subsection 23.41.004.A.5 or a project in a Master~~

1 ~~Planned Community zone that meets the requirements according to subsection 23.41.004.A.5~~  
2 ~~shall be exempt from design review if the applicant files a complete building permit application~~  
3 ~~while this ordinance is in effect, except that the applicant may elect to have the project be subject~~  
4 ~~to design review notwithstanding the preceding exemption.~~

5 ~~2. Requests for departures. If a project is exempt from design review according to~~  
6 ~~subsection 23.41.004.D.1, the Director may consider requests for departures from the following~~  
7 ~~development standards in this Title 23:~~

- 8 ~~a. Requirements for bike rooms and the quantity of bike parking;~~
- 9 ~~b. Requirements for the size of parking spaces;~~
- 10 ~~c. Requirements for overhead weather protection;~~
- 11 ~~d. Requirements facade openings, articulation, and modulation and art on~~  
12 ~~the facades of buildings but not including limitations on structure width;~~
- 13 ~~e. Requirements for the size and design of common recreational areas,~~  
14 ~~amenity areas, community rooms, and similar indoor amenities but not including any required~~  
15 ~~outdoor open space;~~
- 16 ~~f. Requirements related to residential uses, transparency, blank facades,~~  
17 ~~and floor-to-floor height at street level, except as otherwise limited in subsection 23.41.012.B;~~  
18 ~~and~~
- 19 ~~g. Other similar standards as determined by the Director, not including~~  
20 ~~those listed in subsection 23.41.012.B, that pertain to the interior of the building and do not~~  
21 ~~affect the size of the building envelope.~~

22 ~~3. Departures decision. Requests for departures according to subsection~~  
23 ~~23.41.004.D.2 shall be evaluated by the Director, in consultation with the Office of Housing, in~~



1 ~~light of the particular population designed to be served by the project, and may be granted by the~~  
2 ~~Director as a Type I decision if the departure would not impact the overall height, bulk, and scale~~  
3 ~~of the proposed building and would result in additional housing units meeting the standards of~~  
4 ~~subsection 23.41.004.A.5 being constructed.)) D. Exemptions; applicability. Low-income  
5 housing that vests according to Section 23.76.026 prior to the effective date of this ordinance  
6 may also use the design review exemption authorized according to subsection 23.41.004.B.8.~~

7 Section 5. Section 23.42.055 of the Seattle Municipal Code, last amended by Ordinance  
8 126685, is amended as follows:

9 **23.42.055 ((~~Low-income housing~~)) Development of affordable units on property owned or**  
10 **controlled by a religious organization**

11 A. This Section 23.42.055 establishes the requirements for ((~~developments using~~)) use of  
12 alternative development standards for ((~~low-income housing~~)) development of affordable units  
13 on property owned or controlled by a religious organization where allowed by the provisions of  
14 the zone.

15 B. Eligible property. The property must be owned or controlled by a religious  
16 organization at the date of the permit application.

17 C. Affordability requirements

18 1. ((~~Eligible households. All dwelling units or congregate residence sleeping~~  
19 ~~rooms permitted pursuant to this Section 23.42.055 shall serve only:~~

20 a. ~~For rental units, households with incomes no greater than 80 percent of~~  
21 ~~median income, adjusted by household size.~~

22 b. ~~For ownership units, households with incomes no greater than 80~~  
23 ~~percent of median income, adjusted by household size.)) All units permitted pursuant to this~~

1 Section 23.42.055 shall be affordable units. For purposes of this Section 23.42.055, “affordable  
2 unit” means a dwelling unit that is a restricted unit subject to housing cost and income limits no  
3 higher than 80 percent of median income.

4           2. Duration. The ~~((obligation to provide dwelling units meeting the))~~ requirements  
5 of subsection 23.42.055.B shall last for a period of 50 years from the date of the certificate of  
6 occupancy or, if a certificate of occupancy is not required, from the date of the final building  
7 permit inspection for the development to which this Section 23.42.055 applies.

8           3. Affordable rent. Monthly rent shall not exceed 30 percent of 80 percent of  
9 median income. ~~((For purposes of this subsection 23.44.055.C.3, "monthly rent" includes a~~  
10 ~~utility allowance for heat, gas, electricity, water, sewer, and refuse collection, to the extent such~~  
11 ~~items are not paid for tenants by the owner, and any recurring fees that are required as a~~  
12 ~~condition of tenancy.))~~

13           4. Affordable sale price

14           ~~((a. Affordable price – initial sales. The initial affordable sale price must~~  
15 ~~be an amount in which total ongoing housing costs do not exceed 30 percent of 80 percent of~~  
16 ~~median income. The Director of Housing will establish by rule the method for calculating the~~  
17 ~~initial sale price including standard assumptions for determining upfront housing costs, including~~  
18 ~~the down payment, and ongoing housing costs, which must include mortgage principal and~~  
19 ~~interest payments, homeowner's insurance payments, homeowner or condominium association~~  
20 ~~dues and assessments, and real estate taxes and other charges included in county tax billings. The~~  
21 ~~Director of Housing may establish by rule a maximum down payment amount.~~

22           ~~b. Affordable price – resales. Eligible households for purchase of an~~  
23 ~~ownership unit subsequent to the initial sale must have incomes no greater than 80 percent of~~

1 ~~median income at initial occupancy.~~) The Office of Housing will establish by rule the formula  
2 for calculating maximum affordable prices for initial sales (~~(subsequent to the initial sale)~~) and  
3 resales to allow modest growth in homeowner equity while maintaining long-term affordability  
4 for (~~future~~) income-eligible buyers.

5 D. Agreement. As a condition of building permit issuance for a development according to  
6 this Section 23.42.055, the property owner and the (~~City~~) Director of Housing must enter into  
7 an agreement in a form acceptable to the City that includes housing covenants consistent with  
8 this Section 23.42.055 and the final plan set approved by the Department. The agreement must  
9 be recorded on the title of the eligible property (~~(on which the low income housing development~~  
10 ~~is located)~~).

11 E. Applicability. (~~The alternative development standards for low income housing on~~  
12 ~~property owned or controlled by a religious organization that are available in each zone may be~~  
13 ~~applied to projects~~) Projects that vested according to Section 23.76.026(~~(s)~~) prior to August 9,  
14 2021, in accordance with subsection 23.76.026.E and that satisfy the requirements of this Section  
15 23.45.055 are also eligible to use the alternative development standards authorized by this  
16 Section 23.42.055 where allowed by the provisions of the zone.

17 Section 6. Section 23.42.057 of the Seattle Municipal Code, last amended by Ordinance  
18 126684, is amended as follows:

19 **23.42.057 ((~~Permanent supportive housing~~) Waivers and modifications for low-income**  
20 **housing**

21 (~~Permanent supportive~~) Low-income housing must meet the development standards for the  
22 zone in which it is located except as follows:

1           A. Requests for waivers or modifications. The Director may consider requests for waivers  
2 or modifications from the following development standards in this Title 23:

- 3                   1. Requirements for the size of parking spaces;
- 4                   2. Requirements for ratios of vehicle parking sizes;
- 5                   3. Requirements for overhead weather protection;
- 6                   4. Requirements for facade openings, articulation, and modulation (~~and art~~) on  
7 the facades of buildings except limitations on structure width may not be waived or modified;
- 8                   5. Requirements for the size and design of common recreational areas, amenity  
9 areas, community rooms, or similar indoor amenities;
- 10                  6. Requirements for outdoor open space and amenity areas;
- 11                  7. Requirements related to residential uses, transparency, blank facades, and floor-  
12 to-floor height at street level; and
- 13                  8. Other similar physical development standards as determined by the Director  
14 that do not (~~affect~~) increase the size of the building envelope.

15           B. Waiver or modification decision. Requests for waivers or modifications shall be  
16 evaluated by the Director, in consultation with the Office of Housing and may be granted by the  
17 Director as a Type I decision if the waiver or modification would (~~not impact the overall height,~~  
18 ~~bulk, and scale of the proposed building and would result in additional permanent supportive~~  
19 ~~housing units~~) facilitate development of low-income housing.

20           C. Community engagement and relations. (~~The~~) For permanent supportive housing, the  
21 applicant shall submit a draft community relations plan in a form acceptable to the Director and  
22 the Director of (~~the Office of~~) Housing. The draft community relations plan shall describe the  
23 overall community engagement and communication strategy throughout the project's pre-

1 development, design, construction, and operation phases. In addition to compliance with the draft  
2 community relations plan, the applicant must hold at least one community meeting in-person, or  
3 virtually in the event of an emergency that makes in-person meetings impracticable as declared  
4 by the Mayor. Virtual meetings may be offered to supplement in-person meetings. This meeting  
5 shall be exclusively about the project and the applicant must send notice of the meeting to  
6 neighbors at least within 500 feet of the site.

7 D. Applicability. Low-income housing that vests according to Section 23.76.026 prior to  
8 the effective date of this ordinance may also request waivers and modifications as authorized by  
9 this Section 23.42.057 and the provisions of the zone.

10 Section 7. Section 23.42.070 of the Seattle Municipal Code, enacted by Ordinance  
11 125558, is amended as follows:

12 **23.42.070 Parking for rented or leased multifamily dwelling units and commercial uses**

13 A. Parking for multifamily dwelling units

14 1. Off-street parking accessory to rented or leased multifamily dwelling units shall  
15 not be included in any dwelling unit rental agreement and shall be subject to a rental agreement  
16 addendum or in a separate rental agreement.

17 2. (~~Multifamily residential uses with rent and income criteria as described in Part~~  
18 ~~III of Table B for 23.54.015 shall be)) Moderate-income units are exempt from the requirement  
19 of subsection 23.42.070.A.1.~~

20 3. Multifamily dwelling units with individual garages that are functionally a part  
21 of the dwelling unit, including but not limited to townhouses and rowhouses, shall be exempt  
22 from the requirement of subsection 23.42.070.A.1.

23 \* \* \*

1 Section 8. The title of Section 23.44.019 of the Seattle Municipal Code, which section  
2 was last amended by Ordinance 126509, is amended as follows:

3 **23.44.019 Alternative ((development)) standards for ((low-income housing)) development of**  
4 **affordable units on property owned or controlled by a religious organization**

5 Section 9. Section 23.44.024 of the Seattle Municipal Code, last amended by Ordinance  
6 126509, is amended as follows:

7 **23.44.024 Clustered housing planning developments**

8 Clustered housing planned developments (CHPDs) may be permitted as an administrative  
9 conditional use in NR1, NR2, and NR3 zones. A CHPD is intended to enhance and preserve  
10 natural features, encourage the construction of ((affordable)) low-income housing, allow for  
11 development and design flexibility, and protect and prevent harm in environmentally critical  
12 areas. CHPDs shall be subject to the following provisions:

13 \* \* \*

14 Section 10. Section 23.44.034 of the Seattle Municipal Code, last amended by Ordinance  
15 126509, is amended as follows:

16 **23.44.034 Planned residential development (PRD)**

17 Planned residential developments (PRDs) may be permitted in NR1, NR2, and NR3 zones as a  
18 council conditional use. A PRD is intended to enhance and preserve natural features, encourage  
19 the construction of ((affordable)) low-income housing, allow for development and design  
20 flexibility, promote green stormwater infrastructure and protect and prevent harm in  
21 environmentally critical areas. PRDs shall be subject to the following provisions:

22 \* \* \*

1 Section 11. Section 23.44.041 of the Seattle Municipal Code, last amended by Ordinance  
2 126685, is amended as follows:

3 **23.44.041 Accessory dwelling units**

4 A. General provisions. The Director may authorize an accessory dwelling unit, and that  
5 dwelling unit may be used as a residence, only under the following conditions:

6 1. ~~((Number of accessory dwelling units allowed on a lot~~

7 a.) In an NR1, NR2, and NR3 zone, a lot with or proposed for a principal  
8 single-family dwelling unit may have up to two accessory dwelling units, provided that the  
9 following conditions are met:

10 ~~((1) Only))~~ a. No more than one accessory dwelling unit ~~((may be))~~ is a  
11 detached accessory dwelling unit; and

12 ~~((2))~~ b. A second accessory dwelling unit is allowed only if:

13 ~~((a) The second accessory dwelling unit is added by converting~~  
14 ~~floor))~~ 1) Floor area within an existing structure is converted to create the second accessory  
15 dwelling unit; or

16 ~~((b) For a new structure, the applicant makes a commitment that~~  
17 ~~the))~~ 2) The applicant commits that an attached accessory dwelling unit in a new principal

18 ~~structure ((containing an attached accessory dwelling unit or the new accessory structure~~  
19 ~~containing a))~~ or a new detached accessory dwelling unit will meet a green building standard and  
20 shall demonstrate compliance with that commitment, all in accordance with Chapter 23.58D; or

21 ~~((e) the))~~ 3) The second accessory dwelling unit is a ((rental unit  
22 affordable to and reserved solely for "income-eligible households," as defined in Section

23 23.58A.004, and is subject to an agreement specifying the affordable housing requirements under

1 ~~this subsection approved by the Director of Housing to ensure that the housing shall serve only~~  
2 ~~income eligible households for a minimum period of 50 years. The monthly rent, including basic~~  
3 ~~utilities, shall not exceed 30 percent of the income limit for the unit, all as determined by the~~  
4 ~~Director of Housing, and the housing owner shall submit a report to the Office of Housing~~  
5 ~~annually that documents how the affordable housing meets the terms of the recorded agreement.~~

6 ~~Prior to issuance, and as a condition to issuance, of the first building~~  
7 ~~permit for a project, the applicant shall execute and record a declaration in a form acceptable to~~  
8 ~~the Director that shall commit the applicant to satisfy the conditions to establishing a second~~  
9 ~~accessory dwelling unit as approved by the Director)) low-income unit.~~

10 ((b.)) 2. In an RSL zone, each principal dwelling unit may have no more than one  
11 accessory dwelling unit.

12 ((2.)) 3. In the Shoreline District, accessory dwelling units shall be as provided in  
13 Chapter 23.60A; where allowed in the Shoreline District, they are also subject to the provisions  
14 in this Section 23.44.041.

15 ((3.)) 4. In NR1, NR2, and NR3 zones, accessory dwelling units are subject to the  
16 tree requirements in subsection 23.44.020.A.2.

17 ((4.)) 5. No off-street parking is required for accessory dwelling units.

18 6. An existing required parking space may not be eliminated to accommodate an  
19 accessory dwelling unit unless it is replaced elsewhere on the lot.

20 \* \* \*

21 Section 12. Section 23.45.510 of the Seattle Municipal Code, last amended by Ordinance  
22 126287, is amended as follows:

23 **23.45.510 Floor area**



\* \* \*

D. The following floor area is exempt from FAR limits:

1. All stories, or portions of stories, that are underground.

2. The floor area ((~~contained~~)) in a Landmark structure subject to controls and incentives imposed by a designating ordinance, if the owner of the Landmark has executed and recorded an agreement acceptable in form and content to the Landmarks Preservation Board, providing for the restoration and maintenance of the historically significant features of the structure, except that this exemption does not apply to a lot from which a transfer of development potential (TDP) has been made under Chapter 23.58A, and does not apply for purposes of determining TDP available for transfer under Chapter 23.58A.

3. The floor area ((~~contained~~)) in structures built prior to January 1, 1982, as single-family dwelling units that will remain in residential use, regardless of the number of dwelling units within the existing structure, provided that:

a. No other principal structure is located between the existing residential structure and the street lot line along at least one street frontage. If the existing residential structure is moved on the lot, the floor area of the existing residential structure remains exempt if it continues to meet this provision; and

b. The exemption is limited to the gross floor area in the existing residential structure as of January 1, 1982.

4. Portions of a story that extend no more than 4 feet above existing or finished grade, whichever is lower, excluding access, (see Exhibit A for 23.45.510), in the following circumstances:

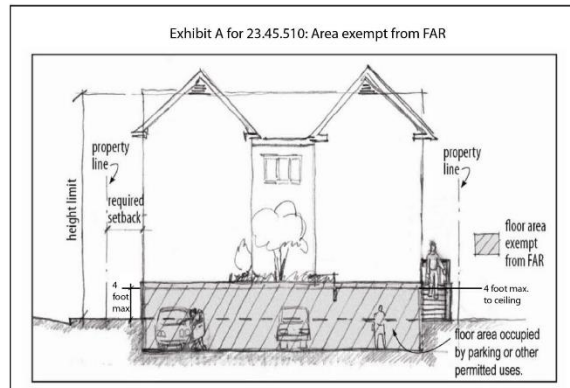
a. Apartments in LR zones;

1                   b. Rowhouse and townhouse developments in LR zones, provided that all  
2 parking is located at the rear of the structure or is enclosed in structures with garage entrances  
3 located on the rear facade; and

4                   c. All multifamily structures in MR and HR zones.

5                   **Exhibit A for 23.45.510**

6                   **Area exempt from FAR**



9                   5. For rowhouse and townhouse developments and apartments, floor area within a  
10 story, or portion of a story, that is partially above grade if all of the following conditions are met:

11                   a. The story, or portion of the story, that is partially above grade is used  
12 for parking or other accessory uses and has no additional stories above;

13                   b. The average height of the exterior walls enclosing the floor area does  
14 not exceed one story, measured from existing or finished grade, whichever is lower;

15                   c. The roof area above the exempt floor area is predominantly flat, is used  
16 as amenity area, and meets the standards for amenity area at ground level in Section 23.45.522;

17 and

18                   d. At least 25 percent of the perimeter of the amenity area on the roof  
19 above the floor area is not enclosed by the walls of the structure.

6. Enclosed common amenity area in HR zones.



1                    1. Except according to subsection 23.45.512.A.4, the following developments  
2 must meet the density limits described in this subsection 23.45.512.A:

3                    a. In LR1 zones, rowhouse development on interior lots and all townhouse  
4 development; and

5                    b. All development in Lowrise zones that do not have a mandatory  
6 housing affordability suffix.

7                    2. Development described in subsection 23.45.512.A.1 shall not exceed a density  
8 of one dwelling unit per 1,150 square feet of lot area, except that apartments in LR3 zones that  
9 do not have a mandatory housing affordability suffix shall not exceed a density limit of one  
10 dwelling unit per 800 square feet.

11                    3. When density calculations result in a fraction of a unit, any fraction up to and  
12 including 0.85 constitutes zero additional units, and any fraction over 0.85 constitutes one  
13 additional unit.

14                    4. ~~((Density exception for certain types of low income multifamily residential  
15 uses~~

16                    a. ~~The exception in this subsection 23.45.512.A.4 applies to low income  
17 residential uses operated by a public agency or a private nonprofit corporation.~~

18                    b. ~~The uses listed in subsection 23.45.512.A.4.a))~~ Low-income housing  
19 shall have a maximum density of one dwelling unit per 400 square feet of lot area ~~((if a majority  
20 of the dwelling units are designed for and dedicated to tenancies of at least three months, and the  
21 dwelling units remain in low income residential uses for the life of the structure))~~.

22                    \* \* \*

1 Section 14. Section 23.45.516 of the Seattle Municipal Code, last amended by Ordinance  
2 125791, is amended as follows:

3 **23.45.516 Method to achieve extra residential floor area in HR zones**

4 \* \* \*

5 B. In HR zones, extra residential floor area above the base FAR may be gained in  
6 accordance with Chapter 23.58A subject to the conditions and limits in this Section 23.45.516.

7 1. Up to all extra residential floor area may be gained through the affordable  
8 housing incentive (~~(program)~~) provisions in Section 23.58A.014.

9 2. Up to 40 percent of extra residential floor area may be gained by one or any  
10 combination of:

11 a. Transfer of development potential;

12 b. Providing neighborhood open space; and/or

13 c. Providing a neighborhood green street setback if allowed pursuant to  
14 subsection 23.45.516.F, all in accordance with this Section 23.45.516 and Chapter 23.58A.

15 \* \* \*

16 Section 15. The title of Section 23.45.550 of the Seattle Municipal Code, which section  
17 was last amended by Ordinance 126509, is amended as follows:

18 **23.45.550 Alternative (~~(development)~~) standards for (~~(low-income housing)~~) development of**  
19 **affordable units on property owned or controlled by a religious organization**

20 \* \* \*

21 Section 16. Table A for Section 23.47A.004 of the Seattle Municipal Code, which section  
22 was last amended by Ordinance 126626, is amended as follows:

23 **23.47A.004 Permitted and prohibited uses**

1

\* \* \*

<b>Table A for 23.47A.004 Uses in Commercial zones</b>					
Uses	Permitted and prohibited uses by zone <sup>1</sup>				
	NC1	NC2	NC3	C1	C2
* * *					
<b>J. RESIDENTIAL USES<sup>14</sup></b>					
J.1. Residential uses not listed below	P	P	P	P	CU <sup>15</sup>
J.2. Caretaker's quarters	P	P	P	P	P
J.3. Congregate residence	X/P <sup>16</sup>	X/P <sup>16</sup>	P/X <sup>17</sup>	P/X <sup>17</sup>	P/X <sup>17</sup>
J.4. (( <del>Permanent supportive</del> )) <u>Low-income housing</u>	P	P	P	P	P
* * *					
<b>KEY</b>					
A = Permitted as an accessory use only					
CU = Administrative Conditional Use (business establishment limited to the multiple of 1,000 square feet of any number following a hyphen, pursuant to Section 23.47A.010)					
CCU = Council Conditional Use (business establishment limited to the multiple of 1,000 square feet of any number following a hyphen, pursuant to Section 23.47A.010)					
P = Permitted					
S = Permitted in shoreline areas only					
X = Prohibited					
CU-25 = Conditionally permitted; use is limited to 25,000 square feet, pursuant to Section 23.47A.010					
10 = Permitted, business establishments limited to 10,000 square feet, pursuant to Section 23.47A.010					
20 = Permitted, business establishments limited to 20,000 square feet, pursuant to Section 23.47A.010					
25 = Permitted, business establishments limited to 25,000 square feet, pursuant to Section 23.47A.010					
35 = Permitted, business establishments limited to 35,000 square feet, pursuant to Section 23.47A.010					
40 = Permitted, business establishments limited to 40,000 square feet, pursuant to Section 23.47A.010					
50 = Permitted, business establishments limited to 50,000 square feet, pursuant to Section 23.47A.010					
Footnotes to Table A for 23.47A.004					
<sup>1</sup> In pedestrian-designated zones, a portion of the street-level street-facing facade of a structure along a designated principal pedestrian street may be limited to certain uses as provided in subsection 23.47A.005.D. In pedestrian-designated zones, drive-in lanes are					

prohibited (Section 23.47A.028).

<sup>2</sup> In addition to the provisions in this Chapter 23.47A, uses that entail major marijuana activity are subject to the requirements of Section 23.42.058.

<sup>3</sup> For commercial uses with drive-in lanes, see Section 23.47A.028.

<sup>4</sup> Subject to subsection 23.47A.004.H.

<sup>5</sup> Permitted at Seattle Center.

<sup>6</sup> Bed and breakfasts in existing structures are permitted outright with no maximum size limit.

<sup>7</sup> Medical services over 10,000 square feet within 2,500 feet of a medical Major Institution Overlay boundary require conditional use approval, unless they are included in a Major Institution Master Plan or dedicated to veterinary services.

<sup>8</sup> Medical service uses that are located in an urban center or urban village, which are in operation at such location before August 1, 2015, and that routinely provide medical services on a reduced fee basis to individuals or families having incomes at or below 200 percent of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC 9902(2), are limited to 20,000 square feet. This provision does not apply to medical service uses that are subject to a Major Institution Master Plan.

<sup>9</sup> Office uses in C1 and C2 zones are permitted up to the greater of 1 FAR or 35,000 square feet as provided in subsection 23.47A.010.D. Office uses in C1 and C2 zones are permitted outright with no maximum size limit if they meet the standards identified in subsection 23.47A.010.D.

<sup>10</sup> Gas stations and other businesses with drive-in lanes are not permitted in pedestrian-designated zones (Section 23.47A.028). Elsewhere in NC zones, establishing a gas station may require a demonstration regarding impacts under Section 23.47A.028.

<sup>11</sup> Grocery stores meeting the conditions of subsection 23.47A.010.E are permitted up to 23,000 square feet in size.

<sup>12</sup> Subject to subsection 23.47A.004.G.

<sup>13</sup> Permitted pursuant to subsection 23.47A.004.D.7.

<sup>14</sup> Residential uses may be limited to 20 percent of a street-level street-facing facade pursuant to subsection 23.47A.005.C.

<sup>15</sup> Residential uses are conditional uses in C2 zones under subsection 23.47A.006.A.3, except as otherwise provided above in Table A for 23.47A.004 or in subsection 23.47A.006.A.3.

<sup>16</sup> Congregate Residences that are owned by a college or university, or are affiliated with an educational major institution that is part of the Washington State Community and Technical Colleges system, or are a sorority or fraternity, or are owned by a not-for-profit entity or charity, or are licensed by the State and provide supportive services are permitted outright. All others are prohibited. Supportive services include meal service, cleaning service, health services, or similar.

<sup>17</sup> Congregate Residences that are owned by a college or university, or are affiliated with an educational major institution that is part of the Washington State Community and Technical Colleges system, or are a sorority or fraternity, or are owned by a not-for-profit entity or charity, or are licensed by the State and provide supportive services are permitted outright. All others are permitted only in locations within urban villages and urban centers. Supportive services include meal service, cleaning service, health services, or similar.

<sup>18</sup> Permitted at Seattle Center; see Section 23.47A.011.

<sup>19</sup> Flexible-use parking is subject to Section 23.54.026. In pedestrian-designated zones, surface parking is prohibited adjacent to principal pedestrian streets pursuant to subsection 23.47A.032.B.2.

<sup>20</sup> Permitted as surface parking only on surface parking lots existing as of January 1, 2017. In pedestrian-designated zones, surface parking is prohibited adjacent to principal pedestrian streets pursuant to subsection 23.47A.032.B.2.

<sup>21</sup> Permitted outright, except prohibited in the SAOD.

<sup>22</sup> See Chapter 23.57, Communications regulations, for regulation of communication utilities.

<sup>23</sup> A recycling use that is located on the same development site as a solid waste transfer station may be permitted by administrative conditional use, subject to the requirements of subsection 23.47A.006.A.7.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

Section 17. Section 23.47A.005 of the Seattle Municipal Code, last amended by Ordinance 126287, is amended as follows:

**23.47A.005 Street-level uses**

\* \* \*

C. Residential uses at street level

1. In all NC and C zones, residential uses may occupy, in the aggregate, no more than 20 percent of the street-level street-facing facade in the following circumstances or locations:

a. In a pedestrian-designated zone, facing a designated principal pedestrian street; or

b. In all NC and C1 zones within the Bitter Lake Village Hub Urban Village, except lots abutting Linden Avenue North, north of North 135th Street; or

c. Within a zone that has a height limit of 85 feet or higher, except as provided in subsection 23.47A.005.C.2; or

d. Within an NC1 zone, except as provided in subsection 23.47A.005.C.2; or



1 e. In all NC and C1 zones within the Northgate Overlay District, except as  
2 provided in Section 23.71.044; or

3 f. In all NC and C1 zones within the areas shown on Maps A through D  
4 for 23.47A.005 at the end of this Chapter 23.47A when facing an arterial street.

5 2. Subsection 23.47A.005.C.1 notwithstanding, there is no restriction on the  
6 location of residential uses in the following circumstances:

7 a. ~~((Within a very low income housing project existing as of May 1, 2006,~~  
8 ~~or within a very low income housing project replacing a very low income housing project~~  
9 ~~existing as of May 1, 2006, on the same site)) The development is low-income housing; or~~

10 b. The residential use is an assisted living facility or nursing home and  
11 private living units are not located at street level; or

12 c. Within the Pike/Pine Conservation Overlay District, for street-facing  
13 facades that do not face a designated principal pedestrian street, as shown on Map A for  
14 23.73.008; or

15 d. In a structure existing on January 1, 2012, that is within an NC1 zone  
16 but not located in an area defined in Maps A through D for 23.47A.005, at the end of this  
17 Chapter 23.47A, a live-work space may be converted to an accessory dwelling unit if the  
18 residential use is established, if the area proposed to be converted meets the minimum housing  
19 standards of Chapter 22.206, ~~((, and if the area proposed to be converted meets the owner~~  
20 ~~occupancy requirement of subsection 23.44.041.C;~~

21 e. ~~Within a structure that:~~

22 ~~1) Is developed and owned by the Seattle Housing Authority; and~~



1 i. Offices, provided that no more than 30 feet of the street-level, street-  
2 facing facade of a structure may contain an office use;

3 j. Parks and open spaces;

4 k. Rail transit facilities;

5 l. Retail sales and services, automotive, in the Pike/Pine Conservation  
6 Overlay District if located within an existing structure or within a structure that retains a  
7 character structure as provided in Section 23.73.015;

8 m. Sales and services, general, provided that no more than 40 feet of the  
9 street-level, street-facing facade of a structure on a principal pedestrian street may contain a  
10 customer services office;

11 n. Sales and services, heavy, except for heavy commercial sales, and  
12 provided that no more than 30 feet of the street-level, street-facing facade of a structure may  
13 contain a non-household sales and service use; and

14 o. ((~~Permanent supportive~~)) Low-income housing.

15 The establishment of any such use is subject to the applicable use provisions of  
16 this Title 23.

17 2. The following streets are principal pedestrian streets when located within a  
18 pedestrian-designated zone:

19 10th Avenue;

20 11th Avenue;

21 12th Avenue;

22 13th Avenue, between East Madison Street and East Pine Street;

- 1 14th Avenue South, except within the North Beacon Hill Residential
- 2 Urban Village;
- 3 15th Avenue East;
- 4 15th Avenue Northeast, north of Lake City Way Northeast;
- 5 15th Avenue Northwest;
- 6 15th Avenue South;
- 7 17th Avenue Northwest;
- 8 20th Avenue Northwest;
- 9 22nd Avenue Northwest;
- 10 23rd Avenue;
- 11 24th Avenue Northwest;
- 12 25th Avenue Northeast;
- 13 32nd Avenue West;
- 14 35th Avenue Northeast, except within the Lake City Hub Urban Village;
- 15 35th Avenue Southwest, except within the West Seattle Junction Hub
- 16 Urban Village;
- 17 39th Avenue Northeast;
- 18 Aurora Ave North, except within the Bitter Lake Village Hub Urban
- 19 Village;
- 20 Ballard Avenue Northwest;
- 21 Beacon Avenue South;
- 22 Boren Avenue;

- 1                                   Boylston Avenue, except within the Pike/Pine Conservation Overlay
- 2 District;
- 3                                   Broadway;
- 4                                   Broadway East;
- 5                                   California Avenue Southwest;
- 6                                   Delridge Way Southwest;
- 7                                   Dexter Avenue North;
- 8                                   East Green Lake Drive North;
- 9                                   East Green Lake Way North;
- 10                                  East Madison Street;
- 11                                  East Olive Way;
- 12                                  East Pike Street;
- 13                                  East Pine Street;
- 14                                  East Union Street, except within the Pike/Pine Conservation Overlay
- 15 District only lots abutting East Union Street between Broadway and East Madison Street;
- 16                                  Eastlake Avenue East;
- 17                                  First Avenue North, except within the Upper Queen Anne Residential
- 18 Urban Village;
- 19                                  Fremont Avenue North;
- 20                                  Fremont Place North;
- 21                                  Galer Street;
- 22                                  Green Lake Drive North;
- 23                                  Greenwood Avenue North;

- 1 Lake City Way Northeast;
- 2 Leary Avenue Northwest;
- 3 Linden Avenue North;
- 4 Madison Street;
- 5 Martin Luther King Jr. Way South;
- 6 Mary Avenue Northwest, between Holman Road Northwest and
- 7 Northwest 87th Street;
- 8 Mercer Street;
- 9 North 34th Street;
- 10 North 35th Street;
- 11 North 45th Street;
- 12 North 85th Street;
- 13 Northeast 43rd Street;
- 14 Northeast 45th Street, except between Linden Ave North and Evanston
- 15 Ave North;
- 16 Northeast 55th Street, east of 15th Avenue Northeast;
- 17 Northeast 65th Street;
- 18 Northeast 125th Street;
- 19 Northwest 65th Street;
- 20 Northwest 85th Street;
- 21 Northwest 90th Street, between Mary Avenue Northwest and 14th Avenue
- 22 Northwest;
- 23 Northwest Market Street;

- 1                                   Phinney Avenue North, between North 58th Street and North 63rd Street;
- 2                                   Pike Street;
- 3                                   Pine Street;
- 4                                   Queen Anne Avenue North;
- 5                                   Rainier Avenue South;
- 6                                   Roosevelt Way Northeast;
- 7                                   Roy Street;
- 8                                   Sand Point Way Northeast;
- 9                                   South Alaska Street;
- 10                                  South Cloverdale Street;
- 11                                  South Henderson Street;
- 12                                  South Jackson Street;
- 13                                  South Lander Street;
- 14                                  South McClellan Street;
- 15                                  South Othello Street;
- 16                                  Southwest Alaska Street;
- 17                                  Stone Way North;
- 18                                  Summit Avenue, except within the Pike/Pine Conservation Overlay
- 19 District;
- 20                                  Terry Avenue;
- 21                                  University Way Northeast;
- 22                                  Wallingford Avenue North;
- 23                                  West Dravus Street;

1 West Galer Street;  
2 West Green Lake Drive North;  
3 West McGraw Street, except within the Upper Queen Anne Residential  
4 Urban Village; and  
5 Woodlawn Avenue Northeast.

6 Section 18. Section 23.47A.013 of the Seattle Municipal Code, last amended by  
7 Ordinance 126600, is amended as follows:

8 **23.47A.013 Floor area ratio**

9 \* \* \*

10 B. The following gross floor area is not counted toward FAR:

- 11 1. All stories, or portions of stories, that are underground;
- 12 2. All portions of a story that extend no more than 4 feet above existing or  
13 finished grade, whichever is lower, excluding access;
- 14 3. Gross floor area of a transit station, including all floor area open to the general  
15 public during normal hours of station operation but excluding retail or service establishments to  
16 which public access is limited to customers or clients, even where such establishments are  
17 primarily intended to serve transit riders;
- 18 4. On a lot containing a peat settlement-prone environmentally critical area,  
19 above-grade parking within or covered by a structure or portion of a structure, if the Director  
20 finds that locating a story of parking below grade is infeasible due to physical site conditions  
21 such as a high water table, if either:
  - 22 a. The above-grade parking extends no more than 6 feet above existing or  
23 finished grade and no more than 3 feet above the highest existing or finished grade along the



1 structure footprint, whichever is lower, as measured to the finished floor level or roof above,  
2 pursuant to subsection 23.47A.012.A.3; or

3 b. All of the following conditions are met:

4 1) No above-grade parking is exempted by subsection  
5 23.47A.013.B.4.a;

6 2) The parking is accessory to a residential use on the lot;

7 3) Total parking on the lot does not exceed one space for each  
8 residential dwelling unit plus the number of spaces required for non-residential uses; and

9 4) The amount of gross floor area exempted by this subsection  
10 23.47A.013.B.4.b does not exceed 25 percent of the area of the lot in zones with a height limit  
11 less than 65 feet, or 50 percent of the area of the lot in zones with a height limit 65 feet or  
12 greater; and

13 5. Rooftop greenhouse areas meeting the standards of subsections  
14 23.47A.012.C.4, 23.47A.012.C.5, and 23.47A.012.C.6;

15 6. Bicycle commuter shower facilities required by subsection 23.54.015.K.8;

16 7. The floor area of required bicycle parking for small efficiency dwelling units or  
17 congregate residence sleeping rooms, if the bicycle parking is located within the structure  
18 containing the small efficiency dwelling units or congregate residence sleeping rooms. Floor area  
19 of bicycle parking that is provided beyond the required bicycle parking is not exempt from FAR  
20 limits;

21 8. All gross floor area in child care centers; and

22 9. In ~~((permanent supportive))~~ low-income housing, all gross floor area for  
23 accessory human service uses.

1 \* \* \*

2 Section 19. The title of Section 23.47A.040 of the Seattle Municipal Code, which section  
3 was last amended by Ordinance 126509, is amended as follows:

4 **23.47A.040 Alternative ((development)) standards for ((low-income housing)) development**  
5 **of affordable units on property owned or controlled by a religious organization**

6 Section 20. Section 23.48.005 of the Seattle Municipal Code, last amended by Ordinance  
7 126287, is amended as follows:

8 **23.48.005 Uses**

9 \* \* \*

10 D. Required street-level uses

11 1. One or more of the following uses listed in this subsection 23.48.005.D.1 are  
12 required: (i) at street-level of the street-facing facade along streets designated as Class 1  
13 Pedestrian Streets shown on Map A for 23.48.240, except as required in subsection 23.48.205.C;  
14 (ii) at street-level of the street-facing facades along streets designated on Map A for 23.48.640;  
15 and (iii) at street-level of the street-facing facades along streets designated as Class 1 or Class 2  
16 streets shown on Map A for 23.48.740:

- 17 a. General sales and service uses;
- 18 b. Eating and drinking establishments;
- 19 c. Entertainment uses;
- 20 d. Public libraries;
- 21 e. Public parks;
- 22 f. Arts facilities;
- 23 g. Religious facilities;

- 1 h. Light rail transit stations;
- 2 i. Child care centers; and
- 3 j. (~~Permanent supportive~~) Low-income housing.

4 2. Standards for required street-level uses. Required street-level uses shall meet  
5 the development standards in subsection 23.48.040.C, and any additional standards for Seattle  
6 Mixed zones in specific geographic areas in the applicable subchapter of this Chapter 23.48.

7 \* \* \*

8 Section 21. Section 23.48.020 of the Seattle Municipal Code, last amended by Ordinance  
9 126287, is amended as follows:

10 **23.48.020 Floor area ratio (FAR)**

11 \* \* \*

12 B. Floor area exempt from FAR calculations. The following floor area is exempt from  
13 maximum FAR calculations:

- 14 1. All underground stories or portions of stories.
- 15 2. Portions of a story that extend no more than 4 feet above existing or finished  
16 grade, whichever is lower, excluding access.
- 17 3. As an allowance for mechanical equipment, in any structure 65 feet in height or  
18 more, 3.5 percent of the total chargeable gross floor area in a structure is exempt from FAR  
19 calculations. Calculation of the allowance includes the remaining gross floor area after all  
20 exempt space allowed in this subsection 23.48.020.B has been deducted. Mechanical equipment  
21 located on the roof of a structure, whether enclosed or not, is not included as part of the  
22 calculation of total gross floor area.
- 23 4. All gross floor area for solar collectors and wind-driven power generators.



1                   2. The amount of gross floor area in residential use in the structures on both lots is  
2 equal to at least 60 percent of the total gross floor area of the total combined development on the  
3 lots included in the ~~((proposal))~~ project; and

4                   3. The non-residential structure is subject to design review to ensure compatibility  
5 with the residential character of the surrounding area; and

6                   4. The ~~((proposal))~~ project meets one or more of the following:

7                   a. The project includes the rehabilitation of a Landmark structure or  
8 incorporates structures or elements of structures of architectural or historical significance as  
9 identified in the Seattle Comprehensive Plan or design guidelines; or

10                  b. The project includes general sales and service uses, eating and drinking  
11 establishments, major durables retail sales uses, entertainment uses, human service uses, or child  
12 care centers at the street level in an amount equal to 50 percent of the structure's footprint; or

13                  c. On the lot(s) accommodating the required amount of gross floor area in  
14 residential use, as specified in subsection 23.48.232.F.2, a minimum of ten percent of all new  
15 ~~((housing))~~ units in the ~~((proposal))~~ project are either provided as ~~((affordable housing as defined~~  
16 ~~in Chapter 23.58A, and shall be maintained as affordable housing for a period of at least 20~~  
17 ~~years, or a minimum of ten percent of all new housing units in the proposal are provided as))~~  
18 moderate-income units or townhouses.

19                  Section 24. Section 23.48.605 of the Seattle Municipal Code, last amended by Ordinance  
20 126287, is amended as follows:

21 **23.48.605 Uses in SM-U zones**

22                  C. Required street-level uses

1                   1. One or more of the following uses listed in this subsection 23.48.605.C.1 are  
2 required at street level along the street-facing facades abutting streets shown on Map A for  
3 23.48.605:

- 4                   a. General sales and service uses;
- 5                   b. Eating and drinking establishments;
- 6                   c. Entertainment uses;
- 7                   d. Public libraries;
- 8                   e. Public parks;
- 9                   f. Arts facilities;
- 10                  g. Religious facilities;
- 11                  h. Human services uses;
- 12                  i. Child care centers;
- 13                  j. Light rail transit stations; and
- 14                  k. ~~((Permanent supportive))~~ Low-income housing.

15                   2. Standards for required street-level uses. Required street-level uses shall meet  
16 the development standards in subsection 23.48.040.C.

1  
2

### Map A for 23.48.605

### Locations of street-level use requirements



3  
4  
5

Section 25. Section 23.48.920 of the Seattle Municipal Code, enacted by Ordinance 125791, is amended as follows:

1 **23.48.920 Floor area ratio in SM-RB zones**

2 \* \* \*

3 B. The FAR limit listed in Table A for 23.48.920 shall be increased by an amount of floor  
4 area equal to twice the amount of floor area occupied by the following uses, up to a maximum  
5 increase in FAR of 1.0 in SM-RB 55 and SM-RB 85 zones and 2.0 in SM-RB 125 zones:

6 1. Light manufacturing;

7 2. College;

8 3. School, vocational, or fine arts;

9 4. Food processing and craft work;

10 5. Child care center; or

11 6. ~~((Residential development that receives public funding and/or an allocation of~~

12 ~~federal low-income housing tax credits, and is subject to a regulatory agreement, covenant, or~~

13 ~~other legal instrument recorded on the property title and enforceable by The City of Seattle,~~

14 ~~Washington State Housing Finance Commission, State of Washington, King County, U.S.~~

15 ~~Department of Housing and Urban Development, or other similar entity as approved by the~~

16 ~~Director of Housing, that restricts at least 40 percent of the units to occupancy by households~~

17 ~~earning no greater than 60 percent of median income, and controls the rents that may be charged,~~

18 ~~for a minimum period of 40 years)) Low-income housing.~~

19 Section 26. The title of Section 23.49.007 of the Seattle Municipal Code, which section

20 was last amended by Ordinance 125371, is amended as follows:

21 **23.49.007 Mandatory housing affordability (MHA) in Downtown zones**

22 Section 27. Section 23.49.008 of the Seattle Municipal Code, last amended by Ordinance

23 126600, is amended as follows:



1 **23.49.008 Structure height**

2 The following provisions regulating structure height apply to all property in Downtown zones  
3 except the DH1 zone. Structure height for PSM, IDM, and IDR zones is regulated by this Section  
4 23.49.008, and by Sections 23.49.178, 23.49.208, and 23.49.236.

5 A. Base and maximum height limits

6 1. Except as otherwise provided in this Section 23.49.008, maximum structure  
7 heights for Downtown zones are as designated on the Official Land Use Map. In certain zones,  
8 as specified in this Section 23.49.008, the maximum structure height may be allowed only for  
9 particular uses or only on specified conditions, or both. If height limits are specified for portions  
10 of a structure that contain specified types of uses, the applicable height limit for the structure is  
11 the highest applicable height limit for the types of uses in the structure, unless otherwise  
12 specified.

13 2. Except in the PMM zone, the base height limit for a structure is the lowest of  
14 the maximum structure height or the lowest other height limit, if any, that applies pursuant to this  
15 Title 23 based upon the uses in the structure, before giving effect to any bonus for which the  
16 structure qualifies under this Chapter 23.49 and to any special exceptions or departures  
17 authorized under this Chapter 23.49. In the PMM zone the base height limit is the maximum  
18 height permitted pursuant to urban renewal covenants.

19 3. In zones listed below in this subsection 23.49.008.A.3, the applicable height  
20 limit for portions of a structure that contain non-residential and live-work uses is shown as the  
21 first figure after the zone designation (except that there is no such limit in DOC1), and the base  
22 height limit for portions of a structure in residential use is shown as the first figure following the  
23 "/". The third figure shown is the maximum residential height limit. Except as stated in

1 subsection 23.49.008.D, the base residential height limit is the applicable height limit for  
2 portions of a structure in residential use if the structure does not ~~((use the bonus available under~~  
3 ~~Section 23.49.015))~~ achieve bonus residential floor area according to Chapter 23.58A, and the  
4 maximum residential height limit is the height limit for portions of a structure in residential use if  
5 the structure ~~((uses the bonus available under Section 23.49.015))~~ achieves bonus residential  
6 floor area according to Chapter 23.58A:

7 DOC1 Unlimited/450-unlimited

8 DOC2 500/300-550

9 DMC 340/290-440

10 DMC 240/290-440.

11 4. A structure in a DMC 340/290-440 zone on a lot comprising a full block that  
12 abuts a DOC1 zone along at least one street frontage may gain additional structure height of 30  
13 percent above the maximum residential height limit if the structure ~~((uses the bonus available~~  
14 ~~under Section 23.49.015))~~ achieves bonus residential floor area according to Chapter 23.58A, or  
15 35 percent above 340 feet if ~~((that bonus is not used))~~ the structure does not include bonus  
16 residential floor area according to Chapter 23.58A, in either case under the following conditions:

17 a. Only one tower is permitted on the lot;

18 b. Any additional floor area above the maximum height limit for non-  
19 residential or live-work use, as increased under this subsection 23.49.008.A.4, is occupied by  
20 residential use;

21 c. The average residential gross floor area and maximum residential floor  
22 area of any story in the portion of the tower permitted above the base residential height limit do  
23 not exceed the limits prescribed in subsection 23.49.058.C.1;

1                                   d. Any residential floor area allowed above the base residential height  
2 limit under this provision is ~~((gained through voluntary agreements to provide low-income or  
3 moderate-income housing))~~ achieved according to ~~((Section 23.49.015))~~ Chapter 23.58A;

4                                   e. At least 35 percent of the lot area, or a minimum of 25,000 square feet,  
5 whichever is greater, is in open space use substantially at street level meeting the following  
6 standards, and subject to the following allowances for coverage:

7   1) The location and configuration of the space shall enhance solar  
8 exposure, allow easy access to entrances to the tower serving all tenants and occupants from  
9 streets abutting the open space, and allow convenient pedestrian circulation through all portions  
10 of the open space. The open space shall be entirely contiguous and physically accessible. To  
11 offset the impact of the taller structure allowed, the open space shall have frontage at grade  
12 abutting sidewalks, and be visible from sidewalks, on at least two streets. The elevation of the  
13 space may vary, especially on sloping lots where terracing the space facilitates connections to  
14 abutting streets, provided that grade changes are gradual and do not significantly disrupt the  
15 continuity of the space, and no part of the open space is significantly above the grade of the  
16 nearest abutting street. The Director may allow greater grade changes, as necessary, to facilitate  
17 access to transit tunnel stations.

18   2) Up to 20 percent of the area used to satisfy the open space  
19 condition to allowing additional height may be covered by the following features: permanent,  
20 freestanding structures, such as retail kiosks, pavilions, or pedestrian shelters; structural  
21 overhangs; overhead arcades or other forms of overhead weather protection; and any other  
22 features approved by the Director that contribute to pedestrian comfort and active use of the  
23 space. The following features within the open space area may count as open space and are not

1 subject to the percentage coverage limit: temporary kiosks and pavilions, public art, permanent  
2 seating that is not reserved for any commercial use, exterior stairs and mechanical assists that  
3 provide access to public areas and are available for public use, and any similar features approved  
4 by the Director.

5 f. Open space used to satisfy the condition to allowing additional height in  
6 this Section 23.49.008 is not eligible for a bonus under Section 23.49.013.

7 g. Open space used to satisfy the condition to allowing additional height in  
8 this Section 23.49.008 may qualify as common recreation area to the extent permitted by  
9 subsection 23.49.011.B and may be used to satisfy open space requirements in subsection  
10 23.49.016.C.1 if it satisfies the standards of subsection 23.49.016.C.1.

11 h. No increase in height shall be granted to any proposed development that  
12 would result in significant alteration to any designated feature of a Landmark structure, unless a  
13 certificate of approval for the alteration is granted by the Landmarks Preservation Board.

14 5. In a DRC zone, the base height limit is 85 feet, except that, subject to the  
15 conditions in subsection 23.49.008.A.6:

16 a. The base height limit is 170 feet if any of the following conditions is  
17 satisfied:

18 1) All portions of a structure above 85 feet contain only residential  
19 use; or

20 2) At least 25 percent of the gross floor area of all structures on a  
21 lot is in residential use; or

22 3) A minimum of 1.5 FAR of eating and drinking establishments,  
23 retail sales, and service or entertainment uses, or any combination thereof, is provided on the lot.

1                           b. For residential floor area created by infill of a light well on a Landmark  
2 structure, the base height limit is the lesser of 170 feet or the highest level at which the light well  
3 is enclosed by the full length of walls of the structure on at least three sides. For the purpose of  
4 this subsection 23.49.008.A.5.b, a light well is defined as an inward modulation on a non-street-  
5 facing facade that is enclosed on at least three sides by walls of the same structure, and infill is  
6 defined as an addition to that structure within the light well.

7                           6. Restrictions on demolition and alteration of existing structures

8                           a. Any structure in a DRC zone that would exceed the 85-foot base height  
9 limit shall incorporate the existing exterior street-front facade(s) of each of the structures listed  
10 below, if any, located on the lot of that project. The City Council finds that these structures are  
11 significant to the architecture, history, and character of downtown. The Director may permit  
12 changes to the exterior facade(s) to the extent that significant features are preserved and the  
13 visual integrity of the design is maintained. The degree of exterior preservation required will  
14 vary, depending upon the nature of the project and the characteristics of the affected structure(s).

15                           b. The Director shall evaluate whether the manner in which the facade is  
16 proposed to be preserved meets the intent to preserve the architecture, character, and history of  
17 the Retail Core. If a structure on the lot is a Landmark structure, approval by the Landmarks  
18 Preservation Board for any proposed modifications to controlled features is required prior to a  
19 decision by the Director to allow or condition additional height for the project. The Landmarks  
20 Preservation Board's decision shall be incorporated into the Director's decision. Inclusion of a  
21 structure on the list below is solely for the purpose of conditioning additional height under this  
22 subsection 23.49.008.A.6.b, and shall not be interpreted in any way to prejudge the structure's  
23 merit as a Landmark:

Sixth and Pine Building	523 Pine Street
Decatur	1513 6th Avenue
Coliseum Theater	5th and Pike
Seaboard Building	1506 Westlake Avenue
Fourth and Pike Building	1424 4th Avenue
Pacific First Federal Savings	1400 4th Avenue
Joshua Green Building	1425 4th Avenue
Equitable Building	1415 4th Avenue
Mann Building	1411 3rd Avenue
Olympic Savings Tower	217 Pine Street
Fischer Studio Building	1519 3rd Avenue
Bon Marche (Macy's)	3rd and Pine
Melbourne House	1511 3rd Avenue
Former Woolworth's Building	1512 3rd Avenue

1 c. The restrictions in this subsection 23.49.008.A.6 are in addition to, and  
2 not in substitution for, the requirements of ((the Landmarks Ordinance,)) Chapter 25.12.

3 7. The applicable height limit for a structure is the base height limit plus any  
4 height allowed as a bonus under this Chapter 23.49 according to Chapter 23.58A, and any  
5 additional height allowed by special exception or departure, or by subsection 23.49.008.A.4. The  
6 height of a structure shall not exceed the applicable height limit, except as provided in  
7 subsections 23.49.008.B, 23.49.008.C, and 23.49.008.D.

8 8. The height of rooftop features, as provided in subsection 23.49.008.D, is  
9 allowed to exceed the applicable height limit.

9. On lots in the DMC 85/75-170 zone:

a. A height limit of 85 feet applies to the portions of a structure that contain non-residential or live-work uses.

b. A base height limit of 75 feet applies to the portions of a structure that contain residential uses.

c. The applicable height limit for portions of a structure that contain residential uses is 85 feet if ~~((the applicant qualifies for))~~ extra floor area ~~((on the lot under))~~ is achieved according to Section 23.49.023 and Chapter 23.58A, and the structure has no non-residential or live-work use above 85 feet, and the structure does not qualify for a higher limit for residential uses under subsection 23.49.008.A.9.d.

d. The applicable height limit is 170 feet if ~~((the applicant qualifies for))~~ extra floor area ~~((on the lot under))~~ is achieved according to Section 23.49.023 and Chapter 23.58A~~((;))~~ , the structure has no non-residential or live-work use above 85 feet~~((;))~~ , the lot is at least 40,000 square feet in size and includes all or part of a mid-block corridor that satisfies the conditions of Section 23.58A.040, except to the extent ~~((any))~~ the Director grants a waiver of such conditions ~~((is granted by the Director;))~~ , and the standards of Section 23.49.060 are satisfied.

\* \* \*

G. In DMC 85/75-170, DMR/C 75/75-95, DMR/C 75/75-170, IDM 85/85-170, IDM 165/85-170, IDR/C 125/150-270, and IDR 45/125-270 districts, and except for projects that receive additional height pursuant to subsection 23.49.008.F, an additional 10 feet in height is permitted above the otherwise applicable maximum height limit for residential uses for a structure that meets the following conditions:

1                   1. ~~((For purposes of application of Chapter 23.58C to the portion of the structure~~  
2 ~~below the otherwise applicable maximum height limit for residential uses:~~

3                             a. ~~At least ten units are provided in the structure to comply with Chapter~~  
4 ~~23.58C through the performance option pursuant to the calculation under subsection~~  
5 ~~23.58C.050.A;~~

6                             b. ~~Notwithstanding any contrary requirements of subsections~~  
7 ~~23.58C.050.C.3.a.2 and 23.58C.050.C.6.a, at least ten of the units provided to comply with~~  
8 ~~Chapter 23.58C through the performance option shall, for a rental unit with net unit area of~~  
9 ~~greater than 400 square feet, (1) at initial occupancy by a household, serve households with~~  
10 ~~incomes no greater than 50 percent of median income, and (2) have rent levels such that monthly~~  
11 ~~rent shall not exceed 30 percent of 50 percent of median income.)) The structure must comply  
12 with Chapter 23.58C performance option requirements. The calculation of performance units  
13 required to satisfy the requirements of Section 23.58C.050 shall be based on the total number of  
14 units in the portion of the structure that is below the otherwise applicable maximum height limit  
15 for residential uses, and must total at least ten units that each have a net unit area greater than  
16 400 square feet, as measured according to subsection 23.86.007.B, and affordability and  
17 occupancy restrictions no higher than 50 percent of median income.~~

18                   2. Units ~~((contained))~~ in the additional 10 ~~((additional))~~ feet of height available  
19 under subsection 23.49.008.G shall not be included for purposes of the calculation under  
20 subsection 23.58C.050.A and gross floor area ~~((contained))~~ in the additional 10 ~~((additional))~~  
21 feet of height available under this subsection 23.49.008.G shall not be included for purposes of  
22 the calculation ~~((under subsection 23.58C.040.A))~~ of a cash contribution for a fractional unit not  
23 otherwise provided according to subsections 23.58C.050.A.3 or 23.58C.050.A.4, as applicable.



1 The portion of the structure above the maximum height limit for residential use achieved  
2 according to this subsection 23.49.008.G shall be excluded for the purpose of distribution  
3 requirements for MHA-R units according to subsection 23.58C.050.C.1.

4 \* \* \*

5 I. In Downtown zones, low-income housing may achieve the maximum height according  
6 to provisions of the zone without meeting the requirements of this Section 23.49.008.

7 Section 28. Section 23.49.010 of the Seattle Municipal Code, last amended by Ordinance  
8 124843, is amended as follows:

9 **23.49.010 General requirements for residential uses**

10 \* \* \*

11 B. Common recreation area. Common recreation area is required for all new development  
12 with more than 20 dwelling units. Required common recreation area shall meet the following  
13 standards:

14 1. An area equivalent to ~~((5))~~ five percent of the total gross floor area in  
15 residential use, excluding any ~~((floor area in residential use gained in a project through a~~  
16 ~~voluntary agreement for housing under Section 23.49.015))~~ bonus residential floor area achieved  
17 according to Section 23.58A.014, shall be provided as common recreation area. The amount of  
18 required common recreation area shall not exceed the area of the lot. The common recreation  
19 area shall be available to all residents and may be provided at or above ground level.

20 2. A maximum of 50 percent of the common recreation area may be enclosed.

21 3. The minimum horizontal dimension for required common recreation areas shall  
22 be 15 feet, except for open space provided as landscaped setback area at street level, which shall

1 have a minimum horizontal dimension of 10 feet. No required common recreation area shall be  
2 less than 225 square feet.

3 4. Common recreation area that is provided as open space at street level shall be  
4 counted as twice the actual area in determining the amount provided to meet the common  
5 recreation area requirement.

6 5. In mixed use projects, the Director may permit a bonused public open space to  
7 satisfy a portion of the common recreation area requirement, provided that the space meets the  
8 standards of this Section 23.49.010, and the Director finds that its design, location, access, and  
9 hours of operation meet the needs of building residents.

10 6. Parking areas, driveways and pedestrian access, except for pedestrian access  
11 meeting the Washington State Rules and Regulations for Barrier Free Design, shall not be  
12 counted as common recreation area.

13 7. In PSM zones, the Director of ((the Department of)) Neighborhoods, on  
14 recommendation of the Pioneer Square Preservation Board, may waive the requirement for  
15 common recreation area, pursuant to the criteria of Section 23.66.155(~~(, Waiver of common~~  
16 ~~recreation area requirements)~~)).

17 8. In IDM and IDR zones, the Director of ((the Department of)) Neighborhoods,  
18 on recommendation of the International District Special Review District Board, may waive the  
19 requirement for common recreation area, pursuant to the criteria of Section 23.66.155(~~(, Waiver~~  
20 ~~of common recreation area requirements)~~)).

21 9. For lots abutting designated green streets, up to 50 percent of the common  
22 recreation area requirement may be met by contributing to the development of a green street. The  
23 Director may waive the requirement that the green street abut the lot and allow the improvement

1 to be made to a green street located in the general vicinity of the project if such an improvement  
2 is determined to be beneficial to the residents of the project.

3 \* \* \*

4 Section 29. Section 23.49.012 of the Seattle Municipal Code, last amended by Ordinance  
5 124843, is amended as follows:

6 **23.49.012 Bonus floor area for voluntary agreements for housing and child care**

7 A. General provisions

8 1. The purpose of this Section 23.49.012 is to encourage development in addition  
9 to that authorized by basic zoning regulations ("bonus development"), provided that certain  
10 adverse impacts from the bonus development are mitigated. Two impacts from additional  
11 development are an increased need for (~~low-income~~) affordable housing to house the families  
12 of downtown workers having lower-paid jobs and an increased need for child care for downtown  
13 workers.

14 2. If an applicant elects to seek approval of bonus development pursuant to this  
15 Section 23.49.012, the applicant must execute a voluntary agreement with the City in which the  
16 applicant agrees to provide mitigation for the impacts identified in subsection 23.49.012.A.1. In  
17 the absence of a signed voluntary agreement, acceptance of a permit for any bonus development  
18 allowed under this Section 23.49.012 shall constitute a voluntary agreement on the terms set  
19 forth in this Section 23.49.012. The mitigation may be provided by building the requisite (~~low-~~  
20 ~~income~~) affordable housing or child care facilities (the "performance option"), by making a  
21 contribution to be used by the City to build or provide the housing and child care facilities (the  
22 "payment option"), or by a combination of the performance and payment options.

1                   ~~((3. For purposes of this Section 23.49.012, a housing unit serves low income~~  
2 ~~households only if either:~~

3                               a) ~~For a period of 50 years beginning upon the issuance of a final~~  
4 ~~certificate of occupancy by the Department for the project using the bonus development, the~~  
5 ~~housing unit is used as rental housing solely for low income households, at rent limited so that~~  
6 ~~annual housing costs, including rent and basic utilities, do not exceed 30 percent of 80 percent of~~  
7 ~~median income, and the housing unit and the structure in which it is located are maintained in~~  
8 ~~decent and habitable condition, including adequate basic appliances in the housing unit; or~~

9                               b) ~~The unit is sold for owner occupancy to a low income household at an~~  
10 ~~initial sale price limited so that the annual housing costs, including mortgage principal and~~  
11 ~~interest, real estate taxes, and insurance plus homeowner dues if applicable, are not expected to~~  
12 ~~exceed 35 percent of 80 percent of median income, according to a calculation based on~~  
13 ~~reasonable assumptions and approved by the Director of Housing, and the unit is subject to a~~  
14 ~~recorded instrument satisfactory to the Director of Housing with a term of 50 years beginning~~  
15 ~~upon the issuance of a final certificate of occupancy by the Department for the project using the~~  
16 ~~bonus development, providing for sales prices on any resale consistent with affordability on the~~  
17 ~~same basis as the initial sale, allowing resales only to low income households, and requiring that~~  
18 ~~upon any resale the housing unit be in decent and habitable condition, including adequate basic~~  
19 ~~appliances, for such 50 year period.))~~

20                   B. Voluntary agreements for housing ~~((and child care))~~. The voluntary agreement shall  
21 commit the developer to provide or contribute to ~~((the following facilities in the following~~  
22 ~~amounts: 1. Housing))~~ affordable housing according to Chapter 23.58A.

1    ~~((a. Housing serving low income households equal to at least 15.6 percent~~  
2 ~~of each gross square foot of bonus floor area obtained through the performance option must be~~  
3 ~~provided. A cash contribution for each gross square foot of bonus floor area obtained through the~~  
4 ~~payment option, as an alternative to the performance option, for housing to serve low income~~  
5 ~~households must be provided. The alternative cash contribution is \$18.75 per gross square foot of~~  
6 ~~bonus floor area obtained through the payment option, subject to adjustment under this~~  
7 ~~subsection 23.49.012.B.1.a. From the effective date of the ordinance introduced as Council Bill~~  
8 ~~117908 to June 30, 2014, the alternative cash contribution is \$22.88 per gross square foot of~~  
9 ~~bonus floor area obtained through the payment option. From July 1, 2014 to June 30, 2015, the~~  
10 ~~alternative cash contribution is \$24.95 per gross square foot of bonus floor area obtained through~~  
11 ~~@the payment option plus the product of \$24.95 times the 2013 annual average change in the~~  
12 ~~Consumer Price Index, All Urban Consumers, Seattle Tacoma metropolitan area, All Items~~  
13 ~~(1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or~~  
14 ~~successor index. On July 1, 2015, and on the same day annually thereafter the alternative cash~~  
15 ~~contribution amount in this subsection 23.49.012.B.1.a shall automatically adjust in proportion to~~  
16 ~~the change in the Consumer Price Index, All Urban Consumers, Seattle Tacoma metropolitan~~  
17 ~~area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of~~  
18 ~~Labor Statistics, or successor index, from January 1, 2014, or the time the alternative cash~~  
19 ~~contribution was last adjusted, whichever is later.~~

20    ~~b. For the performance option, housing serving low income households~~  
21 ~~must be provided within the project using the bonus development unless the Director, after~~  
22 ~~consultation with the Director of Housing, approves an alternate location, as a Type I decision. In~~  
23 ~~determining whether to approve an alternate location, the Director shall consider the extent to~~

1 ~~which low income housing at that location would mitigate the impact of the development on the~~  
2 ~~need for low income housing serving downtown workers. The alternate location must be in one~~  
3 ~~of the following areas, prioritized in the following order:~~

- 4 ~~1) within the Downtown Urban Center;~~
- 5 ~~2) within an Urban Center adjacent to the Downtown Urban~~  
6 ~~Center;~~
- 7 ~~3) in the City within 0.5 mile of a light rail or bus rapid transit~~  
8 ~~station on a route serving the Downtown Urban Center;~~
- 9 ~~4) in the City within 0.25 mile of a bus or streetcar stop on a route~~  
10 ~~serving the Downtown Urban Center.~~

11 ~~e. For purposes of this Section 23.49.012, housing may be considered to~~  
12 ~~be provided by the applicant seeking bonus floor area if:~~

13 ~~1) It is committed to serve low income households pursuant to an~~  
14 ~~agreement between the housing owner and the City executed and recorded prior to the issuance~~  
15 ~~of the building permit for the housing, but no earlier than three years prior to the issuance of a~~  
16 ~~Master Use Permit for the project using the bonus floor area; and~~

17 ~~2) The housing is newly constructed, is converted from non-~~  
18 ~~residential use, or is renovated; and:~~

19 ~~a) The housing is owned by the applicant seeking to use the~~  
20 ~~bonus; or~~

21 ~~b) The owner of the housing has signed, and there is in~~  
22 ~~effect, a linkage agreement approved by the Director of Housing allowing the use of the housing~~  
23 ~~bonus in return for necessary and adequate financial support to the development of the housing;~~

1 ~~and either the applicant has, by the terms of the linkage agreement, the exclusive privilege to use~~  
2 ~~the housing to satisfy conditions for bonus floor area; or the applicant is the assignee of the~~  
3 ~~privilege to use the housing to satisfy conditions for bonus floor area, pursuant to a full and~~  
4 ~~exclusive assignment, approved by the Director of Housing, of the linkage agreement, and all~~  
5 ~~provisions of this Section 23.49.012 respecting assignments are complied with. If housing is~~  
6 ~~developed in advance of a linkage agreement, payments by the applicant used to retire or reduce~~  
7 ~~interim financing may be considered necessary and adequate support for the development of the~~  
8 ~~housing.~~

9 ~~d. Housing that is not yet constructed, or is not ready for occupancy, at the~~  
10 ~~time of the issuance of a building permit for the project intending to use bonus floor area, may be~~  
11 ~~considered to be provided by the applicant if, within three years of the issuance of the first~~  
12 ~~building permit for that project, the Department issues a final certificate of occupancy for such~~  
13 ~~housing. Any applicant seeking to qualify for bonus floor area based on housing that is not ready~~  
14 ~~for occupancy shall provide to the City, prior to the date when a contribution would be due for~~  
15 ~~the cash option under subsection 23.49.012.C, an irrevocable bank letter of credit or other~~  
16 ~~sufficient security approved by the Director of Housing, and a related voluntary agreement, so~~  
17 ~~that at the end of the three year period, if the housing does not qualify or is not provided in a~~  
18 ~~sufficient amount to satisfy the terms of this Section 23.49.012, the City shall receive:~~

19 ~~1) a cash contribution for housing in the amount determined~~  
20 ~~pursuant to this Section 23.49.012 after credit for any qualifying housing then provided; plus~~

21 ~~2) an amount equal to interest on the contribution, at the rate equal~~  
22 ~~to the prime rate quoted from time to time by Bank of America, or its successor, plus three~~

1 ~~percent per annum, from the date of issuance of the first building permit for the project using the~~  
2 ~~bonus.~~

3 ~~If and when the City becomes entitled to realize on any security, the~~  
4 ~~Director of Housing shall take appropriate steps to do so, and the amounts realized, net of any~~  
5 ~~costs to the City, shall be used in the same manner as cash contributions for housing made under~~  
6 ~~this Section 23.49.012. In the case of any project proposing to use bonus floor area for which no~~  
7 ~~building permit is required, references to the building permit in subsection 23.49.012.B.1 shall~~  
8 ~~mean the Master Use Permit allowing establishment or expansion of the use for which bonus~~  
9 ~~floor area is sought.~~

10 ~~e. Nothing in this Chapter 23.49 shall be construed to confer on any owner~~  
11 ~~or developer of housing, any party to a linkage agreement, or any assignee, any development~~  
12 ~~rights or property interests. Because the availability and terms of allowance of bonus floor area~~  
13 ~~depend upon the regulations in effect at the relevant time for the project proposing to use the~~  
14 ~~bonus floor area, pursuant to Section 23.76.026, any approvals or agreements by the Director of~~  
15 ~~Housing regarding the eligibility of actual or proposed housing as to satisfy conditions of a~~  
16 ~~bonus, and any approval of a linkage agreement and/or assignment, do not grant any vested~~  
17 ~~rights, nor guarantee that any bonus floor area will be permitted based on the housing.~~

18 ~~f. The Director of Housing shall review the design and proposed~~  
19 ~~management plan for any housing proposed under the performance option to determine whether~~  
20 ~~it will comply with the terms of this Section 23.49.012.~~

21 ~~g. The Director of Housing is authorized to accept a voluntary agreement~~  
22 ~~for the provision of housing and related agreements and instruments consistent with this Section~~  
23 ~~23.49.012.~~



1                   ~~h. Any provision of any Director's rule notwithstanding, the housing units~~  
2 ~~shall continue to satisfy the applicable requirements of subsection 23.49.012.B.1 throughout the~~  
3 ~~required 50-year period and that compliance shall be documented annually to the satisfaction of~~  
4 ~~the Director of Housing, and the owner of any project using the bonus floor area shall be in~~  
5 ~~violation of this Title 23 if any housing unit does not satisfy applicable requirements, or if~~  
6 ~~satisfactory documentation is not provided to the Director of the Office of Housing, at any time~~  
7 ~~during that period. The Director of Housing may provide by rule for circumstances in which~~  
8 ~~housing units may be replaced if lost due to casualty or other causes, and for terms and~~  
9 ~~conditions upon which a cash contribution may be made in lieu of continuing to provide housing~~  
10 ~~units under the terms of subsection 23.49.012.B.1. If housing is provided for owner occupancy~~  
11 ~~pursuant to an agreement under subsection 23.49.012.B.1, the owner of any project using the~~  
12 ~~bonus floor area shall be in violation of this Title 23 if the first sale or other transfer of a housing~~  
13 ~~unit after it becomes subject to that agreement is not made to a low-income household or is not~~  
14 ~~made on the terms and subject to the recorded instrument provided in subsection~~  
15 ~~23.49.012.B.1.b.2, which shall be a continuing violation until that unit or another unit accepted~~  
16 ~~by the Director of Housing in substitution for it is sold to a low-income household on those~~  
17 ~~terms, and subject to a recorded instrument as described in that subsection 23.49.012.B.1.b.2.~~

18                   ~~i. Housing units provided to qualify for a bonus, or produced with~~  
19 ~~voluntary contributions made under this Section 23.49.012, should include a range of unit sizes,~~  
20 ~~including units suitable for families with children. The Director of Housing is authorized to~~  
21 ~~prescribe by rule minimum requirements for the range of unit sizes, by numbers of bedrooms, in~~  
22 ~~housing provided to qualify for a bonus. The Director of Housing shall take into account, in any~~  
23 ~~such rule, estimated distributions of household sizes among low-income households. The~~

1 ~~Director of Housing is further authorized to adopt policies for distribution of unit sizes in~~  
2 ~~housing developments funded by contributions received under this Section 23.49.012.~~

3 ~~j. Any failure of the low income housing to satisfy the requirements of~~  
4 ~~subsection 23.49.012.B.1 shall not affect the right to maintain or occupy the bonus floor area if~~  
5 ~~the Director of Housing certifies to the Director that either:~~

6 ~~1) The applicant has provided the City with a letter of credit or~~  
7 ~~other sufficient security pursuant to subsection 23.49.012.B.1.d; or~~

8 ~~2) There have been recorded one or more agreements or~~  
9 ~~instruments satisfactory to the Director of Housing providing for occupancy and affordability~~  
10 ~~restrictions on low income housing with the minimum floor area determined under subsection~~  
11 ~~23.49.012.B.1, all low income housing has been completed, and the low income housing is on a~~  
12 ~~different lot from the bonus floor area or is in one or more condominium units separate from the~~  
13 ~~bonus development under condominium documents acceptable to the Director of Housing.~~

14 ~~k. Unless and until the Director of Housing certifies as set forth in~~  
15 ~~subsection 23.49.012.B.1.j, it shall be a continuing permit condition, whether or not expressly~~  
16 ~~stated, for each development obtaining bonus floor area based on the provision of low income~~  
17 ~~housing to which this Section 23.49.012 applies, that the low income housing shall be~~  
18 ~~maintained in compliance with the terms of this Section 23.49.012 and any applicable provisions~~  
19 ~~of the zone, as documented to the satisfaction of the Director of Housing.))~~

20 ~~((2. Child Care.))~~ C. Voluntary agreements for child care facilities. The voluntary  
21 agreement shall commit the developer to provide or contribute to child care facilities as follows:

22 ~~((a.))~~ 1. For each square foot of bonus floor area allowed under this ((section))  
23 Section 23.49.012, in addition to ((providing housing or an alternative cash contribution pursuant

1 ~~to~~) satisfying requirements of subsection 23.49.012.B(~~(1)~~), the applicant shall provide fully  
2 improved child care facility space sufficient for 0.000127 of a child care slot, or a cash  
3 contribution to the City of (~~(\$3.25)~~) \$5.76 to be administered by the Human Services  
4 Department. (~~From the effective date of the ordinance introduced as Council Bill 117908 to~~  
5 ~~June 30, 2014, the alternative cash contribution is \$3.97 per gross square foot of bonus floor area~~  
6 ~~obtained through the payment option. From July 1, 2014 to June 30, 2015, the alternative cash~~  
7 ~~contribution is \$4.32 per gross square foot of bonus floor area obtained through the payment~~  
8 ~~option plus the product of \$4.32 times the 2013 annual average change in the Consumer Price~~  
9 ~~Index, All Urban Consumers, Seattle Tacoma metropolitan area, All Items (1982-84 = 100), as~~  
10 ~~determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index. On~~  
11 ~~July 1, 2015 and on the same day annually thereafter the alternative)) The in lieu cash  
12 contribution amount in this subsection ((23.49.012.B.2.a)) 23.49.012.C.1 shall automatically  
13 adjust annually on March 1, starting in 2024, by an amount in proportion to ((the change)) the  
14 increase, if any, for January 1 through December 31 of the prior calendar year, in the Consumer  
15 Price Index, All Urban Consumers, Seattle-Tacoma-Bellevue, WA ((metropolitan area)), All  
16 Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor  
17 Statistics, or successor index((, from January 1, 2014 or the time the alternative cash contribution  
18 was last adjusted, whichever is later)). The amount of the ((alternative)) in lieu cash contribution  
19 made at the time specified in subsection 23.49.012.C shall be based on the ((alternative)) in lieu  
20 cash contribution amount ((that is)) in effect ((when)) on the vesting ((of a)) date for the Master  
21 Use Permit ((occurs)) under Section 23.76.026 or, if no Master Use Permit is required, on the  
22 filing date for the valid and fully complete permit application. The minimum interior space in the  
23 child care facility for each child care slot shall comply with all applicable state and local~~

1 regulations governing the operation of licensed childcare providers. Child care facility space  
2 shall be deemed provided only if the applicant causes the space to be newly constructed or newly  
3 placed in child care use after the submission of a permit application for the project intended to  
4 use the bonus floor area, except as provided in subsection (~~(23.49.012.B.2.b.6)~~) 23.49.012.C.2.f.  
5 If any contribution or subsidy in any form is made by any public entity to the acquisition,  
6 development, financing or improvement of any child care facility, then any portion of the space  
7 in such facility determined by the Director of (~~the~~) Human Services (~~Department~~) to be  
8 attributable to such contribution or subsidy shall not be considered as provided by any applicant  
9 other than that public entity.

10 ~~((b.))~~ 2. Child care space shall be provided on the same lot as the project using the  
11 bonus floor area or on another lot in a downtown zone and shall be (~~contained~~) in a child care  
12 facility satisfying the following standards:

13 ~~((1))~~ a. The child care facility and accessory exterior space must be  
14 approved for licensing by the State of Washington Department of (~~Social and Health Services~~)  
15 Children, Youth, and Families and any other applicable state or local governmental agencies  
16 responsible for the regulation of licensed childcare providers.

17 ~~((2))~~ b. At least 20 percent of the number of child care slots for which  
18 space is provided (~~as a condition of~~) to gain bonus floor area must be reserved for, and  
19 affordable to, families with annual incomes at or below the U.S. Department of Housing and  
20 Urban Development Low Income Standard for Section 8 Housing based on family size (or, if  
21 such standard shall no longer be published, a standard established by the Director of Human  
22 Services (~~Director~~) based generally on 80 percent of the median family income of the  
23 Metropolitan Statistical Area, or division thereof, that includes Seattle, adjusted for family size).

1 Child care slots shall be deemed to meet these conditions if they serve, and are limited to, a)  
2 children receiving child care subsidy from ~~((the))~~ The City of Seattle, King County, or State  
3 Department of Social and Health Services, and/or b) children whose families have annual  
4 incomes no higher than the above standard who are charged according to a sliding fee scale such  
5 that the fees paid by any family do not exceed the amount it would be charged, exclusive of  
6 subsidy, if the family were enrolled in the City of Seattle Child Care ~~((Subsidy))~~ Assistance  
7 Program.

8 ~~((3))~~ c. Child care space provided to satisfy bonus conditions shall be  
9 dedicated to child care use, consistent with the terms of this ~~((section))~~ Section 23.49.012, for 20  
10 years. The dedication shall be established by a recorded covenant, running with the land, and  
11 enforceable by the City, signed by the owner of the lot where the child care facility is located and  
12 by the owner of the lot where the bonus floor area is used, if different from the lot of the child  
13 care facility. The child care facility shall be maintained in operation, with adequate staffing, at  
14 least 11 hours per day, five days per week, 50 weeks per year.

15 ~~((4))~~ d. Exterior space for which a bonus is or has been allowed under any  
16 other section of this ~~((title))~~ Title 23 or under former Title 24 shall not be eligible to satisfy the  
17 conditions of this ~~((section))~~ Section 23.49.012.

18 ~~((5))~~ e. Unless the applicant is the owner of the child care space and is a  
19 duly licensed and experienced child care provider approved by the Director of ~~((the))~~ Human  
20 Services ~~((Department))~~, the applicant shall provide to the Director a signed agreement,  
21 acceptable to such Director, with a duly licensed child care provider, under which the child care  
22 provider agrees to operate the child care facility consistent with the terms of this ~~((section))~~

1 Section 23.49.012 and of the recorded covenant, and to provide reports and documentation to the  
2 City to demonstrate such compliance.

3                   ~~((f))~~ f. One child care facility may fulfill the conditions for a bonus for  
4 more than one project if it includes sufficient space, and provides sufficient slots affordable to  
5 limited income families, to satisfy the conditions for each such project without any space or child  
6 care slot being counted toward the conditions for more than one project. If the child care facility  
7 is located on the same lot as one of the projects using the bonus, then the owner of that lot shall  
8 be responsible for maintaining compliance with all the requirements applicable to the child care  
9 facility; otherwise responsibility for such requirements shall be allocated by agreement in such  
10 manner as the Director of ~~((the))~~ Human Services ~~((Department))~~ may approve. If a child care  
11 facility developed to qualify for bonus floor area by one applicant includes space exceeding the  
12 amount necessary for the bonus floor area used by that applicant, then to the extent that the  
13 voluntary agreement accepted by the Director of ~~((the))~~ Human Services ~~((Department))~~ from  
14 that applicant so provides, such excess space may be deemed provided by the applicant for a  
15 later project pursuant to a new voluntary agreement signed by both such applicants and by any  
16 other owner of the child care facility, and a modification of the recorded covenant, each in form  
17 and substance acceptable to such Director.

18                   ~~((e-))~~ 3. The Director of ~~((the))~~ Human Services ~~((Department))~~ shall review the  
19 design and proposed management plan for any child care facility proposed to qualify for bonus  
20 floor area to determine whether it will comply with the terms of this Section 23.49.012. The  
21 allowance of bonus floor area is conditioned upon approval of the design and proposed  
22 management plan by the Director. The child care facility shall be constructed consistent with the  
23 design approved by such Director and shall be operated for the minimum 20 year term consistent

1 with the management plan approved by such Director, in each case with only such modifications  
2 as shall be approved by such Director. If the proposed management plan includes provisions for  
3 payment of rent or occupancy costs by the provider, the management plan must include a  
4 detailed operating budget, staffing ratios, and other information requested by the Director to  
5 assess whether the child care facility may be economically feasible and able to deliver quality  
6 services.

7 ~~((d.))~~ 4. The Director of ~~((the))~~ Human Services ~~((Department))~~ is authorized to  
8 accept a voluntary agreement for the provision of a child care facility to satisfy bonus conditions  
9 and related agreements and instruments consistent with this Section 23.49.012. The voluntary  
10 agreement may provide, in case a child care facility is not maintained in continuous operation  
11 consistent with this subsection ~~((23.49.012.B.2))~~ 23.49.012.C at any time within the minimum 20  
12 year period, for the City's right to receive payment of a prorated amount of the ~~((alternative))~~ in  
13 lieu cash contribution that then would be applicable to a new project seeking bonus floor area.  
14 Such Director may require security or evidence of adequate financial responsibility, or both, as a  
15 condition to acceptance of an agreement under this subsection ~~((23.49.012.B.2))~~ 23.49.012.C.

16 ~~((C.))~~ D. Cash ~~((Option Payments))~~ option payments for child care. Cash payments under  
17 voluntary agreements for bonuses according to subsection 23.49.012.C shall be made prior to  
18 issuance of any building permit after the first building permit for a project, and in any event  
19 before any permit for any construction activity other than excavation and shoring is issued, or if  
20 the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of  
21 any permit or modification allowing for use of the space as chargeable floor area. The payments  
22 shall be deposited in a special ~~((accounts))~~ account established solely to fund expenditures for  
23 the development of ~~((low-income housing and))~~ childcare. Earnings on balances in the special

1 ~~((accounts))~~ account shall accrue to ~~((those accounts. Cash payments made in lieu of providing~~  
2 ~~low income housing and any earnings thereon shall be deposited in the Low Income Housing~~  
3 ~~Fund and used by the Director of Housing to support development of low income housing,~~  
4 ~~including renter or owner housing, which support may include financing property purchase for~~  
5 ~~the purpose of providing low income housing. Payments in lieu of low income housing also may~~  
6 ~~be used for loans or grants to low income households for home purchases))~~ that account. The  
7 Director of Human Services ~~((Director))~~ shall use cash payments made in lieu of child care  
8 facilities and any earnings thereon to support development of child care facilities. Uses of funds  
9 to support ~~((housing and))~~ child care facilities may include the City's costs to administer projects,  
10 not to exceed ten percent of total payments under this section and of any earnings thereon, and  
11 support provided through loans or grants to owners or developers. The location of ~~((low income~~  
12 ~~housing and))~~ child care facilities funded wholly or in part with cash payments shall be  
13 prioritized in the following order: 1) within the Downtown Urban Center; 2) within an Urban  
14 Center adjacent to the Downtown Urban Center; 3) in the City within 0.5 mile of a light rail or  
15 bus rapid transit station on a route serving the Downtown Urban Center; 4) in the City within  
16 0.25 mile of a bus or streetcar stop on a route serving the Downtown Urban Center. ~~((Housing~~  
17 ~~units that are funded with cash contributions under this section shall be generally comparable in~~  
18 ~~their average size and quality of construction to other housing units in the same structure, in the~~  
19 ~~judgment of the Director of Housing.~~

20 ~~D. No Subsidies for Bonused Housing: Exception.~~

21 ~~1. Intent. Housing provided through the bonus system is intended to mitigate a~~  
22 ~~portion of the additional housing needs resulting from increased density, beyond those needs that~~  
23 ~~would otherwise exist, which the City and other governmental and charitable entities attempt to~~



1 ~~meet through various subsidy programs. Allowing bonus floor area under the performance option~~  
2 ~~for housing that uses such subsidy programs therefore could undermine the intent of this section.~~

3 ~~2. Agreement Concerning Subsidies. The Director of the Office of Housing may~~  
4 ~~require, as a condition of any bonus floor area for housing under the performance option, that the~~  
5 ~~owner of the lot upon which the housing is located agree not to seek or accept any subsidies,~~  
6 ~~including without limitation those items referred to in subsection D3 of this section, related to the~~  
7 ~~housing, except for any subsidies that may be allowed by the Director of the Office of Housing~~  
8 ~~under that subsection. The Director may require that such agreement provide for the payment to~~  
9 ~~the City, for deposit in the Downtown Housing Bonus Account, of the value of any subsidies~~  
10 ~~received in excess of any amounts allowed by such agreement.~~

11 ~~3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be~~  
12 ~~earned by providing housing if:~~

13 ~~a. Any person is receiving or will receive with respect to the housing any~~  
14 ~~charitable contributions or public subsidies for housing development or operation, including, but~~  
15 ~~not limited to, tax exempt bond financing, tax credits, federal loans or grants. City of Seattle~~  
16 ~~housing loans or grants, county housing funds, State of Washington housing funds, or property~~  
17 ~~tax exemptions or other special tax treatment; or~~

18 ~~b. The housing is or would be, independent of the requirements for the~~  
19 ~~bonus, subject to any restrictions on the use, occupancy or rents.~~

20 ~~4. Exceptions by Rule. The Director of the Office of Housing may provide, by~~  
21 ~~rule promulgated after the effective date of this ordinance, for terms and conditions on which~~  
22 ~~exceptions to the restriction on subsidies in this subsection may be allowed. Such rule may~~  
23 ~~provide that, as a condition to any exception, the Director of the Office of Housing shall increase~~

1 ~~the amount of housing floor area per bonus square foot, as set forth in subsection B1 of this~~  
2 ~~section, to an amount that allows credit for only the Director's estimate of the incremental effect,~~  
3 ~~in meeting the City's housing needs for the next fifty (50) years, of the net financial contribution~~  
4 ~~that is being made by the applicant pursuant to the voluntary agreement and not funded or~~  
5 ~~reimbursed, directly or indirectly, from any other source.))~~

6 Section 30. Section 23.49.014 of the Seattle Municipal Code, last amended by Ordinance  
7 126157, is amended as follows:

8 **23.49.014 Transfer of development rights**

9 \* \* \*

10 B. Standards for ~~((Sending Lots.))~~ sending lots

11 1. Maximum transferable floor area except from lots in South Downtown. This  
12 subsection 23.49.014.B.1 applies to sending lots that are not in South Downtown.

13 a. The maximum amount of floor area that may be transferred, except as  
14 open space TDR, Landmark TDR, or Landmark housing TDR, from an eligible sending lot, is  
15 the amount by which the product of the eligible lot area times the base FAR of the sending lot, as  
16 provided in Section 23.49.011, exceeds the sum of any chargeable gross floor area existing or, if  
17 a DMC housing TDR site, to be developed on the sending lot, plus any TDR previously  
18 transferred from the sending lot.

19 b. The maximum amount of floor area that may be transferred from an  
20 eligible open space TDR site is the amount by which the product of the eligible lot area times the  
21 base FAR of the sending lot, as provided in Section 23.49.011, exceeds the sum of (a) any  
22 existing chargeable gross floor area that is built on or over the portion of the sending lot that is  
23 not made ineligible by subsection 23.49.017.C, plus (b) the amount, if any, by which the total of

1 any other chargeable floor area on the sending lot exceeds the product of the base FAR of the  
2 sending lot, as provided in Section 23.49.011, multiplied by the difference between the total lot  
3 area and the eligible lot area, plus (c) any TDR previously transferred from the sending lot.

4 c. The maximum amount of floor area that may be transferred from an  
5 eligible Landmark housing TDR site is the amount by which the product of the eligible lot area  
6 times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds TDR  
7 previously transferred from the sending lot, if any.

8 d. The maximum amount of floor area that may be transferred from an  
9 eligible Landmark TDR site, if the chargeable floor area of the landmark structure is less than or  
10 equal to the base FAR permitted in the zone, is equivalent to the base FAR of the sending lot,  
11 minus any TDR that have been previously transferred. For landmark structures having  
12 chargeable floor area greater than the base FAR of the zone, the amount of floor area that may be  
13 transferred is limited to an amount equivalent to the base FAR of the sending lot minus the sum  
14 of (a) any chargeable floor area of the landmark structure exceeding the base FAR and (b) any  
15 TDR that have been previously transferred.

16 e. For purposes of this subsection 23.49.014.B.1, the eligible lot area is the  
17 total area of the sending lot, reduced by the excess, if any, of the total of accessory surface  
18 parking over  $\frac{1}{4}$  of the total area of the footprints of all structures on the sending lot; and for an  
19 open space TDR site, further reduced by the area of any portion of the lot ineligible under  
20 subsection 23.49.017.C.

21 2. TDR from lots in South Downtown. This subsection 23.49.014.B.2 applies to  
22 sending lots in South Downtown.

1                   a. If the sending lot is located in a PSM or IDM zone, then subject to any  
2 lower limit under this subsection 23.49.014.B.2, the gross floor area that may be transferred is  
3 six times the lot area, minus the sum of any existing chargeable floor area and further reduced by  
4 any TDR previously transferred from the sending lot.

5                   b. If the sending lot is not located in a PSM or IDM zone, then subject to  
6 any lower limit under this subsection 23.49.014.B.2, the gross floor area that may be transferred  
7 is the amount by which the product of the eligible lot area times the base FAR of the sending lot,  
8 as provided in Section 23.49.011, exceeds the sum of any chargeable floor area existing on the  
9 sending lot, plus any TDR previously transferred from the sending lot.

10                   c. The cumulative amount of housing TDR transferred from any lot in  
11 South Downtown shall not exceed three times the lot area.

12                   d. The cumulative amount of open space TDR transferred from any lot in  
13 South Downtown shall not exceed three times the lot area.

14                   e. The cumulative amount of South Downtown Historic TDR transferred  
15 from any lot shall not exceed three times the lot area.

16                   f. The cumulative combined amount of TDR and TDP transferred from  
17 any lot in South Downtown shall not exceed six times the lot area.

18                   g. For purposes of this subsection 23.49.014.B.2, the eligible lot area is the  
19 total area of the sending lot, reduced by the excess, if any, of the total of accessory surface  
20 parking over 1/4 of the total area of the footprints of all structures on the sending lot; and for an  
21 open space TDR site, further reduced by any portion of the lot ineligible under subsection  
22 23.49.017.C.

1                   3. Effect of transfer in zones with base FAR limits. If TDR are transferred from a  
2 sending lot in a zone with a base FAR limit, except an IDM zone, the amount of chargeable floor  
3 area that may then be established on the sending lot is equal to the amount by which the area of  
4 the lot, multiplied by the applicable base FAR limit set in Section 23.49.011, exceeds the total of:

- 5                   a. The existing chargeable floor area on the lot; plus
- 6                   b. The amount of gross floor area transferred from the lot.

7                   4. Effect of transfer in PSM and IDM zones.

8                   a. If TDR are transferred from a sending lot in a PSM zone, the amount of  
9 chargeable floor area that may then be established on the sending lot is equal to the amount by  
10 which the total gross floor area that could have been built on the sending lot consistent with  
11 applicable development standards as determined by the Director had no TDR been transferred  
12 exceeds the sum of:

- 13                   1) The existing chargeable floor area on the lot; plus
- 14                   2) The gross floor area of TDR transferred from the lot.

15                   b. If TDR are transferred from a sending lot in an IDM zone, the amount  
16 of chargeable floor area that may then be established on the sending lot shall not exceed the  
17 amount by which the applicable base FAR limit in Section 23.49.011 multiplied by the lot area  
18 exceeds the sum of:

- 19                   1) The existing chargeable floor area on the lot; plus
- 20                   2) The gross floor area of TDR transferred from the lot.

21                   5. TDR from lots with more than base FAR not allowed; exception. Gross floor  
22 area allowed above base FAR under any bonus provisions of this Title 23 or the former Title 24,  
23 or allowed under any exceptions or waivers of development standards, may not be transferred.

1 TDR may be transferred from a lot that contains chargeable floor area exceeding the base FAR  
2 only if the TDR are from an eligible Landmark TDR site, consistent with subsection  
3 23.49.014.B.1.c, or to the extent, if any, that:

4 a. TDR were previously transferred to such lot in compliance with the  
5 Land Use Code provisions and applicable rules then in effect;

6 b. Those TDR, together with the base FAR under Section 23.49.011,  
7 exceed the chargeable floor area on the lot and any additional chargeable floor area for which  
8 any permit has been issued or for which any permit application is pending; and

9 c. The excess amount of TDR previously transferred to such lot would  
10 have been eligible for transfer from the original sending lot under Section 23.49.014 at the time  
11 of their original transfer from that lot.

12 6. Rehabilitation of Landmark structures and contributing structures. Landmark  
13 structures on sending lots from which Landmark TDR or Landmark housing TDR are transferred  
14 shall be rehabilitated and maintained as required by the Landmarks Preservation Board.

15 Contributing structures under Section 23.66.032 on sending lots from which South Downtown  
16 Historic TDR are transferred shall be rehabilitated and maintained as required by the Director of  
17 Neighborhoods upon recommendation by the International Special Review District Board or the  
18 Pioneer Square Preservation Board.

19 7. Rehabilitation of housing. Housing on lots from which housing TDR are  
20 transferred shall be rehabilitated to the extent required to provide decent, sanitary and habitable  
21 conditions, in compliance with applicable codes, and so as to have an estimated minimum useful  
22 life of at least 50 years from the time of the TDR transfer, as approved by the Director of  
23 Housing. Landmark buildings on lots from which Landmark housing TDR are transferred shall

1 be rehabilitated to the extent required to provide decent, sanitary and habitable housing, in  
2 compliance with applicable codes, and so as to have an estimated minimum useful life of at least  
3 50 years from the time of the TDR transfer, as approved by the Director of Housing and Director  
4 of Neighborhoods. If housing TDR or Landmark housing TDR are proposed to be transferred  
5 prior to the completion of work necessary to satisfy this subsection 23.49.014.B.7, the Director  
6 of Housing may require, as a condition to such transfer, that security be deposited with the City  
7 to ensure the completion of such work.

8 8. ~~((Low income housing units. The housing units on a lot from which))~~  
9 Restricted units provided as a condition to eligibility of a lot as a housing TDR site, Landmark  
10 housing TDR site, or DMC housing TDR ~~((are transferred, and that are committed to low-~~  
11 ~~income housing use as a condition to eligibility of the lot as a TDR sending lot,))~~ site shall be  
12 generally comparable in their average size and quality of construction to other ~~((housing))~~ units  
13 in the same structure, in the judgment of the Director of Housing, after completion of any  
14 rehabilitation or construction undertaken in order to qualify as a TDR sending lot.

15 9. Standards for eligibility as a South Downtown Historic TDR sending lot((-))

16 a. In order to be eligible to transfer South Downtown Historic TDR, a lot  
17 must contain a structure that includes at least 5,000 gross square feet in above-grade space and  
18 was finally determined to be a contributing structure under Section 23.66.032.

19 b. Contributing structures on a sending lot from which South Downtown  
20 Historic TDR are transferred shall be rehabilitated and maintained as required by the Director of  
21 Neighborhoods.

22 c. As a condition to finally allow the transfer of South Downtown Historic  
23 TDR from a lot, the applicant must certify that the contributing structure continues to meet any

1 conditions identified by the Director of Neighborhoods pursuant to subsection 23.66.032.C  
2 within no more than three years prior to the recordation of the deed conveying the TDR from the  
3 sending lot.

4 d. South Downtown Historic TDR shall not be transferred from a lot from  
5 which South Downtown Historic TDP has been transferred or from a lot on which any extra floor  
6 area has been established based on the presence of a contributing structure.

7 \* \* \*

8 Section 31. Section 23.49.015 of the Seattle Municipal Code, last amended by Ordinance  
9 125603, is repealed:

10 ~~((23.49.015 Bonus residential floor area in DOC1, DOC2, and DMC zones outside South~~  
11 ~~Downtown for voluntary agreements for low-income housing and moderate-income~~  
12 ~~housing~~

13 A. General provisions

14 1. ~~The purpose of this Section 23.49.015 is to encourage residential development~~  
15 ~~in addition to that authorized by basic zoning regulations ("bonus development"), provided that~~  
16 ~~certain adverse impacts from the bonus development are mitigated. This Section 23.49.015 does~~  
17 ~~not apply within South Downtown. "Basic zoning regulations" for purposes of this Section~~  
18 ~~23.49.015 are the provisions of Section 23.49.008 that determine base height limits for~~  
19 ~~residential use in DOC1, DOC2 and DMC zones, and for DMC zones, the provisions of Section~~  
20 ~~23.49.058 that determine the maximum average floor area per story. The City has determined~~  
21 ~~that one impact of high rise residential development is an increased need for low income~~  
22 ~~housing and moderate income housing to house the families of workers having lower paid jobs~~  
23 ~~who serve the residents of such development. The City also finds that DOC1, DOC2, and DMC~~



1 ~~zones are areas in which increased residential development will assist in achieving local growth~~  
2 ~~management and housing policies, and has determined that increased residential development~~  
3 ~~capacity and height of residential structures can be achieved within these zones, subject to~~  
4 ~~consideration of other regulatory controls on development. The City Council finds that in the~~  
5 ~~case of affordable housing for rental occupancy, use of the income level for low income housing~~  
6 ~~rather than a lower level is necessary to address local housing market conditions, and that in the~~  
7 ~~case of affordable housing for owner occupancy, higher income levels than those for low income~~  
8 ~~housing are needed to address local housing market conditions. The City hereby adopts the~~  
9 ~~extension of the authority of RCW 36.70A.540, as amended, and enacts this Section 23.49.015~~  
10 ~~pursuant to such authority, in addition to the City's preexisting authority. To the extent that any~~  
11 ~~provision of this Section 23.49.015 or the application thereof to any project for which a Master~~  
12 ~~Use Permit application is considered under the Land Use Code as in effect after June 7, 2006~~  
13 ~~would conflict with any requirement of RCW 36.70A.540, as it may be amended, the terms of~~  
14 ~~this Section 23.49.015 shall be deemed modified to conform to the applicable requirements of~~  
15 ~~RCW 36.70A.540.~~

16           2. ~~An applicant may elect to seek bonus development under this section only for a~~  
17 ~~project in a DOC1, DOC2 or DMC zone that includes residential development. If an applicant~~  
18 ~~elects to seek approval of bonus development under this section, the applicant must execute a~~  
19 ~~voluntary agreement with the City in which the applicant agrees to provide mitigation for~~  
20 ~~impacts described in subsection A1 of this section. The mitigation may be provided in the form~~  
21 ~~of low income housing or moderate income housing, or both, either within or adjacent to the~~  
22 ~~residential project using the bonus development (the "performance option"), by paying the City~~

1 ~~to build or provide the housing (the "payment option"), or by a combination of the performance~~  
2 ~~and payment options.~~

3 ~~3. No bonus development under this section shall be granted to any proposed~~  
4 ~~development that would result in significant alteration to any designated feature of a Landmark~~  
5 ~~structure unless a Certificate of Approval for the alteration is granted by the Landmarks~~  
6 ~~Preservation Board.~~

7 ~~4. The Master Use Permit application to establish any bonus development under~~  
8 ~~this Section 23.49.015 shall include a calculation of the amount of bonus development sought~~  
9 ~~and shall identify the manner in which the conditions to such bonus development shall be~~  
10 ~~satisfied. The Director shall, at the time of issuance of any Master Use Permit decision approving~~  
11 ~~any such bonus development, issue a Type I decision as to the amount of bonus development to~~  
12 ~~be allowed and the conditions to such bonus development, which decision may include~~  
13 ~~alternative means to achieve bonus development, at the applicant's option, if each alternative~~  
14 ~~would be consistent with this Section 23.49.015 and any other conditions of the permit, including~~  
15 ~~Design Review conditions if applicable.~~

16 ~~B. Voluntary agreements for housing~~

17 ~~1. The voluntary agreement shall commit the applicant to provide or contribute to~~  
18 ~~low income housing or moderate income housing, or both, in an amount as set forth in this~~  
19 ~~subsection 23.49.015.B. The quantities in this subsection 23.49.015.B are based on findings of an~~  
20 ~~analysis that quantifies the linkages between new market rate units in high rise residential~~  
21 ~~structures in DOC1, DOC2, and DMC zones and the demand that residents of such units~~  
22 ~~generate for low income housing and moderate income housing. The amount of such housing~~  
23 ~~and income levels served, and the amount of any cash payment, shall be determined as follows:~~

1                                   a. ~~For the performance option, the applicant shall provide, as low income~~  
2 ~~housing or moderate income housing, net rentable floor area equal to 11 percent of the net~~  
3 ~~residential floor area sought as bonus development, computed by multiplying the following sum~~  
4 ~~by an efficiency factor of 80 percent: (i) the total square footage of gross residential floor area to~~  
5 ~~be developed on the lot above the base height limit for residential use under Section 23.49.008,~~  
6 ~~plus (ii) the excess, if any, in each tower to be developed on the lot, of (X) the total number of~~  
7 ~~square feet of gross residential floor area between the height of 85 feet and the base height limit,~~  
8 ~~over (Y) the product of the "average residential gross floor area limit of stories above 85 feet if~~  
9 ~~height does not exceed the base height limit for residential use" as provided in Table B for~~  
10 ~~23.49.058, column 2, multiplied by the number of stories with residential use in each tower~~  
11 ~~above 85 feet and below the base height limit. All low income housing or moderate income~~  
12 ~~housing provided under the performance option shall be on the lot where the bonus development~~  
13 ~~is used or an adjacent lot. The adjacent lot must be within the block where the bonus~~  
14 ~~development is used and either abut the lot where bonus development is used, or be separated~~  
15 ~~only by public right of way. All rental housing provided under the performance option shall be~~  
16 ~~low income housing.~~

17                                   b. ~~For the payment option, the applicant shall pay the lesser of the~~  
18 ~~following:~~

19   1) ~~an amount that equals the approximate cost of developing the~~  
20 ~~same number and quality of housing units that would be developed under the performance~~  
21 ~~option, as determined by the Director; or~~

22   2) ~~in DMC zones:~~

1 a) ~~Eight dollars per square foot of gross residential floor~~  
2 ~~area sought as bonus development between the height of 85 feet and the base height limit for~~  
3 ~~residential use under Section 23.49.008, \$12 per square foot of the gross residential floor area of~~  
4 ~~the first four stories above the base height limit for residential use, \$16 per square foot of gross~~  
5 ~~residential floor area of the next three stories, and \$20 per square foot of gross residential floor~~  
6 ~~area of the higher stories, not to exceed an average of \$15.15 per square foot of gross residential~~  
7 ~~floor area sought as bonus development; and~~

8 b) ~~after January 18, 2014, \$11.45 per square foot of gross~~  
9 ~~residential floor area sought as bonus development between the height of 85 feet and the base~~  
10 ~~height limit for residential use under Section 23.49.008, \$17.17 per square foot of the gross~~  
11 ~~residential floor area of the first four stories above the base height limit for residential use,~~  
12 ~~\$22.89 per square foot of gross residential floor area of the next three stories, and \$28.62 per~~  
13 ~~square foot of gross residential floor area of the higher stories, not to exceed an average of~~  
14 ~~\$21.68 per square foot of gross residential floor area sought as bonus development; and~~

15 3) ~~in DOC1 and DOC2 zones:~~

16 a) ~~\$15.15 per square foot of gross residential floor area~~  
17 ~~sought as bonus development above the base height limit for residential use under Section~~  
18 ~~23.49.008; and~~

19 b) ~~after January 18, 2014, \$21.68 per square foot of gross~~  
20 ~~residential floor area sought as bonus development above the base height limit for residential use~~  
21 ~~under Section 23.49.008.~~

22 c. ~~The amount of the alternative cash contribution, as provided in this~~  
23 ~~subsection 23.49.015.B.1.b and made at the time specified in subsection 23.49.015.C, shall be~~

1 ~~based on the amount that is in effect when vesting of a Master Use Permit occurs under~~  
2 ~~23.76.026. The full amount must be paid to the City in cash, except that if the City shall approve~~  
3 ~~by ordinance the acceptance of specific real property in lieu of all or part of the cash payment,~~  
4 ~~the Director of Housing may accept the real property.~~

5           2. ~~Each low-income housing unit provided as a condition to the bonus allowed~~  
6 ~~under this Section 23.49.015 shall serve only households with incomes at or below 80 percent of~~  
7 ~~median income at the time of their initial occupancy. Each moderate-income housing unit~~  
8 ~~provided as a condition to the bonus allowed under this Section 23.49.015 shall serve only as~~  
9 ~~owner-occupied housing for households with incomes no higher than median income at the time~~  
10 ~~of their initial occupancy. For rental housing, housing costs, including rent and basic utilities,~~  
11 ~~shall not exceed 30 percent of 80 percent of median income, adjusted for the average size of~~  
12 ~~family expected to occupy the unit based on the number of bedrooms, all as determined by the~~  
13 ~~Housing Director, for a minimum period of 50 years. For owner-occupied housing, the initial~~  
14 ~~sale price shall not exceed an amount determined by the Housing Director to be consistent with~~  
15 ~~affordable housing for a moderate-income household with the average family size expected to~~  
16 ~~occupy the unit based on the number of bedrooms, and the units shall be subject to recorded~~  
17 ~~instruments satisfactory to the Housing Director providing for sales prices on any resale~~  
18 ~~consistent with affordability on the same basis. The Housing Director may promulgate rules~~  
19 ~~specifying the method of determining affordability, including eligible monthly housing costs.~~  
20 ~~The Housing Director may also promulgate rules for determining whether units satisfy the~~  
21 ~~requirements of this Section 23.49.015 and any requirements relating to down payment amount,~~  
22 ~~design, quality, maintenance, and condition of the low-income housing or moderate-income~~  
23 ~~housing.~~

1                   3. For purposes of this Section 23.49.015, housing may be considered to be  
2 provided by the applicant seeking bonus development under the performance option if the  
3 housing satisfies all of the following conditions:

4                   a. It is committed to serve an eligible income group, and for a time period,  
5 referred to in this Section 23.49.015 pursuant to an agreement between the housing owner and  
6 the City.

7                   b. The agreement required by subsection 23.49.015.B.3.a is executed and  
8 recorded prior to the issuance of the Master Use Permit to establish the use for the project using  
9 the bonus development, but except when subsection 23.49.015.B.3.c.2 below applies, no earlier  
10 than one year prior to issuance of that Master Use Permit.

11                   c. Either:

12                   1) The Certificate of Occupancy for the new low-income housing  
13 or moderate income housing, or both, must be issued within three years of the date the Certificate  
14 of Occupancy is issued for the project using the bonus development, unless the Housing Director  
15 approves an extension based on delays that the applicant or housing developer could not  
16 reasonably have avoided, or

17                   2) Only in the case of low-income housing on a lot adjacent to the  
18 project using bonus development, which housing is subject to a regulatory agreement related to  
19 long-term City financing of low-income housing and was developed under a Master Use Permit  
20 issued pursuant to a decision that considered the housing together with a project then proposed  
21 on that adjacent site, a final Certificate of Occupancy for the low-income housing was issued  
22 within five years of the building permit issuance for the project proposed for bonus development  
23 on the adjacent lot.

1                                   ~~d. If the low income housing or moderate income housing is not owned by~~  
2 ~~the applicant, then the applicant made a financial contribution to the low income housing or~~  
3 ~~moderate income housing, or promised such contribution and has provided to the City an~~  
4 ~~irrevocable, unconditional letter of credit to ensure its payment, in form and content satisfactory~~  
5 ~~to the Housing Director, in either case in an amount determined by the Housing Director to be,~~  
6 ~~when reduced by the value of any expected benefits to be received for such contribution other~~  
7 ~~than the bonus development, approximately equal to the cost of providing units within the~~  
8 ~~project using the bonus development, and the owner of the low income housing or moderate-~~  
9 ~~income housing has entered into a linkage agreement with the applicant pursuant to which only~~  
10 ~~the applicant has the right to claim such housing for purposes of bonus development under this~~  
11 ~~Section 23.49.015 or any other bonus under this Title 23.~~

12                                   4. Any applicant seeking to qualify for bonus floor area based on development of  
13 new housing shall provide to the City, prior to the date when a contribution would be due for the  
14 cash option under subsection C of this section, an irrevocable bank letter of credit or other  
15 sufficient security approved by the Director of the Office of Housing, and a related voluntary  
16 agreement, so that at the end of the three (3) year period specified in subsection B3 of this  
17 section, if the housing does not qualify or is not provided in a sufficient amount to satisfy the  
18 terms of this section, the City shall receive (i) a cash contribution for housing in the amount  
19 determined pursuant to this section after credit for any qualifying housing then provided, plus (ii)  
20 an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from  
21 time to time by Bank of America, or its successor, plus three (3) percent per annum, from the  
22 date of issuance of the first building permit for the project using the bonus. If and when the City  
23 becomes entitled to realize on any such security, the Director of the Office of Housing shall take

1 ~~appropriate steps to do so, and the amounts realized, net of any costs to the City, shall be used in~~  
2 ~~the same manner as cash contributions for housing made under this section. In the case of any~~  
3 ~~project proposing to use bonus development for which no building permit is required, references~~  
4 ~~to the building permit in this subsection shall mean the master use permit allowing establishment~~  
5 ~~or expansion of the use for which bonus development is sought.~~

6 ~~5. Nothing in this chapter shall be construed to confer on any owner or developer~~  
7 ~~of housing, any party to a linkage agreement, or any assignee, any development rights or~~  
8 ~~property interests. Because the availability and terms of allowance of bonus development depend~~  
9 ~~upon the regulations in effect at the relevant time for the project proposing to use such bonus~~  
10 ~~development, pursuant to SMC Section 23.76.026, any approvals or agreements by the Director~~  
11 ~~of the Office of Housing regarding the eligibility of actual or proposed housing as to satisfy~~  
12 ~~conditions of a bonus, and any approval of a linkage agreement and/or assignment, do not grant~~  
13 ~~any vested rights, nor guarantee that any bonus development will be permitted based on such~~  
14 ~~housing.~~

15 ~~6. The Director of the Office of Housing is authorized to accept and execute~~  
16 ~~agreements and instruments to implement this section. For the performance option, the voluntary~~  
17 ~~agreement by the applicant or, if the applicant is not the housing owner, then a recorded~~  
18 ~~agreement of the housing owner acceptable to the Housing Director, shall provide for an initial~~  
19 ~~monitoring fee payable to the City of Five Hundred Dollars (\$500) per unit of low income~~  
20 ~~housing or moderate income housing provided, and in the case of rental housing, an annual~~  
21 ~~monitoring fee payable to the City of Sixty five Dollars (\$65) for each such unit. For rental~~  
22 ~~housing, such agreement also shall require the housing owner to submit to the City annual~~  
23 ~~reports with such information as the Housing Director shall require for monitoring purposes. In~~



1 ~~the case of housing for owner occupancy, the recorded resale restrictions also shall include a~~  
2 ~~provision requiring payment to the City, on any sale or other transfer, of a fee of Five Hundred~~  
3 ~~Dollars (\$500) for the review and processing of transfer documents to determine compliance~~  
4 ~~with income and affordability restrictions.~~

5           7. ~~If the Housing Director shall certify to the Director that the Housing Director~~  
6 ~~has accepted and there have been recorded one or more agreements or instruments satisfactory to~~  
7 ~~the Housing Director providing for occupancy and affordability restrictions on housing provided~~  
8 ~~for purposes of the performance option under this section, and that either all affordable housing~~  
9 ~~has been completed or the applicant has provided the City with an irrevocable, unconditional~~  
10 ~~letter of credit satisfactory to the Housing Director in the amount of the contribution to the~~  
11 ~~affordable housing approved by the Housing Director, if applicable, then any failure of such~~  
12 ~~housing to satisfy the requirements of this subsection B shall not affect the right to maintain or~~  
13 ~~occupy the bonus development. Unless and until the Housing Director shall so certify, it shall be~~  
14 ~~a continuing permit condition, whether or not expressly stated, for each project obtaining bonus~~  
15 ~~floor area based on the provision of housing under this subsection, that the low income or~~  
16 ~~moderate income housing units, or both, as applicable, shall continue to satisfy the requirements~~  
17 ~~of this subsection throughout the term specified in this section and that such compliance shall be~~  
18 ~~documented to the satisfaction of the Director of the Office of Housing. The Director of the~~  
19 ~~Office of Housing may provide by rule for circumstances in which low income or moderate~~  
20 ~~income housing units, or both, as applicable, may be replaced if lost due to casualty or other~~  
21 ~~causes, and for terms and conditions upon which a cash contribution may be made in lieu of~~  
22 ~~continuing to provide low income housing or moderate income housing, or both, under the terms~~  
23 ~~of this subsection.~~

1           ~~8. Housing units produced with voluntary contributions made under this section,~~  
2 ~~shall include a range of unit sizes, including units suitable for families with children. Housing~~  
3 ~~units provided to qualify for bonus development shall comply with the following: (i) they shall~~  
4 ~~be provided in a range of sizes comparable to those available to other residents; (ii) to the extent~~  
5 ~~practicable, the number of bedrooms in low income units and moderate income units must be in~~  
6 ~~the same proportion as the number of bedrooms in units within the entire building; (iii) the low-~~  
7 ~~income units and moderate income units shall generally be distributed throughout the building,~~  
8 ~~except that they may be provided in an adjacent building; and (iv) the low income units and~~  
9 ~~moderate income units shall have substantially the same functionality as the other units in the~~  
10 ~~building or buildings. The Housing Director is authorized to prescribe by rule standards and~~  
11 ~~procedures for determining compliance with the requirements of this subsection 8. The Housing~~  
12 ~~Director is further authorized to adopt policies for distribution of unit sizes in housing~~  
13 ~~developments funded by contributions received under this section.~~

14           ~~9. References in this subsection B to a Certificate of Occupancy for a project~~  
15 ~~mean the first Certificate of Occupancy issued by the City for the project, whether temporary or~~  
16 ~~permanent.~~

17           ~~C. Cash Option Payments.~~

18           ~~1. On July 1, 2014 and on the same day annually thereafter the alternative cash~~  
19 ~~contribution amount in subsection 23.49.015.B.1.b shall automatically adjust in proportion to the~~  
20 ~~change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area,~~  
21 ~~All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor~~  
22 ~~Statistics, or successor index, from December 31, 2013 or the time the alternative cash~~  
23 ~~contribution was last adjusted, whichever is later.~~

1                   ~~2. Cash payments under voluntary agreements for bonuses shall be made prior to~~  
2 ~~issuance, and as a condition to issuance, of any building permit after the first building permit for~~  
3 ~~a project, and in any event before any permit for any construction activity other than excavation~~  
4 ~~and shoring is issued, unless the applicant elects in writing to defer payment. If the applicant~~  
5 ~~elects to defer payment, then the issuance of any certificate of occupancy for the project shall be~~  
6 ~~conditioned upon payment of the full amount of the cash payment determined under this Section,~~  
7 ~~plus an interest factor equal to that amount multiplied by the increase, if any, in the Consumer~~  
8 ~~Price Index, All Urban Consumers, West Region, All Items, 1962=64=100, as published~~  
9 ~~monthly, from the last month prior to the date when payment would have been required if~~  
10 ~~deferred payment had not been elected, to the last month for which data are available at the time~~  
11 ~~of payment. If the index specified in this subsection is not available for any reason, the Director~~  
12 ~~shall select a substitute cost of living index. In no case shall the interest factor be less than zero~~  
13 ~~(0). All payments under this Section shall be deposited in special accounts established solely to~~  
14 ~~fund capital expenditures for the affordable housing for low income households.~~

15                   ~~D. No Subsidies for Bonused Housing: Exception.~~

16                   ~~1. Intent. Housing provided through the bonus system is intended to mitigate a~~  
17 ~~portion of the additional low income housing needs resulting from increased high-rise market~~  
18 ~~rate housing development, beyond those needs that would otherwise exist, which the City and~~  
19 ~~other governmental and charitable entities attempt to meet through various subsidy programs.~~  
20 ~~Allowing bonus development under the performance option for housing that uses such subsidy~~  
21 ~~programs therefore could undermine the intent of this section.~~

22                   ~~2. Agreement Concerning Subsidies. The Director of the Office of Housing may~~  
23 ~~require, as a condition of any bonus floor area for housing under the performance option, that the~~

1 ~~owner of the lot upon which the low income housing is located agree not to seek or accept any~~  
2 ~~subsidies, including without limitation those items referred to in subsection D3 of this section,~~  
3 ~~related to the housing, except for any subsidies that may be allowed by the Director of the Office~~  
4 ~~of Housing under that subsection. The Housing Director may require that such agreement~~  
5 ~~provide for the payment to the City, for deposit in an appropriate account to be used for~~  
6 ~~Downtown low income housing, of the value of any subsidies received in excess of any amounts~~  
7 ~~allowed by such agreement.~~

8 ~~3. No Bonus for Subsidized or Restricted Housing. In general, no bonus may be~~  
9 ~~earned by providing housing if:~~

10 ~~a. Any person is receiving or will receive with respect to the housing any~~  
11 ~~charitable contributions or public subsidies for housing development or operation, including, but~~  
12 ~~not limited to, tax exempt bond financing, tax credits, federal loans or grants, City of Seattle~~  
13 ~~housing loans or grants, county housing funds, State of Washington housing funds, or property~~  
14 ~~tax exemptions or other special tax treatment; or~~

15 ~~b. The housing is or would be, independent of the requirements for the~~  
16 ~~bonus, subject to any restrictions on the use, occupancy or rents.~~

17 ~~4. Exceptions by Rule. The Director of the Office of Housing may provide, by~~  
18 ~~rule promulgated after the effective date of this ordinance, for terms and conditions on which~~  
19 ~~exceptions to the restriction on subsidies in this subsection may be allowed. Such rule may~~  
20 ~~provide that, as a condition to any exception, the Director of the Office of Housing shall increase~~  
21 ~~the amount of floor area of low income housing or moderate income housing per square foot of~~  
22 ~~bonus development, otherwise determined pursuant to subsection B of this section, to an amount~~  
23 ~~that allows credit for only the Director's estimate of the incremental effect, in meeting the City's~~

1 ~~housing needs for the next fifty (50) years, of the net financial contribution that is being made by~~  
2 ~~the applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or~~  
3 ~~indirectly, from any other source.))~~

4 Section 32. Section 23.49.023 of the Seattle Municipal Code, last amended by Ordinance  
5 125603, is amended as follows:

6 **23.49.023 Extra residential floor area and hotel floor area in South Downtown;**  
7 **transferable development potential (TDP); limits on TDP sending sites**

8 \* \* \*

9 B. Means to achieve extra residential floor area((-))

10 1. Except as provided in subsection 23.49.023.B.2, if the maximum height limit  
11 for residential use is 95 feet or lower, the applicant shall use housing bonus residential floor area,  
12 as defined in subsection 23.58A.004.B, to achieve all extra residential floor area on the lot. If the  
13 maximum height limit for residential use is greater than 95 feet, the applicant shall use housing  
14 bonus residential floor area, as defined in subsection 23.58A.004.B, to achieve 60 percent of the  
15 total extra residential floor area on the lot. To the extent permitted under the provisions of the  
16 zone, the applicant shall achieve 40 percent of extra residential floor area through one or more of  
17 the following ~~((programs))~~:

18 a. ~~((bonus))~~ Bonus residential floor area for amenities pursuant to Section  
19 23.58A.040; and/or

20 b. ~~((transfer))~~ Transfer of transferable residential development potential  
21 pursuant to Section 23.58A.042; and/or

22 c. ~~((bonus))~~ Bonus residential floor area for contributing structures  
23 pursuant to subsection 23.49.023.C.



1 Section 34. Section 23.49.041 of the Seattle Municipal Code, last amended by Ordinance  
2 125291, is amended as follows:

3 **23.49.041 Combined lot development**

4 When authorized by the Director pursuant to this Section 23.49.041, lots located on the same  
5 block in DOC1, DOC2, or DMC 340/290-440 zones, or lots zoned DOC1 and DMC on the same  
6 block, may be combined, whether contiguous or not, solely for the purpose of allowing some or  
7 all of the capacity for chargeable floor area on one such lot under this Chapter 23.49 to be used  
8 on one or more other lots, according to the following provisions:

9 \* \* \*

10 D. The Director shall allow combined lot development only to the extent that the Director  
11 determines in a Type II land use decision that permitting more chargeable floor area than would  
12 otherwise be allowed on a lot shall result in a significant public benefit. In addition to features  
13 for which floor area bonuses are granted, the Director may also consider the public benefits listed  
14 in subsections 23.49.041.D.1 through 23.49.041.D.8 that could satisfy this condition when  
15 provided for as a result of the lot combination. When issuing a decision on a Type II decision for  
16 combined lot development the Director shall include a written report with a detailed description  
17 of the public benefit(s) received, how the public benefit(s) serves the general public and that the  
18 public benefit(s) are not also used to meet required land use code requirements or other  
19 requirements in the Seattle Municipal Code for development.

- 20 1. Preservation of a Landmark structure located on the block or adjacent blocks;  
21 2. Uses serving the downtown residential community, such as a grocery store, at  
22 appropriate locations;





<b>Average residential gross floor area per story and maximum residential gross floor area per story of a tower <sup>1</sup></b>			
(1) Zone	(2) Average residential gross floor area limit per story of a tower if height does not exceed the base height limit for residential use	(3) Average residential gross floor area limit per story of a tower if height exceeds the base height limit for residential use	(4) Maximum residential floor area of any story in a tower
DMC 240/290-440 and DMC 340/290-440	10,000 square feet	10,700 square feet	11,500 square feet
DOC2	15,000 square feet	12,700 square feet	16,500 square feet
DOC1	15,000 square feet	14,800 square feet	16,500 square feet
Footnote to Table B for 23.49.058			
<sup>1</sup> For the height at which a "tower" begins, see the definition in subsection 23.49.058.A.			

1 a. For structures that do not exceed the base height limit for residential  
 2 use, each tower is subject to the average floor area per story limits specified in column (2) on  
 3 Table B for 23.49.058.

4 b. For structures that exceed the base height limit for residential use  
 5 ~~((which requires that the applicant obtain bonus residential floor area pursuant to Section~~  
 6 ~~23.49.015))) according to Chapter 23.58A, the average residential gross floor area per story of~~  
 7 each tower is subject to the applicable maximum limit specified in column (3) on Table B for  
 8 23.49.058.

9 c. In no instance shall the residential gross floor area of any story in a  
 10 tower exceed the applicable maximum limit specified in column (4) on Table B for 23.49.058.

11 d. Unoccupied space provided for architectural interest pursuant to  
 12 subsection 23.49.008.B shall not be included in the calculation of gross floor area.

13 2. Maximum tower width

1 a. In DMC zones, the maximum facade width for portions of a building  
2 above 85 feet along the general north/south axis of a site (parallel to the Avenues) shall be 120  
3 feet or 80 percent of the width of the lot measured on the Avenue, whichever is less, except that:

4 1) On a lot where the limiting factor is the 80 percent width limit,  
5 the maximum facade width is 120 feet, if at all elevations above a height of 85 feet, no more than  
6 50 percent of the area of the lot located within 15 feet of the street lot line(s) is occupied by the  
7 structure; and

8 2) On lots smaller than 10,700 square feet that are bounded on all  
9 sides by street right-of-way, the maximum facade width shall be 120 feet.

10 b. In DOC2 zones, the maximum facade width for portions of a building  
11 above 85 feet along the general north/south axis of a site (parallel to the Avenues) shall be 145  
12 feet.

13 c. In DOC1, the maximum facade width for portions of a building above  
14 85 feet along the general north/south axis of a site (parallel to the Avenues) shall be 160 feet.

15 d. The projection of unenclosed decks and balconies, and architectural  
16 features such as cornices, shall be disregarded in calculating the maximum width of a facade.

17 \* \* \*

18 Section 36. Section 23.49.164 of the Seattle Municipal Code, last amended by Ordinance  
19 125603, is amended as follows:

20 **23.49.164 Downtown Mixed Residential, maximum width, depth and separation**  
21 **requirements**

22 \* \* \*

23 C. Housing option((-))

1                   1. On lots with ~~((structures that contained low income housing on or before~~  
2 ~~September 11, 1988, and that meet the requirements of subsection 23.49.164.C.4))~~ low-income  
3 housing, the width above a height of 65 feet of portions of structures that are located less than 20  
4 feet from a street lot line shall not exceed 120 feet per block front. This maximum applies to the  
5 width as measured parallel to the street lot line. Portions of structures, measured parallel to the  
6 street lot line, that are located 20 feet or more from the street lot line, have no maximum limit.

7                   2. If the housing option is used, no portions of the structure may be located in the  
8 area within 20 feet of the intersection of street lot lines between heights of 65 feet and 145 feet.

9                   3. If the housing option is used, each story in portions of structures between  
10 heights of 65 feet and 145 feet shall have a maximum gross floor area of 25,000 square feet or  
11 the lot coverage limitation, whichever is less. The 25,000 square foot limit shall apply separately  
12 to portions of the same structure that are not connected above 65 feet.

13                   ~~((4. In order to use the housing option, housing on the lot shall be subject to an~~  
14 ~~agreement with the City that contains the following conditions and any other provisions~~  
15 ~~necessary to ensure compliance:~~

16                   a. ~~The demolition or change of use of the housing shall be prohibited for~~  
17 ~~not less than 50 years from the date a final certificate of occupancy is issued for the commercial~~  
18 ~~development on the lot; and~~

19                   b. ~~If the housing is or was rental housing on or before September 11, 1988,~~  
20 ~~it shall be used as rental housing for not less than 50 years from the date a final certificate of~~  
21 ~~occupancy is issued for the commercial development of the lot; and~~

22                   c. ~~The structure will be brought up to and maintained in conformance with~~  
23 ~~Chapters 22.200 through 22.208; and~~

1                                   ~~d. Housing that is or was low income housing on or before September 11,~~  
2 ~~1988, shall be maintained as low income housing for not less than 50 years from the date a final~~  
3 ~~certificate of occupancy is issued for the commercial development on the lot.~~

4                                   ~~5. Housing that is preserved according to this Section 23.49.164 does not qualify~~  
5 ~~for a downtown housing bonus or for transfer of development rights.))~~

6                                   D. Facade width limits and separation requirements in South Downtown. On a lot in a  
7 DMR/C zone in South Downtown, the following standards apply:

8                                   1. For the portion of a structure 75 feet in height or less, the maximum width of a  
9 street-facing facade is 250 feet.

10                                  2. For the portion of a structure above 75 feet in height, the maximum width of a  
11 street-facing facade is 120 feet.

12                                  3. At all levels above 75 feet in height, separate structures on a lot and separate  
13 portions of the same structure must be separated at all points by a minimum horizontal distance  
14 of 20 feet, or as specified in subsections 23.49.164.D.4 and 23.49.164.D.5 for structures  
15 separated by a mid-block corridor.

16                                  4. At all levels above 45 feet and up to 95 feet in height, structures separated by a  
17 mid-block corridor must be separated at all points by a minimum horizontal distance of 45 feet,  
18 unless subsection 23.49.164.D.6 applies.

19                                  5. At all levels above 95 feet in height, structures separated by a mid-block  
20 corridor must be separated at all points by a minimum horizontal distance of 55 feet, unless  
21 subsection 23.49.164.D.6 applies.

1                   6. If a mid-block corridor abuts a side lot line that is not a street lot line, at all  
2 levels above 45 feet structures on that lot must set back from that side lot line at all points by a  
3 minimum horizontal distance of 45 feet.

4                   7. Waiver or modification of requirements, limits, and standards.

5                   ((a.)) For developments in the International Special Review District, the  
6 Director may waive or modify the requirements, limits, and standards referred to in subsection  
7 23.49.164.D.2 and 23.49.164.D.3 as a Type I decision if, upon consultation with the Director of  
8 Neighborhoods and Director of Housing, the Director determines that waiving or modifying a  
9 requirement, limit, or standard will ~~((increase availability of affordable housing meeting the~~  
10 ~~provisions of subsection 23.49.164.D.7.b and will)) facilitate development of low-income~~  
11 housing and better meet the goals and objectives of Section 23.66.302.

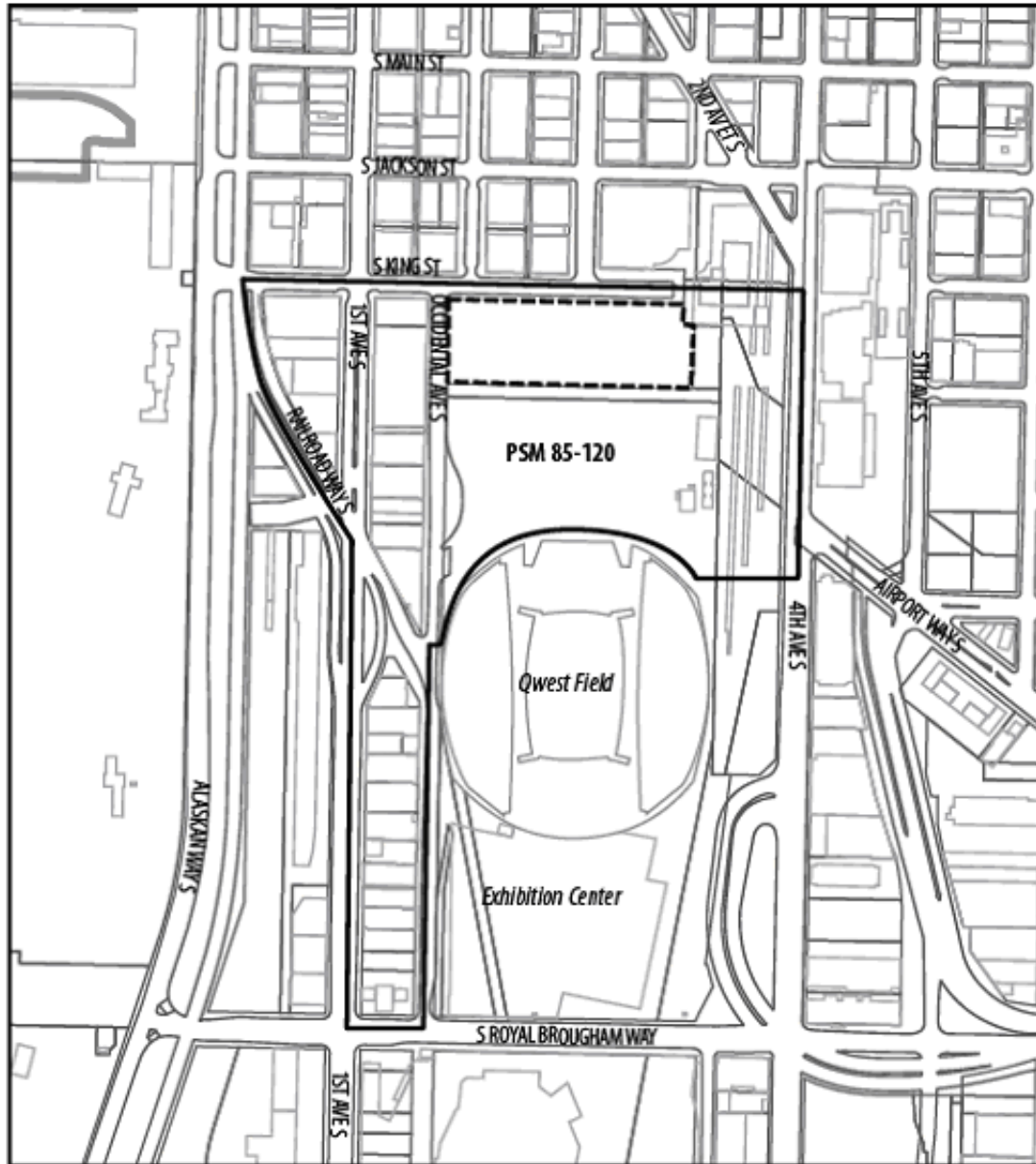
12                   ~~((b. For purposes of this subsection 23.49.164.D.7, housing is affordable if~~  
13 ~~it receives public funding and/or an allocation of federal low income housing tax credits, and is~~  
14 ~~subject to a regulatory agreement, covenant, or other legal instrument recorded on the property~~  
15 ~~title and enforceable by The City of Seattle, Washington State Housing Finance Commission,~~  
16 ~~State of Washington, King County, U.S. Department of Housing and Urban Development, or~~  
17 ~~other similar entity as approved by the Director of Housing, which restricts at least 40 percent of~~  
18 ~~the units to occupancy by households earning no greater than 60 percent of median income, and~~  
19 ~~controls the rents that may be charged, for a minimum period of 40 years.))~~


20                   Section 37. Section 23.49.180 of the Seattle Municipal Code, last amended by Ordinance  
21 125558, is amended as follows:

22 **23.49.180 Additional height in the PSM 85-120 zone**

1           A. General (~~Intent~~) intent. This (~~section~~) Section 23.49.180 applies to the area  
2 identified on Map A for 23.49.180 within the Pioneer Square Preservation District if an applicant  
3 elects to develop a project using the height limits in (~~Section~~) subsection 23.49.178.E.3. The  
4 purpose of this (~~section~~) Section 23.49.180 is to provide added flexibility through an increase  
5 in the maximum height limit by providing for affordable housing, as defined in Section  
6 23.58A.004, to promote a high density, mixed use(~~, and mixed income~~) development that (~~can~~  
7 ~~contribute~~) contributes to the vitality of Pioneer Square.

# Map A for 23.49.180



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

1  
2

\*\*\*

1 C. Lot area. If the applicant uses the height provisions of subsection 23.49.180.B to gain  
2 additional height above the otherwise applicable height limit, the entire area identified on Map A  
3 for 23.49.180, including any areas provided as open area or setbacks, or dedicated as street right  
4 of way, shall be used to determine compliance with applicable provisions of this ~~((section))~~  
5 Section 23.49.180 and ~~((Section 23.49.181))~~ Chapter 23.58A.

6 \* \* \*

7 E. Floor area ratio (FAR)

8 1. Base and maximum FAR. The base FAR for all uses on a lot, except for those  
9 uses expressly exempted, is 4. The maximum FAR for all uses on a lot, except for those uses  
10 expressly exempted, is 8.

11 2. Limit on non-residential FAR. Non-residential chargeable floor area on a lot  
12 may not exceed an FAR of 4.

13 3. Affordable housing incentive ~~((program))~~. Development that includes  
14 residential use may exceed the base FAR, subject to the maximum FAR according to subsection  
15 23.49.180.E.1, to the extent ~~((the applicant qualifies for))~~ bonus floor area is achieved by  
16 providing affordable housing according to ~~((Section 23.49.181, subject to the FAR limit in~~  
17 ~~subsection 23.49.180.E.1))~~ Chapter 23.58A.

18 4. Exemptions and deductions from FAR calculations

19 a. The exemptions and deductions from FAR calculations specified in  
20 subsection 23.49.011.B apply, except that residential use is not exempt and is considered  
21 chargeable floor area.

22 b. In addition to the exemptions from floor area calculations for parking in  
23 subsection 23.49.011.B.1.1, enclosed parking provided at or above grade as accessory parking for



1 non-residential uses or as flexible-use parking replacing the surface spaces existing on the lot on  
2 June 25, 1998, is exempt from FAR calculations if it is separated from all streets abutting the lot  
3 by another use or is screened according to the provisions of subsection 23.49.180.G.9.

4 c. Street-level uses other than residential lobbies are exempt if they meet  
5 the requirements of subsection 23.49.180.F.

6 \* \* \*

7 Section 38. Section 23.49.181 of the Seattle Municipal Code, last amended by Ordinance  
8 126685, is repealed:

9 ~~((23.49.181 Bonus floor area for affordable housing in the PSM 85-120 zone~~

10 ~~A. Purpose; Scope of provisions; State law controlling. This Section 23.49.181~~  
11 ~~establishes an affordable housing incentive program for development on lots zoned PSM 85-120~~  
12 ~~that are subject to FAR limits pursuant to the provisions of Section 23.49.180. Chargeable floor~~  
13 ~~area in addition to the base FAR is allowed for development that includes residential use, to the~~  
14 ~~extent that the applicant qualifies by providing low income housing, in accordance with this~~  
15 ~~Section 23.49.181 and subject to the provisions of Section 23.49.180. In case of any~~  
16 ~~irreconcilable conflict between the terms of this Section 23.49.181 and the authority granted in~~  
17 ~~RCW 36.70A.540, as it may be amended, the provisions of RCW 36.70A.540, as it may be~~  
18 ~~amended, shall supersede and control. Unless the context otherwise clearly requires, references~~  
19 ~~to RCW 36.70A.540 in this Section 23.49.181 mean that section in effect on the date as of which~~  
20 ~~the provisions of this Title 23 apply to the application for a use permit for the project using the~~  
21 ~~bonus floor area.~~

22 B. Permitting conditions

1                   ~~1. Master Use Permit. The Master Use Permit application to establish any bonus~~  
2 ~~floor area under this Section 23.49.181 shall include a calculation of the total amount of bonus~~  
3 ~~floor area sought and shall identify the quantity and type of affordable housing to be provided to~~  
4 ~~satisfy the conditions to such bonus floor area. The application shall include the proposed~~  
5 ~~location of the affordable housing. If any of the affordable housing is proposed to be within the~~  
6 ~~area defined on Map A for Section 23.49.180 where additional height is permitted, the~~  
7 ~~application shall include the location of the affordable housing within that area and its~~  
8 ~~distribution within the proposed building(s). If any of the affordable housing is not to be~~  
9 ~~provided within the area defined on Map A for Section 23.49.180 where additional height is~~  
10 ~~permitted, the application shall include the address, legal description, dimensions and ownership~~  
11 ~~of the other lot(s), and the approval of the Director of Housing for the affordable housing to be~~  
12 ~~provided on the other lot(s), pursuant to subsection 23.49.181.E.3. The Director shall, at the time~~  
13 ~~of issuance of any Master Use Permit decision approving any bonus floor area, issue a Type I~~  
14 ~~decision as to the amount of bonus floor area to be allowed and the conditions to such bonus~~  
15 ~~floor area. A declaration signed by the applicant and any other owners of the lot(s) on which the~~  
16 ~~project using the bonus floor area is to be built and any other owners, or persons with control, of~~  
17 ~~the lot(s) where the affordable housing will be located, on a form approved by the Director,~~  
18 ~~specifying the amount of bonus floor area, the legal descriptions of the lot where the bonus floor~~  
19 ~~area will be used and each other lot where affordable housing will be located, and the conditions,~~  
20 ~~must be executed and recorded as a condition to issuance of the Master Use Permit for a~~  
21 ~~development to include bonus floor area. If a change in the total bonus floor area to be~~  
22 ~~developed, or a change in the location of the affordable housing approved by the Director of~~  
23 ~~Housing pursuant to subsection 23.49.181.E.3, results in adjustment to one or more conditions,~~

1 ~~the declaration and any related conditions of the Master Use Permit may be amended, with the~~  
2 ~~written approval of the Director, as a Type I decision. In requesting amendment of a declaration~~  
3 ~~under this subsection 23.49.181.B and any related conditions of the Master Use Permit, the~~  
4 ~~applicant may elect, consistent with subsection 23.76.026.E, that the provisions of this Section~~  
5 ~~23.49.181 as in effect on the date of the Director's action on that request, rather than any earlier~~  
6 ~~date applicable under Section 23.76.026, apply for purposes of the amendment to the Master Use~~  
7 ~~Permit.~~

8 ~~2. First Building Permit.~~

9 ~~a. Except as otherwise provided in this subsection 23.49.181.B.2.a, prior~~  
10 ~~to issuance, and as a condition to issuance, of the first building permit for a structure using bonus~~  
11 ~~floor area, the owner of each lot that will include the affordable housing for that bonus floor area~~  
12 ~~shall execute and record an agreement in a form acceptable to the Director of Housing that shall~~  
13 ~~commit to provide that affordable housing, and shall run with the land to bind successors. The~~  
14 ~~applicant shall submit an acceptable agreement, fully signed, as part of the building permit~~  
15 ~~application, and if there is any change in ownership or if the location at which any affordable~~  
16 ~~housing is to be provided is modified pursuant to subsection 23.49.181.B.1 prior to the issuance~~  
17 ~~of the building permit, the new owners or any other owners of the lot(s) where the affordable~~  
18 ~~housing is to be provided, or both, as applicable, shall execute the agreement or an addendum,~~  
19 ~~substitute or separate agreement, acceptable to the Director of Housing. This subsection~~  
20 ~~23.49.181.B.2.a does not apply with respect to bonus floor area that is based on an amount of~~  
21 ~~affordable housing for which a certification by the Director of Housing is delivered pursuant to~~  
22 ~~subsection 23.49.181.B.3.~~

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

1 ~~authorized in this subsection 23.49.181.B.2.b., and to make disbursements from such funds or~~  
2 ~~accounts as directed by the Director of Housing, but the monies in such funds or accounts shall~~  
3 ~~not become property of the City unless applied against obligations owing to the City, and the~~  
4 ~~expenditure of those monies on any project or contract shall not cause it to be treated as a public~~  
5 ~~work or contract of the City.~~

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

1 ~~certification when the escrow agent holds the necessary funds for delivery to an appropriate~~  
2 ~~account as a contribution to the affordable housing, and delivery of the certification by the~~  
3 ~~escrow agent shall then have the same effect as certification by the Director of Housing on the~~  
4 ~~date of that delivery.~~

5 C. Findings. Pursuant to the authority of RCW 36.70A.540, the City finds that the higher  
6 ~~income levels specified in the definition of "income eligible households" in this Section~~  
7 ~~23.49.181, rather than those stated in the definition of "low income households" in RCW~~  
8 ~~36.70A.540, are needed to address local housing market conditions in the area to which this~~  
9 ~~Section 23.49.181 applies.~~

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

11 1. ~~"Affordable housing" means a unit or units of low income housing provided as~~  
12 ~~a condition to bonus floor area.~~

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

14 3. ~~"Bonus floor area" means all chargeable floor area allowed in addition to the~~  
15 ~~base FAR.~~

16 4. ~~"Income eligible households" means:~~

17 a. ~~In the case of rental housing, households with incomes no higher than~~  
18 ~~80 percent of median income as defined in Section 23.84A.025.~~

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

21 5. ~~"Low income housing" means housing that serves income eligible households~~  
22 ~~as determined in subsection 23.49.181.E.~~

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

3                   E. Affordable housing

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

8                   2. Serving income-eligible households. For the purposes of this Section  
9 23.49.181, a housing unit serves income-eligible households only if either:

10                   a. For a period of 50 years beginning upon the issuance of a final  
11 certificate of occupancy by the Seattle Department of Construction and Inspections for the  
12 affordable housing, the housing is used as rental housing solely for income-eligible households at  
13 rent limited so that annual housing costs, including rent and basic utilities, do not exceed 30  
14 percent of 80 percent of median income, and the housing unit and the structure in which it is  
15 located are maintained in decent and habitable condition, including basic appliances in the  
16 housing unit; or

17                   b. The unit is sold for owner-occupancy to an income-eligible household  
18 at an initial sale price limited so that the annual housing costs, including mortgage principal and  
19 interest, real estate taxes, insurance, plus homeowner dues if applicable, are not expected to  
20 exceed 35 percent of median income, according to a calculation based on reasonable assumptions  
21 and approved by the Director of Housing, and the unit is subject to a recorded instrument  
22 satisfactory to the Director of Housing with a term extending until 50 years after the issuance of  
23 a final certificate of occupancy by the Seattle Department of Construction and Inspections for the

1 ~~structure using the bonus floor area for which that affordable housing is provided, providing for~~  
2 ~~sales prices on any resale consistent with affordability on the same basis as the initial sale,~~  
3 ~~allowing resales only to income eligible households, and requiring that upon any resale, the~~  
4 ~~housing unit be in decent and habitable condition, including adequate basic appliances in the~~  
5 ~~housing unit.~~

6 ~~3. Location, size, and other requirements. Affordable housing may be provided~~  
7 ~~within the area defined on Map A for 23.49.180 where additional height is permitted.~~  
8 ~~Alternatively, affordable housing may be provided on one or more different lots within South~~  
9 ~~Downtown, subject to approval by the Director of Housing under the criteria in this subsection~~  
10 ~~23.49.181.E and to the conditions in subsection 23.49.181.B.2. Approval requires a~~  
11 ~~determination by the Director of Housing that the affordable housing will (a) provide a public~~  
12 ~~benefit; and (b) be more affordable than market rents or sale prices, as applicable, for housing in~~  
13 ~~South Downtown. The affordable housing shall be provided in a range of unit sizes consistent~~  
14 ~~with RCW 36.70A.540 and comply with all requirements of RCW 36.70A.540.~~

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

21 ~~5. No subsidies for affordable housing; exceptions~~

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





1 ~~The Director of Housing may require that such agreement provide for the payment to the City,~~  
2 ~~for deposit in an appropriate sub-fund or account, of the value of any subsidies received in~~  
3 ~~excess of any amounts allowed by such agreement.~~

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

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

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

13 ~~3) the subsidies being allowed would not be sufficient to leverage~~  
14 ~~private funds for production of the affordable housing, under restrictions required in this Section~~  
15 ~~23.49.181, without additional City subsidy.~~

16 ~~6. Agreements and approvals. The Director of Housing is authorized to accept and~~  
17 ~~execute agreements and instruments to implement this Section 23.49.181. Except with respect to~~  
18 ~~bonus floor area based on an amount of affordable housing for which a certification by the~~  
19 ~~Director of Housing is delivered pursuant to subsection 23.49.181.B.3, issuance of the Master~~  
20 ~~Use Permit, building permit, or certificate of occupancy for the project using the bonus floor area~~  
21 ~~may be conditioned on satisfactory agreements and instruments signed by applicants and other~~  
22 ~~owners. An applicant or prospective applicant may request, and the Director of Housing may~~  
23 ~~provide, a determination that a linkage agreement or security arrangement, or both, would satisfy~~

1 ~~specific provisions of this Section 23.49.181, whether or not an applicant has proposed a specific~~  
2 ~~development to use bonus floor area, but no such approval or agreement shall affect the~~  
3 ~~determination, under Chapter 23.76 or other applicable law, of the date as of which any~~  
4 ~~development regulations apply to a permit application.~~

5 ~~7. Reports and fees. An applicant for bonus floor area shall pay a review fee and~~  
6 ~~the housing owner shall provide annual reports to the Office of Housing. Fees shall be paid in~~  
7 ~~accordance with the applicable fee ordinance item or Section 22.900G.015.~~

8 ~~F. Identification of bonus floor area. The floor area that constitutes bonus floor area under~~  
9 ~~this Section 23.49.181 shall be determined according to the order in which Master Use Permits~~  
10 ~~are issued to establish the chargeable floor area, with the base FAR allocable to the earlier~~  
11 ~~Master Use Permits. Within a structure or structures developed under a single Master Use Permit~~  
12 ~~that involves both base floor area and bonus floor area:~~

13 ~~1. If the complete applications for building permits for construction, not including~~  
14 ~~any permits limited to excavation and shoring, are submitted at different times, then unless~~  
15 ~~otherwise specifically identified in the Master Use Permit application and approved by the~~  
16 ~~Director, the base floor area shall be allocated first to the structure or structures for which the~~  
17 ~~earlier complete building permit applications are submitted; and~~

18 ~~2. If the complete applications for building permits for construction, not including~~  
19 ~~any permits limited to excavation and shoring, are submitted at the same time, then unless~~  
20 ~~otherwise specifically identified in the Master Use Permit application and approved by the~~  
21 ~~Director, the bonus floor area shall be the chargeable floor area, excluding any affordable~~  
22 ~~housing, in the highest stories in the structure or structures, and if only a portion of a story~~

1 ~~consists of bonus floor area, it shall be allocated to each portion of that story in proportion to its~~  
2 ~~chargeable floor area, excluding any affordable housing, within that story.~~

3 ~~G. Obligation of Owners.~~

4 ~~1. Except as otherwise expressly provided in subsection 23.49.181.B.3, any owner~~  
5 ~~of bonus floor area shall be in violation of this Title 23 if:~~

6 ~~a. any housing units to be provided as affordable housing for that bonus~~  
7 ~~floor area are not timely completed and ready for occupancy, or are not subject to a recorded~~  
8 ~~instrument binding on the owner thereof as provided in this Section 23.49.181; or~~

9 ~~b. at any time during the period specified in subsection 23.49.180.E.2, any~~  
10 ~~rental housing unit provided or to be provided under this Section 23.49.181 for that bonus floor~~  
11 ~~area does not serve income eligible households; or~~

12 ~~c. any housing unit provided or to be provided as affordable housing for~~  
13 ~~owner occupancy for that bonus floor area under subsection 23.49.181.E.2.b is initially~~  
14 ~~transferred other than in a sale to an income eligible household, and subject to a recorded~~  
15 ~~instrument, consistent with that subsection 23.49.181.E.2.b.~~

16 ~~2. Any owner of a housing unit provided or to be provided as affordable housing~~  
17 ~~in accordance with this Section 23.49.181 shall be in violation of this Title 23 if either:~~

18 ~~a. for a rental housing unit, at any time during the period specified in~~  
19 ~~subsection 23.49.181.E.2 it does not serve income eligible households within the meaning of that~~  
20 ~~subsection 23.49.181.E.2; or~~

21 ~~b. in the case of a unit provided or to be provided for owner occupancy,~~  
22 ~~the owner causes or permits the transfer of the unit, or of the right to occupy the unit, or any offer~~

1 ~~for any transfer, contrary to the terms of a recorded instrument then in effect pursuant to this~~  
 2 ~~Section 23.49.181.~~

3 ~~H. Rules. The Director, in consultation with the Director of Housing, is authorized to~~  
 4 ~~adopt rules to interpret and implement provisions of this Section 23.49.181.))~~

5 Section 39. Tables B and D for Section 23.54.015 of the Seattle Municipal Code, which  
 6 section was last amended by Ordinance 126685, is amended as follows:

7 **23.54.015 Required parking and maximum parking limits**

8 \* \* \*

<b>Table B for 23.54.015</b>	
<b>Required parking for residential uses</b>	
<b>Use</b>	<b>Minimum parking required</b>
<b>I. General residential uses</b>	
A. Adult family homes	1 space for each dwelling unit
B. Artist's studio/dwellings	1 space for each dwelling unit
C. Assisted living facilities	1 space for each 4 assisted living units; plus 1 space for each 2 staff members on-site at peak staffing time; plus 1 barrier-free passenger loading and unloading space
D. Caretaker's quarters	1 space for each dwelling unit
E. Congregate residences	1 space for each 4 sleeping rooms
F. Cottage housing developments <sup>4</sup>	1 space for each dwelling unit
G. Floating homes	1 space for each dwelling unit
H. Mobile home parks	1 space for each mobile home lot as defined in Chapter 22.904
I. Multifamily residential uses, except as otherwise provided in this Table B for 23.54.015 <sup>1,4</sup>	1 space per dwelling unit, or 1 space for each 2 small efficiency dwelling units
J. Nursing homes	1 space for each 2 staff doctors; plus 1 additional space for each 3 employees; plus 1 space for each 6 beds
K. Single-family dwelling units <sup>2,4</sup>	1 space for each dwelling unit
<b>II. Residential use requirements for specific areas</b>	

L.	All residential uses within urban centers or within the Station Area Overlay District <sup>1</sup>	No minimum requirement
M.	All residential uses in commercial, RSL, and multifamily zones within urban villages that are not within urban center or the Station Area Overlay District, if the residential use is located within a frequent transit service area <sup>1,3</sup>	No minimum requirement
N.	Multifamily residential uses within the University of Washington parking impact area shown on Map A for 23.54.015 <sup>1</sup>	1 space per dwelling unit for dwelling units with fewer than 2 bedrooms; plus 1.5 spaces per dwelling units with 2 or more bedrooms; plus 0.25 spaces per bedroom for dwelling units with 3 or more bedrooms
O.	Multifamily dwelling units, within the Alki area shown on Map B for 23.54.015 <sup>1</sup>	1.5 spaces for each dwelling unit

**~~((III. Multifamily residential use requirements with rent and income criteria~~**

<del>P.</del>	<del>For each dwelling unit rent and income restricted at or below 80 percent of the median income <sup>1,4</sup></del>	<del>No minimum requirement))</del>
---------------	---	-------------------------------------

Footnotes to Table B for 23.54.015

<sup>1</sup> The minimum amount of parking prescribed by Part I of Table B for 23.54.015 does not apply if a use, structure, or development qualifies for a greater or a lesser amount of minimum parking, including no parking, under any other provision of this Section 23.54.015. If more than one (~~such~~) provision (~~may apply~~) in this Table B for 23.54.015 is applicable, the provision requiring the least amount of minimum parking applies, except that if item O in Part II of Table B for 23.54.015 applies, it shall supersede any other (~~applicable~~) requirement in Part I or Part II of this Table B for 23.54.015. (~~The minimum amount of parking prescribed by Part III of Table B for 23.54.015 applies to individual units within a use, structure, or development instead of any requirements in Parts I or II of Table B for 23.54.015.~~)

<sup>2</sup> No parking is required for single-family residential uses on lots in any residential zone that are less than 3,000 square feet in size or less than 30 feet in width where access to parking is permitted through a required yard or setback abutting a street according to the standards of subsections 23.44.016.B.2, 23.45.536.C.2, or 23.45.536.C.3.

<sup>3</sup> Except as provided (~~in Part III of Table B for 23.54.015~~) in Footnote 4, the minimum amounts of parking prescribed by Part I of Table B for 23.54.015 apply within 1,320 feet of the Fautleroy Ferry Terminal.

<sup>4</sup> (~~Dwelling units qualifying for parking reductions according to Part III of Table B for 23.54.015 shall be subject to a recorded restrictive housing covenant or recorded regulatory agreement that includes rent and income restrictions at or below 80 percent of median income, without a minimum household income requirement. The housing covenant or regulatory agreement including rent and income restrictions qualifying the development for parking reductions according to Part III of Table B for 23.54.015 shall be for a term of at least 15 years from the date of issuance of the certificate of occupancy and shall be recorded with the King County Recorder, signed and acknowledged by the owner(s), in a form prescribed by the Director of Housing. If these provisions are applied to a development for housing for persons~~

~~55 or more years of age, such housing shall have qualified for exemptions from prohibitions against discrimination against families with children and against age discrimination under all applicable fair housing laws and ordinances.) For each moderate-income unit and each low-income unit, no minimum amount of parking is required.~~

\* \* \*

**Table D for 23.54.015  
 Parking for bicycles <sup>1</sup>**

Use	Bike parking requirements		
	Long-term	Short-term	
* * *			
<b>D. RESIDENTIAL USES <sup>3</sup></b>			
D.1	Congregate residences <sup>4</sup>	1 per sleeping room	1 per 20 sleeping rooms. 2 spaces minimum
D.2	<del>((Multi-family))</del> Multifamily structures other than townhouse and rowhouse developments <sup>4, 5</sup>	1 per dwelling unit	1 per 20 dwelling units
D.3	Single-family residences	None	None
D.4	Townhouse and rowhouse developments <sup>5</sup>	1 per dwelling unit	None
<del>((D.5</del>	<del>Permanent supportive housing</del>	<del>None</del>	<del>None))</del>

\* \* \*

Footnotes to Table D for 23.54.015

<sup>1</sup> Required bicycle parking includes long-term and short-term amounts shown in this Table D for 23.54.015.

<sup>2</sup> The Director may reduce short-term bicycle parking requirements for theaters and spectator sport facilities that provide bicycle valet services authorized through a Transportation Management Program. A bicycle valet service is a service that allows bicycles to be temporarily stored in a secure area, such as a monitored bicycle corral.

<sup>3</sup> For residential uses, after the first 50 spaces for bicycles are provided, additional spaces are required at three-quarters the ratio shown in this Table D for 23.54.015.

<sup>4</sup> For congregate residences or multifamily structures that are owned and operated by a not-for-profit entity serving seniors or persons with disabilities, or that are licensed by the State and provide supportive services for seniors or persons with disabilities, as a Type I decision, the Director shall have the discretion to reduce the amount of required bicycle parking to as few as zero if it can be demonstrated that residents are less likely to travel by bicycle.

<sup>5</sup> ~~((For each dwelling rent and income restricted at))~~ In low-income housing, there is no minimum required long-term bicycle parking requirement for each unit subject to affordability limits no higher than 30 percent of median income ~~((and below, there is no minimum required long-term bicycle parking requirement. For each dwelling rent and income restricted at 60 percent to 31 percent of the median income, long-term bicycle parking requirements may be wholly or partially waived by the Director as a Type I decision if the waiver would result in additional rent and income restricted units meeting the requirements of this footnote to Table D for 23.54.015 and when a reasonable alternative such as in-unit vertical bicycle storage space is provided. The Directors of the Seattle Department of Construction and Inspections~~

~~and Seattle Department of Transportation are authorized to promulgate a joint Directors' Rule defining reasonable alternatives for long term bicycle parking that meets the standards of this footnote to Table D for 23.54.015. Dwelling units qualifying for this provision shall be subject to a housing covenant, regulatory agreement, or other legal instrument recorded on the property title and enforceable by The City of Seattle or other similar entity, which restricts residential unit occupancy to households at or below 60 percent of median income, without a minimum household income requirement. The housing covenant or regulatory agreement including rent and income restrictions shall be for a term of at least 40 years from the date of issuance of the certificate of occupancy and shall be recorded with the King County Recorder, signed and acknowledged by the owner(s), in a form prescribed by the Director of Housing or the Washington State Housing Finance Commission. If these provisions are applied to a development for housing for persons 55 or more years of age, such housing shall have qualified for exemptions from prohibitions against discrimination against families with children and against age discrimination under all applicable fair housing laws and ordinances)) and long-term bicycle parking requirements may be waived by the Director as a Type I decision for each unit subject to affordability limits greater than 30 percent of median income and no higher than 80 percent of median income if a reasonable alternative is provided (e.g., in-unit vertical bike storage).~~

<sup>6</sup> The Director, in consultation with the Director of ~~((the Seattle Department of))~~ Transportation, may require more bicycle parking spaces based on the following factors: area topography; pattern and volume of expected bicycle users; nearby residential and employment density; proximity to the Urban Trails system and other existing and planned bicycle facilities; projected transit ridership and expected access to transit by bicycle; and other relevant transportation and land use information.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

Section 40. Section 23.58A.002 of the Seattle Municipal Code, last amended by Ordinance 125791, is amended as follows:

**23.58A.002 Scope of chapter; general rules**

A. ~~((This))~~ Consistent with subsections 23.58B.020.D and 23.58C.025.D, this Chapter 23.58A ((contains)) provides rules for ((incentive programs)) incentives in areas for which the provisions of the zone specifically refer to this Chapter 23.58A~~((-or in zones having))~~ , and in zones with an incentive zoning suffix. The provisions in this Chapter 23.58A specify conditions under which extra floor area may be allowed, as exceptions to the otherwise applicable floor area or base height limit, or both, subject to the maximum limits stated in the provisions of the zone and to all other applicable requirements and approvals. Nothing in this Chapter 23.58A



1 authorizes allowance of extra floor area, or the construction or use of any structure, contrary to  
2 any other provisions of this Title 23 or Title 25. (~~Developments for which extra floor area is~~  
3 ~~sought may be subject to conditions under other chapters and titles of the Seattle Municipal~~  
4 ~~Code, including without limitation conditions imposed pursuant to Chapter 25.05, Environmental~~  
5 ~~Policies and Procedures.~~)

6 B. The provisions of this Subchapter I apply generally to projects using any of the  
7 incentive provisions in this Chapter 23.58A, unless otherwise expressly provided in the  
8 applicable subchapter of this Chapter 23.58A or in the provisions of the zone.

9 C. Nothing in this Chapter 23.58A shall be construed to confer on any owner or  
10 developer any development rights or property interests. The availability and terms of any  
11 allowance of extra floor area depend on the regulations in effect on the relevant date for  
12 consideration of a permit application for the project proposing to use such extra floor area,  
13 pursuant to Section 23.76.026, notwithstanding any prior approvals, interpretations or  
14 agreements by the Director, (~~Housing~~) Director of Housing, or other official regarding the  
15 eligibility of any actual or proposed facility or feature to satisfy conditions for extra floor area.

16 D. In zones to which this Chapter 23.58A applies, low-income housing may achieve  
17 bonus floor area according to provisions of the zone without meeting the requirements of this  
18 Chapter 23.58A.

19 Section 41. Section 23.58A.003 of the Seattle Municipal Code, enacted by Ordinance  
20 124172, is amended as follows:

21 **23.58A.003 Affordable housing (~~incentive programs~~) incentives: purpose and findings**



1 "Affordable housing" means ~~((a unit or units of housing))~~ restricted units provided as a  
2 condition to bonus floor area that are affordable to and reserved solely for "income-eligible  
3 households."

4 "Base FAR" ~~((or "Base floor area ratio"))~~ means base floor area ratio, which is the non-  
5 residential floor area that may be allowed under the provisions of the zone limiting floor area,  
6 expressed as a multiple of the lot area, without use of any bonuses, transfer of development  
7 capacity, other incentive provisions, or any departures, waivers, variances or special exceptions.

8 \* \* \*

9 "Extra residential floor area" means the gross floor area of all residential development  
10 allowed in addition to a base height limit or base residential floor area limit, or both, under the  
11 provisions of this Chapter 23.58A or under any other provisions of this Title 23 referring to  
12 this Chapter 23.58A that allow a bonus or a transfer of development rights or development  
13 capacity. It includes, without limitation, gross floor area in residential use in all stories wholly or  
14 in part above the base height limit, and all bonus residential floor area. In the IDM 75/85-150  
15 zone, hotel use in a ~~((mixed-use))~~ mixed-use project may be counted as extra residential floor  
16 area subject to subsection 23.49.023.A and subsection 23.49.208.E.

17 \* \* \*

18 "Housing bonus residential floor area" means extra residential floor area allowed on  
19 condition that ~~((low income))~~ affordable housing be provided, or that a payment in lieu thereof  
20 be made, under ~~((subchapter))~~ Subchapter II of this Chapter 23.58A.

21 "Housing and child care bonus non-residential floor area" means extra non-residential  
22 floor area allowed under ~~((subchapter))~~ Subchapter III of this Chapter 23.58A on condition that  
23 ~~((low income))~~ affordable housing be provided or a payment in lieu of ~~((low income))~~ affordable

1 housing be made and that a child care facility be provided or a payment in lieu of a child care  
2 facility be made.

3 "Income-eligible households" means:

4 1. For rental affordable housing units, except affordable housing units ~~((of))~~ with  
5 net unit area equal to or less than 400 ~~((or fewer net))~~ square feet ~~((, or))~~ and sleeping rooms in a  
6 congregate residence, households with annual incomes no higher than the lower of:

7 a. 80 percent of median income ~~((as defined in Section 23.84A.025))~~; or

8 b. ~~((the))~~ The maximum level permitted for rental housing units by RCW  
9 36.70A.540 ~~((as))~~ in effect when the agreement for the ~~((housing to serve as))~~ affordable housing  
10 is executed.

11 2. In the case of ~~((owner occupied))~~ ownership affordable housing units,  
12 households with incomes no higher than the lesser of:

13 a. 100 percent of median income ~~((, as defined in Section 23.84A.025))~~, or

14 b. ~~((the))~~ The maximum level permitted for ~~((owner occupied))~~ owner  
15 occupancy housing units by RCW 36.70A.540 ~~((as))~~ in effect when the agreement for the  
16 ~~((housing to serve as))~~ affordable housing is executed.

17 3. For affordable housing units ~~((of))~~ with net unit area equal to or less than 400  
18 ~~((or fewer net))~~ square feet ~~((or))~~ and sleeping rooms in a congregate residence, households with  
19 annual incomes no higher than 40 percent of median income ~~((as defined in Section~~  
20 ~~23.84A.025))~~. For this purpose, the resident(s) of each sleeping room in a congregate residence  
21 ~~((are regarded as a separate))~~ is one household.

1 "Payment option" means making a payment to the City in lieu of providing (~~low-~~  
2 ~~income~~) affordable housing, child care, or any amenity or feature, (~~in order~~) to qualify for  
3 bonus floor area.

4 "Performance option" means providing or committing to provide a physical facility, or a  
5 portion or feature of a project, such as (~~low-income~~) affordable housing, (~~in order~~) to qualify  
6 for bonus floor area.

7 \* \* \*

8 Section 43. Section 23.58A.014 of the Seattle Municipal Code, last amended by  
9 Ordinance 125791, is amended as follows:

10 **23.58A.014 Bonus residential floor area for affordable housing**

11 A. Scope; general rule. This Section 23.58A.014 applies to bonus residential floor area  
12 for affordable housing allowed on lots for which applicable sections of this Title 23 expressly  
13 refer to this Chapter 23.58A. To obtain bonus residential floor area for affordable housing, the  
14 applicant may use the performance option, the payment option, or a combination of these  
15 options, in accordance with this Section 23.58A.014 and subject to the provisions of the zone.  
16 However, where the maximum allowable height under the applicable provisions of the zone is 85  
17 feet or less, the applicant may only use the performance option.

18 B. Performance option

19 1. Amount of affordable housing. An applicant using the performance option shall  
20 provide affordable housing units with (~~a gross floor~~) total net unit area measured according to  
21 subsection 23.86.007.B at least equal to the greatest of:

22 a. 14 percent of the gross bonus residential floor area (~~obtained through~~  
23 ~~the performance option, except that an applicant may elect to provide affordable housing equal to~~

1 ~~eight percent of the gross bonus residential floor area obtained through the performance option if~~  
2 ~~the housing is affordable to, and restricted to occupancy by, households with incomes no higher~~  
3 ~~than 50 percent of median income as defined by Section 23.84A.025))~~ achieved according to this  
4 subsection 23.58A.014.B; or

5 b. 300 (~~net residential~~) square feet; or

6 c. (~~any~~) Any minimum floor area specified in the provisions of the zone.

7 The percentage of gross bonus residential floor area obtained through the  
8 performance option to be provided as affordable housing may be reduced by the Council below  
9 14 percent of the gross bonus residential floor area to no less than 12 percent of the gross bonus  
10 residential floor area as a Type V decision on an official land use map amendment or text  
11 amendment when the Council determines that the reduction is needed to accomplish  
12 Comprehensive Plan goals and policies or to reflect economic conditions of the area. Applicants  
13 may provide affordable housing as part of the development (~~using~~) that includes extra floor  
14 area, or by providing or contributing to affordable housing at another location, subject to  
15 requirements in subsection 23.58A.014.B.8 and approval in writing by the Director of Housing  
16 prior to issuance of any permit after the first building permit for the development (~~using~~) that  
17 includes the bonus residential floor area and before any permit for any construction activity other  
18 than excavation and shoring for the development (~~using~~) that includes the bonus residential  
19 floor area is issued.

20 2. Agreement. The City and the affordable housing owner shall enter into an  
21 agreement specifying the affordable housing requirements under this subsection 23.58A.014.B.  
22 This agreement shall be executed and recorded prior to issuance and as a condition to issuance of  
23 any permit after the first building permit for the development (~~using~~) that includes the bonus

1 residential floor area and before any permit for any construction activity other than excavation  
2 and shoring for the development (~~(using)~~) that includes the bonus residential floor area is issued.

3 If the first building permit is issued for the structural frame for the structure that includes  
4 affordable housing according to this Section 23.58A.014 and such structure is acquired to  
5 provide City-funded low-income housing, the agreement(s) according to this subsection  
6 23.58A.014.B.2 and subsection 23.58A.014.B.6.b may be released at the sole discretion of the  
7 Director of Housing.

8 3. Duration. Affordable housing shall serve only income-eligible households for a  
9 minimum period of 50 years from the (~~(later of the date when the agreement between the housing~~  
10 ~~owner and the City is recorded, or the)~~) date when a certificate of occupancy is issued for the  
11 structure that includes the affordable housing (~~(becomes available for occupancy as determined~~  
12 ~~by the City)~~).

13 4. Unit size and distribution. Affordable housing shall be provided in a range of  
14 sizes comparable to those units that are available to other residents. To the extent practicable, the  
15 (~~(number of bedrooms in)~~) affordable housing units must be in the same proportion as (~~(the~~  
16 ~~number of bedrooms in)~~) total units (~~(within the entire)~~) in the development in terms of size and  
17 configuration. The affordable housing units shall generally be distributed throughout the  
18 development and have substantially the same functionality as the other units in the development.

19 5. Additional standards for rental housing(~~(-For rental housing:))~~)

20 a. (~~(monthly)~~) Monthly rent, including basic utilities, shall not exceed 30  
21 percent of the applicable income limit for the affordable housing unit, all as determined by the  
22 Director of Housing(~~(, for a minimum period of 50 years; and)~~) .

1                                   b. ~~((the housing owner shall submit a report to the Office of Housing~~  
2 ~~annually that documents how the affordable housing meets the terms of the recorded~~  
3 ~~agreement.))~~ Periodically as may be required by the Director of Housing, but no less than  
4 annually, the owner of the affordable housing shall submit to the Office of Housing a written  
5 report demonstrating compliance with and housing outcomes of this Section 23.58A.014. The  
6 report shall include required information and supporting documentation, verified upon the  
7 owner’s oath or affirmation and in a form prescribed by the Office of Housing. The Director of  
8 Housing is authorized to assess a late fee of \$50 per day, which shall accrue until the report is  
9 submitted, starting 14 days from the date of the Office of Housing’s notice that the report is  
10 overdue.

11                                   c. The owner of the affordable housing shall pay the Office of Housing an  
12 annual fee of \$190 per affordable housing unit for the purpose of monitoring compliance  
13 according to this Section 23.58A.014. The fee shall automatically adjust annually on March 1,  
14 starting in 2024, by an amount in proportion to the increase, if any, for January 1 through  
15 December 31 of the prior calendar year, in the Consumer Price Index, All Urban Consumers,  
16 Seattle-Tacoma-Bellevue, WA, All Items (1982-1984=100), as determined by the U.S.  
17 Department of Labor, Bureau of Labor Statistics, or successor index, unless the Director of  
18 Housing determines that a lower fee covers the cost of monitoring compliance.

19                                   6. Additional standards for ~~((owner occupied))~~ ownership housing((-))  
20                                   ~~((For owner-occupied housing, the initial sale price of the unit and~~  
21 ~~subsequent sale prices upon resale of))~~ a. Initial and resale prices for the affordable housing unit  
22 ~~((during the 50-year affordability period))~~ shall be restricted to an amount determined by the  
23 Director of Housing to be affordable to an income-eligible household((-, such that the annualized



1 ~~housing payment for the unit does not exceed 35 percent of the annual income of an income-~~  
2 ~~eligible household, adjusted by the household size expected to occupy the unit based on the~~  
3 ~~number of bedrooms. The method to determine the sale price of the unit, subject to approval by~~  
4 ~~the Director of Housing, includes mortgage principal and interest payments as calculated by~~  
5 ~~prevailing interest rates, real estate taxes, insurance, homeowner association dues and any other~~  
6 ~~housing cost deemed reasonable by the Director of Housing, and requirements relating to down-~~  
7 ~~payment amount and homebuyer contributions)). The Office of Housing will establish by rule the~~  
8 ~~formula for calculating maximum affordable prices for initial sales and resales to allow modest~~  
9 ~~growth in homeowner equity while maintaining long-term affordability for income-eligible~~  
10 ~~buyers.~~

11           b. The affordable housing unit shall be subject to recorded instruments  
12 satisfactory to the Director of Housing providing for limits on sale and resale prices ((~~on any~~

13 ~~resale consistent with the affordability restriction on the same basis)) according to Section~~  
14 23.58A.004 for a minimum period of 50 years.

15           c. Periodically as may be required by the Director of Housing, but no less  
16 than annually, the applicant or third-party stewardship entity, as applicable, shall submit to the  
17 Office of Housing a written report demonstrating compliance with and housing outcomes of this  
18 Section 23.58A.014. The report shall include required information and supporting  
19 documentation, verified upon the owner's oath or affirmation and in a form prescribed by the  
20 Office of Housing. The Director of Housing is authorized to assess a late fee of \$50 per day,  
21 which shall accrue until the report is submitted, starting 14 days from the date of the Office of  
22 Housing's notice that the report is overdue.

1                                    d. The owner of each ownership affordable housing unit shall pay to the  
2 Office of Housing or third-party stewardship entity, as applicable, an annual fee payable in 12  
3 equal payments for the purpose of monitoring compliance with this Section 23.58A.014. The fee  
4 shall be established by the Director of Housing by rule.

5                                    7. Additional standards for on-site performance. If the affordable housing is  
6 provided within the development ~~((using))~~ that includes the bonus residential floor area, the  
7 affordable housing shall be completed and ready for occupancy at or before the time when a  
8 certificate of occupancy is issued for any other units in the development ~~((using))~~ that includes  
9 the bonus residential floor area, and as a condition to any right of the applicant to such a  
10 certificate of occupancy.

11                                    8. Additional standards for off-site performance. If the affordable housing is not  
12 provided within the development ~~((using))~~ that includes the bonus residential floor area, it may  
13 be provided off-site according to the following standards:

14                                    a. ~~((Development that uses bonus residential floor area within the South~~  
15 ~~Lake Union Urban Center must provide off-site))~~ Off-site affordable housing must be provided  
16 within the South Lake Union Urban Center if the development that includes bonus residential  
17 floor area is within the South Lake Union Urban Center. ~~((Outside))~~ If the development that  
18 includes bonus residential floor area is outside the South Lake Union Urban Center, the  
19 ~~((applicant shall demonstrate to the satisfaction of the Director of Housing that the))~~ off-site  
20 affordable housing ~~((is located))~~ must be in Seattle city limits, in priority order, (1) within the  
21 same urban center or village as the development ~~((using the bonus residential floor area or)),~~ (2)  
22 within 1 mile of the development ~~((using the bonus residential floor area or that it is infeasible~~  
23 ~~for the off-site affordable housing to be located within this area. If the affordable housing is not~~

1 ~~located within the same urban center or village as the development using the bonus residential~~  
2 ~~floor area or within 1 mile of the development using the bonus residential floor area, it shall be:~~

3 ~~1) located within Seattle city limits and), (3) within 0.5 mile of a~~  
4 ~~light rail or bus rapid transit station((; or~~

5 ~~2) if the applicant demonstrates that providing the affordable~~  
6 ~~housing in such a location is also infeasible, then the Director of Housing may allow the~~  
7 ~~affordable housing to be provided within Seattle city limits and), or (4) within 0.25 mile of a bus~~  
8 ~~or streetcar stop.~~

9 b. The applicant shall provide to the City an irrevocable letter of credit, or  
10 other sufficient security approved by the Director of Housing, prior to issuance and as a  
11 condition of issuance of any permit after the first building permit for the development ((~~using~~))  
12 that includes the bonus residential floor area and before any permit for any construction activity  
13 other than for excavation and shoring for the development is issued, unless completion of the  
14 affordable housing has ((~~already~~)) been documented to the satisfaction of the Director of  
15 Housing and the affordable housing is subject to recorded restrictions satisfactory to the Director  
16 of Housing. The letter of credit or other security shall be in an amount equal to the ((~~Payment~~  
17 ~~Option~~)) payment option amount calculated according to provisions in subsection 23.58A.014.C,  
18 plus an amount equal to interest on such payment. The Director of Housing is authorized to  
19 adopt, by rule, terms and conditions of such security including the amount of security and rate of  
20 annual interest, conditions on which the City shall have a right to draw on the letter of credit or  
21 other security, and terms should the City become entitled to realize on any such security.

1 c. Any failure of the affordable housing to satisfy the requirements of this  
2 subsection 23.58A.014.B shall not affect the right to maintain or occupy the bonus residential  
3 floor area if the Director of Housing certifies to the Director that either:

4 1) ~~((the))~~ The applicant has provided the City with a letter of credit  
5 or other sufficient security pursuant to subsection 23.58A.014.B.8.b; or

6 2) ~~((there))~~ There have been recorded one or more agreements or  
7 instruments satisfactory to the Director of Housing providing for occupancy and affordability  
8 restrictions on affordable housing with the minimum floor area determined under this Section  
9 23.58A.014, all affordable housing has been completed, and the affordable housing is on a  
10 different lot from the bonus residential floor area or is in one or more condominium units  
11 separate from the bonus residential floor area under condominium documents acceptable to the  
12 Director of Housing.

13 d. Unless and until the Director of Housing shall certify as set forth in  
14 subsection 23.58A.014.B.8.c, it shall be a continuing permit condition, whether or not expressly  
15 stated, for each development obtaining bonus residential floor area based on the provision of  
16 housing to which this Section 23.58A.014 applies, that the affordable housing shall be  
17 maintained in compliance with the terms of this Section 23.58A.014 and any applicable  
18 provisions of the zone, as documented to the satisfaction of the Director of Housing.

19 ~~((9. Limits on subsidies for affordable housing~~

20 a. ~~Except as allowed in subsections 23.58A.014.B.9.b and~~  
21 ~~23.58A.014.B.9.c, no bonus residential floor area may be earned by providing affordable housing~~  
22 ~~if:~~



1 ~~option, without additional City subsidy in an amount greater than the payment in lieu amount~~  
2 ~~that would otherwise be paid.))~~ 9. Affordable housing; no other restrictions. Affordable housing  
3 units provided according to this Section 23.58A.014 and restricted units provided for any other  
4 reason, including but not limited to a property tax exemption or loans and grants, must be  
5 different units.

6 10. ~~((Fees shall be paid by the applicant and owner of affordable housing to the~~  
7 ~~Seattle Department of Construction and Inspections and the Office of Housing as specified under~~  
8 ~~Chapter 22.900G.))~~ The applicant for a project that includes bonus floor area according to this  
9 Section 23.58A.014 shall pay housing review fees according to Section 22.900G.015.

10 C. Payment option. The payment option is available only where the maximum height for  
11 residential use under the provisions of the zone is more than 85 feet and only if the Director  
12 determines that the payment achieves a result equal to or better than providing the affordable  
13 housing on-site and the payment does not exceed the approximate cost of developing the same  
14 number and quality of housing units that would otherwise be developed. The amount of the in-  
15 lieu payment made at the time specified in subsection 23.58A.014.C.2 shall be based on the  
16 payment amount ~~((that is))~~ in effect ~~((when))~~ on the vesting date ~~((of a))~~ for the Master Use  
17 Permit ~~((occurs))~~ under Section 23.76.026 or, if a Master Use Permit is not required, on the filing  
18 date for the valid and fully complete permit application.

19 1. Amount of payments

20 a. ~~((Except as provided in subsection 23.58A.014.C.1.b, in))~~ In lieu of all  
21 or part of the performance option, an applicant may pay to the City ~~(((\$15.15))~~ \$29.15 per square  
22 foot of gross bonus residential floor area. Cash payment amounts shall automatically adjust  
23 according to subsection 23.58A.014.C.1.b.

1                                    b. ~~((In the South Lake Union Urban Center, in lieu of all or part of the~~  
2 ~~performance option, an applicant may pay to the City \$21.68 per square foot of gross bonus~~  
3 ~~residential floor area. On July 1, 2014, and on the same day annually thereafter the))~~ The in-lieu  
4 payment amount in ((this)) subsection ((23.58A.014.C.1.b)) 23.58A.014.C.1.a shall  
5 automatically adjust annually on March 1, starting in 2024, by an amount in proportion to ((the  
6 ~~change))~~ the increase, if any, for January 1 through December 31 of the prior calendar year, in  
7 the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bellevue, WA, All Items  
8 (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or  
9 successor index((, from the time the in-lieu payment was established or last adjusted)).

10                                    2. Timing of payments. Cash payments shall be made prior to issuance and as a  
11 condition to issuance of any permit after the first building permit for a development and before  
12 any permit for any construction activity other than excavation and shoring is issued, unless the  
13 applicant elects in writing to defer payment. If the applicant elects to defer payment, then the  
14 issuance of any certificate of occupancy for the development shall be conditioned upon payment  
15 of the full amount of the cash payment determined under this Section 23.58A.014, plus an  
16 ~~((interest factor))~~ inflation adjustment equal to that amount multiplied by the increase, if any, in  
17 the Consumer Price Index, All Urban Consumers, ~~((West Region))~~ Seattle-Tacoma-Bellevue,  
18 WA, All Items (1982-84=100), ((as published monthly,)) from the ((last prior to)) most recent  
19 month for which data are available on or before the vesting date ((when payment would have  
20 been required if deferred payment had not been elected)) for the Master Use Permit under  
21 Section 23.76.126 or, if a Master Use Permit is not required, the filing date for the valid and fully  
22 complete permit application, to the ((last)) most recent month for which data are available at the  
23 time of payment. If the index specified in this subsection 23.58A.014.C.2 is not available for any





1                   1. Amount of affordable housing. An applicant using the housing performance  
2 option shall provide affordable housing units with ~~((a gross floor))~~ total net unit area, measured  
3 according to subsection 23.86.007.B, at least equal to 15.6 percent of gross bonus non-residential  
4 floor area ~~((obtained through the performance option))~~ achieved according to this subsection  
5 23.58A.024.B.

6                   2. Agreement. The City and the affordable housing owner shall enter into an  
7 agreement specifying the affordable housing requirements under this subsection 23.58A.024.B.  
8 This agreement shall be executed and recorded prior to issuance and as a condition to issuance of  
9 any permit after the first building permit for the development ~~((using))~~ that includes the bonus  
10 non-residential floor area and before any permit for any construction activity other than  
11 excavation and shoring for the development is issued. If the first building permit is issued for the  
12 structural frame for the structure that includes affordable housing according to this Section  
13 23.58A.024 and such structure is acquired to provide City-funded low-income housing, the  
14 agreement(s) according to this subsection 23.58A.024.B.2 and subsection 23.58A.024.B.6.b may  
15 be released at the sole discretion of the Director of Housing.

16                   3. Duration. Affordable housing shall serve only income-eligible households for a  
17 minimum period of 50 years from the ~~((later of the date when the agreement between the housing~~  
18 ~~owner and the City is recorded, or the))~~ date when a certificate of occupancy is issued, or if no  
19 certificate of occupancy is required the date of the final building permit inspection, for the  
20 affordable housing ((becomes available for occupancy as determined by the City)).

21                   4. Unit size and distribution. Affordable housing shall be provided in a range of  
22 sizes comparable to those units that are available to other residents. To the extent practicable, the  
23 ~~((number of bedrooms in))~~ affordable housing units must be in the same proportion as ~~((the~~

1 ~~number of bedrooms in~~) total units ((within the entire)) in the development in terms of size and  
2 configuration. The affordable units shall generally be distributed throughout the development  
3 and have substantially the same functionality as the other units in the development.

4 5. Additional standards for rental housing(~~(-For rental housing:))~~)

5 a. (~~monthly~~) Monthly rent, including basic utilities, shall not exceed 30  
6 percent of the applicable income limit for the affordable housing unit, all as determined by the  
7 Director of Housing, for a minimum period of 50 years(~~(; and))~~ .

8 b. (~~the housing owner shall submit a report to the Office of Housing~~  
9 ~~annually that documents how the affordable housing meets the terms of the recorded~~  
10 ~~agreement.)) Periodically as may be required by the Director of Housing, but no less than  
11 annually, the owner of the affordable housing shall submit to the Office of Housing a written  
12 report demonstrating compliance with and housing outcomes of this Section 23.58A.024. The  
13 report shall include required information and supporting documentation, verified upon the  
14 owner's oath or affirmation and in a form prescribed by the Office of Housing. The Director of  
15 Housing is authorized to assess a late fee of \$50 per day, which shall accrue until the report is  
16 submitted, starting 14 days from the date of the Office of Housing's notice that the report is  
17 overdue.~~

18 c. The owner of the affordable housing shall pay the Office of Housing an  
19 annual fee of \$190 per affordable housing unit for the purpose of monitoring compliance  
20 according to this Section 23.58A.024. The fee shall automatically adjust annually on March 1,  
21 starting in 2024, by an amount in proportion to the increase, if any, for January 1 through  
22 December 31 of the prior calendar year, in the Consumer Price Index, All Urban Consumers,

1 Seattle-Tacoma-Bellevue, WA, All Items (1982-1984=100), as determined by the U.S.  
2 Department of Labor, Bureau of Labor Statistics, or successor index.

3 6. Additional standards for (~~owner-occupied~~) ownership housing(~~(-)~~)

4 (~~For owner-occupied housing, the initial sale price of the unit and~~  
5 ~~subsequent sale prices upon resale of~~) a. Initial and resale prices for the affordable housing unit  
6 (~~during the 50-year affordability period~~) shall be restricted to an amount determined by the  
7 Director of Housing to be affordable to an income-eligible household(~~(, such that the annualized~~  
8 ~~housing payment)~~) for the unit does not exceed 35 percent of the annual income of an income-  
9 eligible household, ~~adjusted by the household size expected to occupy the unit based on the~~  
10 ~~number of bedrooms. The method to determine the sale price of the unit, subject to approval by~~  
11 ~~the Director of Housing, includes mortgage principal and interest payments as calculated by~~  
12 ~~prevailing interest rates, real-estate taxes, insurance, homeowner association dues and any other~~  
13 ~~housing cost deemed reasonable by the Director of Housing, and requirements relating to down-~~  
14 ~~payment amount and homebuyer contributions).~~ The Office of Housing will establish by rule the  
15 formula for calculating maximum affordable prices for initial sales and resales to allow modest  
16 growth in homeowner equity while maintaining long-term affordability for income-eligible  
17 buyers.

18 b. The affordable housing unit shall be subject to recorded instruments  
19 satisfactory to the Director of Housing providing for limits on sale and resale prices (~~(on any~~  
20 ~~resale consistent with the affordability restriction on the same basis)~~) according to Section  
21 23.58A.004 for a minimum period of 50 years.

22 c. Periodically as may be required by the Director of Housing, but no less  
23 than annually, the applicant or third-party stewardship entity, as applicable, shall submit to the

1 Office of Housing a written report demonstrating compliance with and housing outcomes of this  
2 Section 23.58A.024. The report shall include required information and supporting  
3 documentation, verified upon the owner’s oath or affirmation and in a form prescribed by the  
4 Office of Housing. The Director of Housing is authorized to assess a late fee of \$50 per day,  
5 which shall accrue until the report is submitted, starting 14 days from the date of the Office of  
6 Housing’s notice that the report is overdue.

7 d. The owner of each ownership affordable housing unit shall pay to the  
8 Office of Housing or third-party stewardship entity, as applicable, an annual fee payable in 12  
9 equal payments for the purpose of monitoring compliance with this Section 23.58A.024. The fee  
10 shall be established by the Director of Housing by rule.

11 7. Additional standards for on-site performance. If the affordable housing is  
12 provided within the development ~~((using))~~ that includes the bonus non-residential floor area, the  
13 affordable housing shall be completed and ready for occupancy at or before the time when a  
14 certificate of occupancy is issued for any chargeable floor area in the development ~~((using))~~ that  
15 includes the bonus non-residential floor area, and as a condition to any right of the applicant to  
16 such a certificate of occupancy.

17 8. Additional standards for off-site performance. If the affordable housing is not  
18 provided within the development ~~((using))~~ that includes the bonus non-residential floor area, it  
19 may be provided off-site according to the following standards:

20 a. ~~((Developments that use))~~ If the development that includes bonus non-  
21 residential floor area is within the South Lake Union Urban Center ~~((shall provide))~~ , the off-site  
22 affordable housing must be located within the South Lake Union Urban Center or within one  
23 mile of the development ~~((using))~~ that includes the bonus non-residential floor area and no more

1 than 0.25 mile from the South Lake Union Urban Center boundary. ~~((Outside))~~ If the  
2 development that includes bonus non-residential floor area is outside of the South Lake Union  
3 Urban Center, the ~~((applicant shall demonstrate to the satisfaction of the Director of Housing that~~  
4 ~~the))~~ off-site affordable housing ~~((is located))~~ must be in Seattle city limits, in priority order, (1)  
5 within the same urban center or village as the development ~~((using the bonus residential floor~~  
6 ~~area or))~~ , (2) within one mile of the development ~~((using the bonus non-residential floor area or~~  
7 ~~that it is infeasible for the off-site affordable housing to be located within this area. If the~~  
8 ~~affordable housing is not located within the same urban center or village as the development~~  
9 ~~using the bonus residential floor area or within one mile of the development using the bonus non-~~  
10 ~~residential floor area, it shall be located either:~~

11 ~~1) within the Seattle city limits and))~~ , (3) within 0.5 mile of a light  
12 rail or bus rapid transit station~~((; or~~  
13 ~~2) if the applicant demonstrates that providing the affordable~~  
14 ~~housing in such a location is also infeasible, then the Director of Housing may allow the~~  
15 ~~affordable housing to be provided in the city within the Seattle city limits and))~~ , or (4) within  
16 0.25 mile of a bus or streetcar stop.

17 b. The applicant shall provide to the City an irrevocable letter of credit, or  
18 other sufficient security approved by the Director of Housing, prior to and as a condition of  
19 issuance of any permit after the first building permit for the development ~~((using the))~~ that  
20 includes bonus nonresidential floor area and before any permit for construction activity other  
21 than excavation and shoring is issued, unless completion of the affordable housing has  
22 ~~((already))~~ been documented to the satisfaction of the Director of Housing and the affordable  
23 housing is subject to recorded restrictions satisfactory to the Director of Housing. The letter of

1 credit or other security shall be in an amount equal to the payment option amount calculated  
2 according to provisions in subsection 23.58A.024.D, plus an amount equal to interest on such  
3 payment. The Director of Housing is authorized to adopt, by rule, terms and conditions of such  
4 security including the amount of security and rate of annual interest, conditions on which the  
5 City shall have a right to draw on the letter of credit or other security, and terms should the City  
6 become entitled to realize on any such security.

7 c. Any failure of the affordable housing to satisfy the requirements of this  
8 subsection 23.58A.024.B shall not affect the right to maintain or occupy the bonus nonresidential  
9 floor area if the Director of Housing certifies to the Director that either:

10 1) ~~((the))~~ The applicant has provided the City with a letter of credit  
11 or other sufficient security pursuant to subsection 23.58A.024.B.8.b; or

12 2) ~~((there))~~ There have been recorded one or more agreements or  
13 instruments satisfactory to the Director of Housing providing for occupancy and affordability  
14 restrictions on affordable housing with the minimum floor area determined under this Section  
15 23.58A.024, all affordable housing has been completed, and the affordable housing is on a  
16 different lot from the bonus nonresidential floor area or is in one or more condominium units  
17 separate from the bonus ~~((development))~~ nonresidential floor area under condominium  
18 documents acceptable to the Director of Housing.

19 d. Unless and until the Director of Housing certifies as set forth in  
20 subsection 23.58A.024.B.8.c, it shall be a continuing permit condition, whether or not expressly  
21 stated, for each development obtaining bonus nonresidential floor area based on the provision of  
22 housing to which this Section 23.58A.024 applies, that the affordable housing shall be

1 maintained in compliance with the terms of this Section 23.58A.024 and any applicable  
2 provisions of the zone, as documented to the satisfaction of the Director of Housing.

3 ~~((9. Limits on subsidies for affordable housing~~

4 ~~a. Except as allowed in subsection 23.58A.014.B.9.b and~~  
5 ~~23.58A.014.B.9.c, no bonus nonresidential floor area may be earned by providing affordable~~  
6 ~~housing if:~~

7 ~~1) Any person is receiving or will receive with respect to the~~  
8 ~~affordable housing any charitable contributions or public subsidies for housing development or~~  
9 ~~operation, including, but not limited to, tax exempt bond financing, tax credits, federal loans or~~  
10 ~~grants, City of Seattle housing loans or grants, county housing funds, and State of Washington~~  
11 ~~housing funds; or~~

12 ~~2) The housing is or would be, independent of the requirements for~~  
13 ~~the bonus nonresidential floor area and Chapter 5.73, subject to any restrictions on the income of~~  
14 ~~occupants, rents or sale prices.~~

15 ~~b. For the purpose of this subsection 23.58A.024.B.9, the qualification for~~  
16 ~~and use of property tax exemptions pursuant to Chapter 5.73, or any other program implemented~~  
17 ~~pursuant to RCW 84.14, does not constitute a subsidy and any related conditions regarding~~  
18 ~~incomes, rent or sale prices do not constitute restrictions.~~

19 ~~c. As an exception to subsection 23.58A.024.B.9.a.1, the Director of~~  
20 ~~Housing may allow the building or buildings in which the affordable housing is located to be~~  
21 ~~financed in part with subsidies based on the determination that:~~





1 23.76.026 or, if no Master Use Permit is required, on the filing date for the valid and fully  
2 complete permit application.

3 a. (~~Except as provided in subsection 23.58A.024.D.1.b, in~~) In lieu of all  
4 or part of the performance option for affordable housing, an applicant may provide a cash  
5 contribution to the City of (~~(\$18.75)~~) \$33.31 per (~~(gross)~~) square foot of gross bonus  
6 nonresidential floor area, if the Director of Housing determines that the payment achieves a  
7 result equal to or better than providing the low-income housing on-site and the payment does not  
8 exceed the approximate cost of developing the same number and quality of housing units that  
9 would otherwise be developed. In lieu of all or part of the performance option for child care, the  
10 applicant may provide a cash contribution to the City of (~~(\$3.25)~~) \$5.76 per (~~(gross)~~) square foot  
11 of gross bonus nonresidential floor area to be used for child care facilities, to be administered by  
12 the Human Services Department. Cash payment amounts shall automatically adjust according to  
13 subsection 23.58A.024.D.1.b.

14 (~~(b. Affordable housing and child care in the South Lake Union Urban~~  
15 ~~Center.~~

16 ~~1) In lieu of all or part of the performance option for affordable~~  
17 ~~housing an applicant may provide a cash contribution to the City for affordable housing~~  
18 ~~according to the following schedule:~~

19 ~~a) From the effective date of Council Bill 117603 to~~  
20 ~~December 31, 2013, \$20.82 per gross square foot of bonus nonresidential floor area;~~

21 ~~b) From January 1, 2014 to June 30, 2014, \$22.88 per gross~~  
22 ~~square foot of bonus nonresidential floor area;~~

1 ~~e) July 1, 2014 to June 30, 2015, the sum of \$24.95 per~~  
2 ~~gross square foot of bonus nonresidential floor area plus the product of \$24.95 per gross square~~  
3 ~~foot of bonus nonresidential floor area times the 2013 annual average change in the Consumer~~  
4 ~~Price Index, All Urban Consumers, Seattle-Tacoma metropolitan area, All Items (1982-84 =~~  
5 ~~100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor~~  
6 ~~index; and~~

7 ~~d) On July 1, 2015 and on the same day annually thereafter~~  
8 ~~the in-lieu payment amount in this subsection 23.58A.024.D.1.b.1 shall automatically adjust in~~  
9 ~~proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma~~  
10 ~~metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor,~~  
11 ~~Bureau of Labor Statistics, or successor index, from January 1, 2014, or the time the in-lieu~~  
12 ~~payment was last adjusted, whichever is later.~~

13 ~~2) In lieu of all or part of the performance option for child care, an~~  
14 ~~applicant may provide a cash contribution to the City to be used for child care facilities, to be~~  
15 ~~administered by the Human Services Department, according to the following schedule:~~

16 ~~a) From the effective date of Council Bill 117603 to~~  
17 ~~December 31, 2013, \$3.61 per gross square foot of bonus nonresidential floor area;~~

18 ~~b) From January 1, 2014 to June 30, 2014, \$3.97 per gross~~  
19 ~~square foot of bonus nonresidential floor area;~~

20 ~~e) July 1, 2014 to June 30, 2015, the sum of \$4.32 per gross~~  
21 ~~square foot of bonus nonresidential floor area plus the product of \$4.32 per gross square foot of~~  
22 ~~bonus nonresidential floor area times the 2013 annual average change in the Consumer Price~~

1 ~~Index, All Urban Consumers, Seattle Tacoma metropolitan area, All Items (1982-84 = 100), as~~  
2 ~~determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index; and~~

3 ~~d) On July 1, 2015 and on the same day annually thereafter~~  
4 ~~the in lieu payment amount in this subsection 23.58A.024.D.1.b.2 shall automatically adjust in~~  
5 ~~proportion to the change in the Consumer Price Index, All Urban Consumers, Seattle Tacoma~~  
6 ~~metropolitan area, All Items (1982-84 = 100), as determined by the U.S. Department of Labor,~~  
7 ~~Bureau of Labor Statistics, or successor index, from January 1, 2014, or the time the in lieu~~  
8 ~~payment was last adjusted, whichever is later.)) b. The in lieu cash contribution amounts for~~  
9 ~~affordable housing and child care shall automatically adjust annually on March 1, starting in~~  
10 ~~2024, by an amount in proportion to the increase, if any, for January 1 through December 31 of~~  
11 ~~the prior calendar year, in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-~~  
12 ~~Bellevue, WA, All Items (1982-1984=100), as determined by the U.S. Department of Labor,~~  
13 ~~Bureau of Labor Statistics, or successor index.~~

14 2. Timing of payments. Cash payments shall be made prior to issuance and as a  
15 condition to issuance of any permit after the first building permit for a development ((~~using the~~)  
16 ~~that includes~~ bonus nonresidential floor area and before any permit for any construction activity  
17 other than excavation and shoring is issued.

18 3. Deposit and use of payments. Cash payments in lieu of affordable housing and  
19 child care facilities shall be deposited in special accounts established solely to support the  
20 development of housing for income-eligible households and child care facilities. Earnings on  
21 balances in the special accounts shall accrue to those accounts.

22 a. The Director of Housing shall use cash payments in lieu of affordable  
23 housing and any earnings thereon to support the development of housing for income-eligible



1                   1. TDP calculation. The maximum amount of TDP floor area that may be  
2 transferred from a sending lot is the amount by which the residential floor area allowed under the  
3 ~~((base floor area ratio (FAR)))~~ base FAR, or floor area that could be allowed under the base  
4 residential height as determined by the Director if no base residential floor area exists, exceeds  
5 the sum of:

- 6                   a. Any nonexempt floor area existing on the sending lot; plus
- 7                   b. Any TDP or TDR previously transferred from the sending lot.

8                   2. TDR calculation. The maximum amount of TDR floor area that may be  
9 transferred from a sending lot is the amount by which the non-residential floor area allowed  
10 under the base FAR of the sending lot exceeds the sum of:

- 11                   a. Any nonexempt floor area existing on the sending lot; plus
- 12                   b. Any TDP or TDR previously transferred from the sending lot.

13                   3. Floor area limit after transfer. After TDP or TDR is transferred from a sending  
14 lot, the total amount of residential and non-residential floor area that may then be established on  
15 the sending lot, other than floor area exempt from limits on floor area under the provisions of the  
16 zone, shall be as follows:

17                   a. The amount of residential floor area that may be established shall be the  
18 base residential floor area, or floor area that could be allowed under the base residential height as  
19 determined by the Director if no base residential floor area exists, plus any net amount of TDP  
20 previously transferred to that lot, minus the total of the existing nonexempt floor area on the lot  
21 and the amount of TDP or TDR transferred from the lot; and

22                   b. The amount of non-residential floor area that may be established shall  
23 be the base non-residential floor area, plus any net amount of TDR previously transferred to that

1 lot, minus the total of the existing nonexempt floor area on the lot and the amount of TDP or  
2 TDR transferred from the lot.

3 \* \* \*

4 E. Standards for housing TDR sending lots

5 1. Housing on lots from which housing TDR is transferred shall be rehabilitated to  
6 the extent required to provide decent, sanitary, and habitable conditions, in compliance with  
7 applicable codes, and so as to have an estimated minimum useful life of at least 50 years from  
8 the time of the TDR transfer, as approved by the Director of Housing. If housing TDR is  
9 proposed to be transferred prior to the completion of work necessary to satisfy this subsection  
10 23.58A.042.E, the Director of Housing may require, as a condition to such transfer, that security  
11 be deposited with the City to ensure the completion of such work.

12 2. ~~((The housing units on a lot from which housing TDR is transferred, and that  
13 are committed to affordable housing))~~ Restricted units provided as a condition to ~~((eligibility of  
14 the lot as a TDR sending site,))~~ transfer of development rights shall be generally comparable in  
15 their average size and quality of construction to other ~~((housing))~~ units in the same structure, in  
16 the judgment of the Director of Housing, after completion of any rehabilitation or construction  
17 undertaken in order to qualify as a TDR sending lot.

18 3. For transfers of housing TDR, the owner of the sending lot shall execute and  
19 record an agreement, with the written consent of all holders of encumbrances on the sending lot,  
20 unless such consent is waived by the Director of Housing for good cause, to provide for the  
21 maintenance of the required housing on the sending lot for a minimum of 50 years. Such  
22 agreement shall commit to limits on rent and occupancy consistent with the definition of housing  
23 TDR site and acceptable to the Director of Housing.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

\* \* \*

Section 46. Section 23.58B.010 of the Seattle Municipal Code, last amended by Ordinance 125233, is amended as follows:

**23.58B.010 Intent for implementation**

Section 1 of ~~((Council Bill 118854))~~ Ordinance 125233 provides a statement of intent for implementation of this Chapter 23.58B that generally addresses the Council’s intent as to an initial implementation phase of this Chapter 23.58B, the setting and changing of payment and performance amounts during that initial implementation phase, review of ~~((program performance))~~ outcomes, the amendment of payment and performance amounts after the initial implementation phase, and the establishment of additional processes for modifying dimensional development standards and/or payment and performance amounts.

Section 47. Section 23.58B.020 of the Seattle Municipal Code, last amended by Ordinance 125791, is amended as follows:

**23.58B.020 Applicability and general requirements**

\* \* \*

~~C. ((Commercial development is exempt from the requirements according to this Chapter 23.58B if the structure containing commercial uses also contains floor area in residential use that is publicly funded and/or has received an allocation of federal low income housing tax credits, and is subject to a regulatory agreement, covenant, or other legal instrument recorded on the property title and enforceable by The City of Seattle, Washington State Housing Finance Commission, State of Washington, King County, U.S. Department of Housing and Urban Development, or other similar entity as approved by the Director of Housing, (1) which restricts at least 40 percent of the residential units to occupancy by households earning no greater than 60~~

1 ~~percent of median income, and controls the rents that may be charged, for a minimum period of~~  
2 ~~40 years, or (2) which restricts at least 40 percent of the residential units to be sold to households~~  
3 ~~earning no greater than 80 percent of median income, for a minimum period of 50 years. The~~  
4 ~~sale price for sales subsequent to the initial sale shall be calculated to allow modest growth in~~  
5 ~~homeowner equity while maintaining long term affordability for future buyers. All buyers of~~  
6 ~~such an ownership unit subsequent to the initial sale shall be households with incomes no greater~~  
7 ~~than 80 percent of median income at initial occupancy.)) Exemption. Low-income housing that  
8 includes floor area in commercial use is exempt from the requirements of this Chapter 23.58B.~~

9 D. Relationship to incentive zoning. Where the provisions of the zone refer to this  
10 Chapter 23.58B and where bonus non-residential floor area or extra non-residential floor area  
11 may be achieved according to the provisions of the zone and/or Chapter 23.58A, the following  
12 provisions apply:

13 1. All requirements to provide (~~low income housing, or~~) affordable housing (~~(as~~  
14 ~~defined in Chapter 23.58A, for achieving)) to gain bonus non-residential floor area or extra non-  
15 residential floor area according to the provisions of the zone and/or Chapter 23.58A shall be  
16 satisfied solely by compliance with this Chapter 23.58B.~~

17 2. Any non-housing requirements for achieving bonus non-residential floor area  
18 or extra non-residential floor area shall be satisfied according to the provisions of the zone and/or  
19 Chapter 23.58A.

20 Section 48. Section 23.58B.025 of the Seattle Municipal Code, last amended by  
21 Ordinance 125233, is amended as follows:

22 **23.58B.025 Permit documentation**

23 A. General



1                   1. For any development to which this Chapter 23.58B applies, the Master Use  
2 Permit application and the first building permit application that includes the structural frame for  
3 the structure shall include the following:

4                   a. The amount of the cash contribution to be provided for affordable  
5 housing impact mitigation, if the applicant elects the payment option according to Section  
6 23.58B.040.

7                   b. The total ~~((square feet))~~ net unit area, measured according to subsection  
8 23.86.007.B, of ((housing required to be)) MHA-C units provided according to subsection  
9 23.58B.050.A(~~(, measured as net unit area,))~~ and a proposal for MHA-C ~~((housing))~~ units  
10 ~~((meeting the))~~ that satisfy requirements ~~((according to))~~ of subsections 23.58B.050.B and  
11 23.58B.050.C, if the applicant elects the performance option according to Section 23.58B.050.

12                   2. Any requests for modifications according to Section 23.58B.030, including all  
13 supporting materials required for a decision on such requests, shall be included in the Master Use  
14 Permit application, or in the first building permit application that includes the structural frame  
15 for the structure if no Master Use Permit is required.

16                   3. The Director shall, as a Type I decision and in consultation with the Director of  
17 Housing, determine:

18                   a. The amount of the cash contribution according to subsection  
19 23.58B.040.A, if the applicant elects the payment option according to Section 23.58B.040;

20                   b. The total ~~((square feet))~~ net unit area, measured according to subsection  
21 23.86.007.B, of ((housing required to be provided)) MHA-C units according to subsection  
22 23.58B.050.A(~~(, measured as net unit area,))~~ and compliance of the proposal for MHA-C  
23 ~~((housing))~~ units with the requirements ~~((according to))~~ of subsections 23.58B.050.B and

1 23.58B.050.C, if the applicant elects the performance option according to Section 23.58B.050;  
2 and

3 c. Any modification according to subsection 23.58B.030.B.

4 4. The Director shall, as a special exception according to Chapter 23.76,  
5 ~~((Procedures for Master Use Permits and Council Land Use Decisions,))~~ in consultation with the  
6 Director of Housing, determine any modification according to subsection 23.58B.030.C or  
7 subsection 23.58B.030.D.

8 5. Substitution of ~~((units of MHA-C housing))~~ MHA-C units according to  
9 subsection ~~((23.58B.050.B.1.e))~~ 23.58B.050.B.15 shall require a separate review and approval  
10 by the Director in consultation with the Director of Housing.

11 6. The applicant for a project subject to this Chapter 23.58B shall pay housing  
12 review fees according to Section 22.900G.015.

13 B. ~~((Timing 1.))~~ Issuance of Master Use Permit. Prior to issuance of a Type II Master Use  
14 Permit, the applicant shall provide the following:

15 ~~((a.))~~ 1. The amount of the cash contribution required according to subsection  
16 23.58B.040.A, if the applicant elects the payment option according to Section 23.58B.040;

17 ~~((b.))~~ 2. If the applicant elects the performance option according to Section  
18 23.58B.050:

19 ~~((1.))~~ a. The total square feet of housing required to be provided according  
20 to subsection 23.58B.050.A, measured as net unit area;

21 ~~((2.))~~ b. A proposal for MHA-C ~~((housing))~~ units meeting the  
22 requirements ~~((according to))~~ of subsections 23.58B.050.B and 23.58B.050.C;

1                                    ~~((3))~~ c. A draft agreement according to subsection ~~((23.58B.050.B.1.g))~~  
2 23.58B.050.B.17; and

3                                    ~~((4))~~ d. A draft developer’s agreement according to subsection  
4 ~~((23.58B.050.B.2.e))~~ 23.58B.050.C.3, if applicable.

5                                    ~~((2. Building))~~ C. Issuance of building permit. Prior to issuance of the first building  
6 permit that includes the structural frame for the structure containing the commercial development  
7 to which this Chapter 23.58B applies, the applicant shall provide the following:

8                                    ~~((a))~~ 1. If the applicant elects to comply with this Chapter 23.58B through the  
9 payment option according to Section 23.58B.040:

10                                   ~~((1))~~ a. Final plans that include the structural frame for the structure  
11 showing the calculation of the amount of the cash contribution required according to subsection  
12 23.58B.040.A; and

13                                   ~~((2))~~ b. Documentation from the Director of Housing of receipt of  
14 payment of the cash contribution required according to subsection 23.58B.040.A.

15                                   ~~((b))~~ 2. If the applicant elects to comply with this Chapter 23.58B through the  
16 performance option according to Section 23.58B.050:

17                                   ~~((1))~~ a. Final plans that include the structural frame for the structure that:

18   ~~((a))~~ 1) Include the calculation of total square feet of housing  
19 required to be provided according to subsection 23.58B.050.A and actual square feet of MHA-C  
20 ~~((housing))~~ units to be provided, measured as net unit area; and

21   ~~((b))~~ 2) Demonstrate compliance of the proposal for MHA-C  
22 ~~((housing))~~ units with the requirements ~~((according to))~~ of subsections 23.58B.050.B and  
23 23.58B.050.C;

1                                    ((2)) b. The executed and recorded agreement required according to  
2 subsection ((23.58B.050.B.1.q)) 23.58B.050.B.17;

3                                    ((3)) c. Documentation of issuance of the first building permit that  
4 includes the structural frame for the structure that includes the MHA-C ((housing)) units, if the  
5 MHA-C ((housing is)) units are located in a different structure than the structure containing the  
6 commercial development to which this Chapter 23.58B applies;

7                                    ((4)) d. The executed developer’s agreement required according to  
8 subsection ((23.58B.050.B.2.e)) 23.58B.050.C.3, if applicable; and

9                                    ((5)) e. Documentation from the Director of Housing of receipt of the  
10 letter of credit required according to subsection ((23.58B.050.B.2.d)) 23.58B.050.C.4, if  
11 applicable.

12                                    ((e-)) 3. The applicant may change its election between performance and payment  
13 prior to issuance of the first building permit that includes the structural frame for the structure,  
14 provided the applicant changing its election shall obtain any necessary approvals affected by the  
15 change in election. Review and approval of a change in election between performance and  
16 payment is a Type I decision, unless the requested change affects a modification according to  
17 subsection 23.58B.030.C or subsection 23.58B.030.D.

18                                    Section 49. Section 23.58B.040 of the Seattle Municipal Code, last amended by  
19 Ordinance 125792, is amended as follows:

20 **23.58B.040 Mitigation of impacts – ((payment)) Payment option**

21                                    A. Amount of cash contributions

22                                    1. An applicant complying with this Chapter 23.58B through the payment option  
23 shall provide a cash contribution to the City, calculated by multiplying the payment calculation

1 amount per square foot according to Table A or Table B for 23.58B.040 and Map A for  
 2 23.58B.050, as applicable, by the total square feet of chargeable floor area in commercial use, or  
 3 gross floor area in commercial use that is not underground if there is no FAR limit in the  
 4 underlying zone, as follows:

5 a. Including chargeable floor area in commercial use in the following:

- 6 1) A new structure;
- 7 2) An addition to a structure;
- 8 3) A change of use from residential use to commercial use; or
- 9 4) Any combination of the above; and

10 b. Excluding chargeable floor area in commercial use as follows:

- 11 1) The first 4,000 gross square feet of street-level commercial uses;

12 and

- 13 2) Street-level commercial uses along a designated principal

14 pedestrian street in a Pedestrian designated zone.

Table A for 23.58B.040 Payment calculation amounts: In Downtown, SM-SLU, SM-U, and SM-NG zones	
Zone	Payment calculation amount per square foot
DH1/45	Not applicable
DH2/55	Not applicable
DH2/75	<del>(\$15.00)</del> <u>\$20.25</u>
DH2/85	Not applicable
DMC 75	<del>(\$8.25)</del> <u>\$11.14</u>

DMC 95	<del>(((\$8.00))</del> <u>\$10.80</u>
DMC 85/75-170	<del>(((\$8.00))</del> <u>\$10.80</u>
DMC 145	<del>(((\$10.00))</del> <u>\$13.50</u>
DMC 170	<del>(((\$8.00))</del> <u>\$10.80</u>
DMC 240/290-440	<del>(((\$10.00))</del> <u>\$13.50</u>
DMC 340/290-440	<del>(((\$12.50))</del> <u>\$16.88</u>
DOC1 U/450-U	<del>(((\$14.75))</del> <u>\$19.92</u>
DOC2 500/300-550	<del>(((\$14.25))</del> <u>\$19.24</u>
DRC 85-170	<del>(((\$13.50))</del> <u>\$18.23</u>
DMR/C 75/75-95	<del>(((\$8.00))</del> <u>\$10.80</u>
DMR/C 75/75-170	<del>(((\$8.00))</del> <u>\$10.80</u>
DMR/C 95/75	<del>(((\$17.50))</del> <u>\$23.63</u>
DMR/C 145/75	<del>(((\$17.50))</del> <u>\$23.63</u>
DMR/C 280/125	<del>(((\$14.25))</del> <u>\$19.24</u>
DMR/R 95/65	<del>(((\$14.00))</del> <u>\$18.90</u>
DMR/R 145/65	<del>(((\$16.00))</del> <u>\$21.60</u>
DMR/R 280/65	<del>(((\$16.00))</del> <u>\$21.60</u>
IDM 65-150	Not applicable
IDM 75-85	Not applicable
IDM 85/85-170	<del>(((\$8.00))</del> <u>\$10.80</u>
IDM 165/85-170	<del>(((\$20.75))</del> <u>\$28.02</u>

IDR 45/125-270	<del>(\$8.00)</del> <u>\$10.80</u>
IDR 170	<del>(\$8.00)</del> <u>\$10.80</u>
IDR/C 125/150-270	<del>(\$20.75)</del> <u>\$28.02</u>
PMM-85	Not applicable
All PSM zones	Not applicable
SM-NG 145	<del>(\$13.25)</del> <u>\$16.04</u>
SM-NG 240	<del>(\$20.00)</del> <u>\$24.21</u>
SM-SLU 100/65-145	<del>(\$8.00)</del> <u>\$10.80</u>
SM-SLU 85/65-160	Not applicable
SM-SLU 85-280	<del>(\$8.00)</del> <u>\$10.80</u>
SM-SLU 175/85-280	<del>(\$11.25)</del> <u>\$15.19</u>
SM-SLU 240/125-440	<del>(\$10.00)</del> <u>\$13.50</u>
SM-SLU/R 65/95	<del>(\$8.25)</del> <u>\$11.14</u>
SM-SLU 100/95	<del>(\$8.00)</del> <u>\$10.80</u>
SM-SLU 145	<del>(\$9.25)</del> <u>\$12.49</u>
SM-U 85	<del>(\$7.00)</del> <u>\$9.45</u>
SM-U/R 75-240	<del>(\$20.00)</del> <u>\$27.01</u>
SM-U 75-240	<del>(\$20.00)</del> <u>\$27.01</u>
SM-U 95-320	<del>(\$20.00)</del> <u>\$27.01</u>

1

Table B for 23.58B.040  
 Payment calculation amounts:  
 Outside Downtown, SM-SLU, SM-U, and SM-NG zones

Zone	Payment calculation amount per square foot		
	Low	Medium	High
All Industrial Buffer zones (IB)	Not applicable	Not applicable	Not applicable
All Industrial General zones (IG)	Not applicable	Not applicable	Not applicable
All Master Planned Communities—Yesler Terrace zones (MPC-YT)	Not applicable	Not applicable	Not applicable
IC 85-175	<del>(\$10.00)</del> <u>\$13.50</u>	<del>(\$10.00)</del> <u>\$13.50</u>	<del>(\$10.00)</del> <u>\$13.50</u>
Zones with an (M) suffix	<del>(\$5.00)</del> <u>\$6.75</u>	<del>(\$7.00)</del> <u>\$9.45</u>	<del>(\$8.00)</del> <u>\$10.80</u>
Zones with an (M1) suffix	<del>(\$8.00)</del> <u>\$10.80</u>	<del>(\$11.25)</del> <u>\$15.19</u>	<del>(\$12.75)</del> <u>\$17.22</u>
Zones with an (M2) suffix	<del>(\$9.00)</del> <u>\$12.15</u>	<del>(\$12.50)</del> <u>\$16.88</u>	<del>(\$14.50)</del> <u>\$19.58</u>
Other zones where provisions refer to Chapter 23.58B	<del>(\$5.00)</del> <u>\$6.75</u>	<del>(\$7.00)</del> <u>\$9.45</u>	<del>(\$8.00)</del> <u>\$10.80</u>

1  
 2                   2. Automatic adjustments to payment amounts. ~~((On March 1, 2016, and on the~~  
 3 ~~same day in 2017, 2018, and 2019, the amounts for payment calculations according to Table A~~  
 4 ~~and Table B for 23.58B.040 shall automatically adjust in proportion to the annual change for the~~  
 5 ~~previous calendar year (January 1 through December 31) in the Consumer Price Index, All~~  
 6 ~~Urban Consumers, Seattle Tacoma Bellevue, WA, All Items (1982-84 = 100), as determined by~~  
 7 ~~the U.S. Department of Labor, Bureau of Labor Statistics, or successor index. On March 1, 2020,~~  
 8 ~~and on the same day each year thereafter, the))~~ The amounts for payment calculations according  
 9 to Table A and Table B for 23.58B.040 shall automatically adjust annually on March 1, starting  
 10 in 2024, by an amount in proportion to ((the annual)) the increase, if any, ~~((for the previous~~



1 ~~calendar year (January 1 through December 31))~~ for January 1 through December 31 of the  
2 prior calendar year, in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-  
3 Bellevue, WA, Shelter (1982-84=100), as determined by the U.S. Department of Labor, Bureau  
4 of Labor Statistics, or successor index.

5 B. Deposit and use of cash contributions

6 1. Cash contributions shall be deposited by the Director of Housing in a special  
7 account established solely for preservation and production of housing affordable for renter  
8 households with incomes no higher than 60 percent of median income and for owner households  
9 with incomes no higher than 80 percent of median income. Earnings on balances in the special  
10 account shall accrue to that account.

11 2. Use of cash contributions shall support the preservation and production of  
12 renter-occupied housing within Seattle, or the preservation and production of ~~((owner-occupied))~~  
13 ownership housing within Seattle, as follows. Rental housing supported by the cash contributions  
14 shall be rent- and income-restricted to serve households with incomes no higher than 60 percent  
15 of median income for a minimum period of 50 years, with an expectation of ongoing  
16 affordability. At least ~~((5))~~ five percent of total cash contributions on a yearly basis shall be  
17 dedicated to capital expenditures for development of ~~((owner-occupied))~~ ownership housing.  
18 ~~((Dedicated funds may be committed over multiple years based on the availability of eligible~~  
19 ~~projects. Owner-occupied))~~ Ownership housing supported by the cash contributions shall be  
20 priced to serve and sold to households with incomes no higher than 80 percent of median  
21 income, with resale restrictions for a minimum period of 50 years, with an expectation of  
22 ongoing affordability.

1                   3. For purposes of determining the location for use of cash contributions, the City  
2 shall consider the extent to which the housing advances the following factors:

- 3                   a. Affirmatively furthering fair housing choice;
- 4                   b. Locating within an urban center or urban village;
- 5                   c. Locating in proximity to frequent bus service or current or planned light  
6 rail or streetcar stops;
- 7                   d. Furthering City policies to promote economic opportunity and  
8 community development and addressing the needs of communities vulnerable to displacement;  
9 and
- 10                  e. Locating near developments that generate cash contributions.

11                  4. Each cash contribution shall be expended within five years of collection. Any  
12 cash contribution not so expended shall be refunded with any interest required by law.

13                  Section 50. Section 23.58B.050 of the Seattle Municipal Code, last amended by  
14 Ordinance 126685, is amended as follows:

15 **23.58B.050 Mitigation of impacts – ((performance)) Performance option**

16                  A. Performance option

17                    1. An applicant complying with this Chapter 23.58B through the performance  
18 option shall provide total ((square feet of housing)) net unit area, measured according to  
19 subsection 23.86.007.B, of MHA-C units meeting the standards of subsection 23.58B.050.B,  
20 ((measured as net unit area, calculated by multiplying)) equal to at least the percentage  
21 calculation amount per square foot according to Table A or Table B for 23.58B.050 and Map A  
22 for 23.58B.050, as applicable, multiplied by the total square feet of chargeable floor area in

1 commercial use, or gross floor area in commercial use that is not underground if there is no FAR  
2 limit in the underlying zone, as follows:

3 a. Including chargeable floor area in commercial use in the following:

- 4 1) A new structure;
- 5 2) An addition to a structure;
- 6 3) A change of use from residential use to commercial use; or
- 7 4) Any combination of the above; and

8 b. Excluding chargeable floor area in commercial use as follows:

- 9 1) The first 4,000 gross square feet of street-level commercial uses;

10 and

- 11 2) Street-level commercial uses along a designated principal  
12 pedestrian street in a Pedestrian designated zone.

13 2. If the calculation according to subsection 23.58B.050.A.1 yields fewer than  
14 three MHA-C units (~~(of housing required to meet the standards of subsection 23.58B.050.B.)~~)  
15 using a conversion factor for unit size as determined by the Director, the applicant shall either  
16 round up to three units or provide a cash contribution using the payment option according to  
17 subsection 23.58B.040.A.

18 \* \* \*

19 B. (~~(Performance standards 1.)~~) General performance standards. All MHA-C (~~(housing)~~)  
20 units shall meet the following standards:

21 ~~((a-))~~ 1. Duration. The obligation to provide MHA-C (~~(housing)~~) units shall be for  
22 a minimum period of 75 years from the date of issuance of the certificate of occupancy, or if a  
23 certificate of occupancy is not required, from the date of the final building permit inspection, for

1 the MHA-C (~~(housing)~~) units; provided that, in the case of demolition of a structure containing  
2 both MHA-C (~~(housing)~~) units provided according to this Section 23.58B.050 and units provided  
3 to comply with Chapter 23.58C through the performance option according to Section  
4 23.58C.050, the obligation to provide MHA-C (~~(housing)~~) units shall last no longer than the time  
5 specified according to subsection 23.58C.050.B.1.b.1.

6 ~~((b.))~~ 2. Tenure. MHA-C (~~(housing)~~) units shall be rental housing for eligible  
7 households according to subsection (~~(23.58B.050.B.1.f)~~) 23.58B.050.B.6.

8 ~~((c.))~~ 3. Rent limits. Monthly rent for MHA-C (~~(housing)~~) units shall not exceed  
9 30 percent of 60 percent of median income or, in the case of any unit with net unit area of 400  
10 square feet or less, 30 percent of 40 percent of median income. For purposes of this subsection  
11 (~~(23.58B.050.B.1.e)~~) 23.58B.050.B.3, “monthly rent” includes a utility allowance for heat, gas,  
12 electricity, water, sewer, and refuse collection, to the extent such items are not paid for tenants  
13 by the owner, and also includes any recurring fees that are required as a condition of tenancy.

14 ~~((d.))~~ 4. Type. MHA-C (~~(housing)~~) units shall be dwelling units, except for  
15 accessory dwelling units or detached accessory dwelling units.

16 ~~((e.))~~ 5. Comparability. MHA-C (~~(housing)~~) units shall be comparable to the other  
17 dwelling units to be developed in terms of the following:

18 ~~((1))~~ a. Number and size of bedrooms and bathrooms;

19 ~~((2))~~ b. Net unit area measured as square feet;

20 ~~((3))~~ c. Access to amenity areas;

21 ~~((4))~~ d. Functionality; and

22 ~~((5))~~ e. Term of the lease.

23 ~~((f.))~~ 6. Eligible households. MHA-C (~~(housing)~~) units shall serve only:

1 ((4)) a. At initial occupancy by a household:

2 ((a)) 1) For a unit with net unit area of 400 square feet or less,  
3 households with incomes no higher than 40 percent of median income; or

4 ((b)) 2) For a unit with net unit area of greater than 400 square  
5 feet, households with incomes no higher than 60 percent of median income.

6 ((2)) b. At the time of annual certification according to subsection  
7 ((23.58B.050.B.1.m)) 23.58B.050.B.13:

8 ((a)) 1) For a unit with net unit area of 400 square feet or less,  
9 households with incomes no greater than 60 percent of median income;

10 ((b)) 2) For a unit with net unit area of greater than 400 square  
11 feet, households with incomes no greater than 80 percent of median income.

12 ((g. Public subsidy. If any public subsidy, including the Multifamily Housing  
13 Property Tax Exemption authorized by Chapter 5.73 and chapter 84.14 RCW, is used for a  
14 development containing MHA-C housing, and as a condition of the public subsidy income levels  
15 of occupants and the rents that may be charged for any units in the development are restricted,  
16 the units provided to comply with this Chapter 23.58B shall be different units than the units that  
17 are subject to such restrictions as a condition of the public subsidy.)) 7. Affordable housing; no  
18 other restrictions. MHA-C units and restricted units provided for any other reason, including a  
19 property tax exemption or loans and grants, must be different units.

20 ((h.)) 8. Time of completion. Except as provided according to subsection  
21 ((23.58B.050.B.2.d)) 23.58B.050.C.4, MHA-C ((housing)) units shall be completed and ready  
22 for occupancy at or before the time when a final ((Certificate of Occupancy)) certificate of  
23 occupancy is issued for the development mitigating impacts according to this Chapter 23.58B,

1 and shall be a condition to any right of the applicant to such ~~((Certificate of Occupancy))~~  
2 certificate of occupancy.

3 ~~((i-))~~ 9. Age of construction; distribution. MHA-C ~~((housing))~~ units shall be newly  
4 constructed and shall be generally distributed throughout the residential portion of the  
5 development.

6 ~~((j-))~~ 10. Affirmative marketing. MHA-C ~~((housing))~~ units shall be affirmatively  
7 marketed to attract eligible households from all racial, ethnic, and gender groups in the housing  
8 market area of the property, particularly to inform and solicit applications from households who  
9 are otherwise unlikely to apply for housing in the development. Proposed marketing efforts shall  
10 be submitted to the Office of Housing for review and approval. Records documenting affirmative  
11 marketing efforts shall be maintained and submitted to the Office of Housing upon request.

12 ~~((k-))~~ 11. Reporting. ~~((At such times))~~ Periodically as may be ~~((authorized))~~  
13 required by the Director of Housing, but no less than annually, ~~((and for as long as the agreement~~  
14 ~~according to subsection 23.58B.050.B.1.q remains in effect,))~~ the owner of the MHA-C  
15 ~~((housing))~~ units shall submit to the ~~((Director))~~ Office of Housing a written report ~~((, verified~~  
16 ~~upon oath or affirmation by the owner,))~~ demonstrating compliance with and housing outcomes  
17 of this Chapter 23.58B. The ~~((written))~~ report shall ~~((state, at a minimum, the occupancy and~~  
18 ~~vacaney of each unit of MHA-C housing, the monthly rents charged for each MHA-C housing~~  
19 ~~unit, and the income and size of each household occupying the MHA-C housing. The Director of~~  
20 ~~Housing may require other documentation to ensure compliance with this subsection~~  
21 ~~23.58B.050.B and any agreement according to subsection 23.58B.050.B.1.q, including but not~~  
22 ~~limited to documentation of rents, copies of tenant certifications, and documentation supporting~~  
23 ~~determinations of tenant income (including employer's verification or check stubs), and other))~~

1 include required information and supporting documentation (~~((necessary to track program~~  
2 ~~outcomes and the demographics of households served. The first annual report shall include~~  
3 ~~documentation of issuance of the certificate of occupancy, or if a certificate of occupancy is not~~  
4 ~~required, the date of final building permit inspection, for the MHA-C housing))~~ , verified upon  
5 the owner’s oath or affirmation and in a form prescribed by the Office of Housing. The Director  
6 of Housing is authorized to assess a late fee of \$50 per day, (~~((to))~~) which shall accrue until the  
7 report is submitted, starting 14 days from the date of the Office of (~~((Housing notifies the owner~~  
8 ~~of the MHA-C housing))~~) Housing’s notice that the report is overdue(~~((, until the report is~~  
9 ~~submitted))~~).

10 (~~((+))~~) 12. Limitation on charges. Fees charged to eligible households upon move-in  
11 or transfer within a development containing MHA-C (~~((housing))~~) units shall be limited to a  
12 reasonable level to be established by the Director of Housing by rule. No tenant of a rental unit  
13 may be charged fees for income verifications or reporting requirements related to this Chapter  
14 23.58B.

15 (~~((m-))~~) 13. Annual certification, third party verification

16 (~~((+))~~) a. The owner of the structure(s) that includes the MHA-C  
17 (~~((housing))~~) units shall obtain from each tenant, no less than annually, a certification of household  
18 size and annual income in a form acceptable to the (~~((City))~~) Director of Housing. The owner shall  
19 examine the income of each tenant household according to 24 CFR 5.609, with guidance from  
20 the HUD Occupancy Handbook 4350.3, Chapter 5. The owner also shall examine the income  
21 and household size of any tenant at any time when there is evidence that the tenant’s written  
22 statement was not complete or accurate. If so requested by the City, the owner shall obtain such  
23 certifications and/or examine incomes and household sizes at any other times upon reasonable

1 advance notice from the City. The owner shall maintain all certifications and documentation  
2 obtained according to this subsection (~~((23.58B.050.B.1.m))~~ 23.58B.050.B.13 on file for at least  
3 six years after they are obtained, and shall make them available to the City for inspection and  
4 copying promptly upon request.

5 ~~((2))~~ b. The owner of the structure that includes the MHA-C (~~((housing))~~)  
6 units shall attempt to obtain third party verification whenever possible to substantiate income at  
7 each certification, which shall include contacting the individual income source(s) supplied by the  
8 household. The verification documents shall be supplied directly to the independent source by  
9 the owner and returned directly to the owner from the independent source. In the event that the  
10 independent source does not respond to the owner's faxed, mailed, or emailed request for  
11 information, the owner may pursue oral third party verification. If written or oral third party  
12 documentation is not available, the owner may accept original documents (pay stubs, W-2, etc.)  
13 at the discretion of the Director of Housing and shall document why third party verification was  
14 not available. At the discretion of the Director of Housing, the owner may accept tenant self-  
15 certifications after the initial income verification and first annual recertification.

16 ~~((#))~~ 14. Annual fee. The owner of the structure that includes the MHA-C  
17 (~~((housing))~~) units shall pay the Office of Housing an annual fee of (~~((150))~~) \$190 per (~~((unit of))~~)  
18 MHA-C (~~((housing))~~) unit for the (~~((purposes))~~) purpose of monitoring compliance with the  
19 requirements (~~((according))~~) of to this Section 23.58B.050. (~~((On March 1, 2017, and on the same~~  
20 ~~day each year thereafter, the annual fee shall automatically adjust in proportion to the annual~~  
21 ~~change for the previous calendar year (January 1 through December 31)))~~) The annual fee shall  
22 automatically adjust annually on March 1, starting in 2024, by an amount in proportion to the  
23 increase, if any, for January 1 through December 31 of the prior calendar year, in the Consumer



1 Price Index, All Urban Consumers, Seattle-Tacoma-Bellevue, WA, All Items (1982-84 = 100),  
2 as determined by the U.S. Department of Labor, Bureau of Labor Statistics or successor index,  
3 unless the Director of Housing makes a determination that a lower fee covers the cost of  
4 monitoring compliance.

5 ((~~6.~~)) 15. Over-income households; unit substitution. If, based on any  
6 certification, a previously eligible household occupying ~~((a unit of))~~ an MHA-C ~~((housing))~~ unit  
7 is determined to be ineligible due to exceeding the income limits according to subsection  
8 ~~((23.58B.050.B.1.f))~~ 23.58B.050.B.6, the owner of the development containing the MHA-C  
9 ~~((housing))~~ units shall, through the process according to subsection 23.58B.025.A.5, designate a  
10 comparable substitute ~~((unit of))~~ MHA-C ~~((housing))~~ unit within the development, as approved  
11 by the Director of Housing, as soon as such a unit becomes available, and upon such designation  
12 the requirements ~~((according to))~~ of this subsection 23.58B.050.B and subsection 23.58B.050.C  
13 shall transfer to the substitute unit. All of the ~~((comparable))~~ rental units in the development that  
14 contains the MHA-C ~~((housing))~~ units shall be considered as potential ~~((comparable))~~ substitute  
15 replacement units. Upon such determination that a previously eligible household is ineligible, the  
16 owner shall promptly give the ineligible household notice of such determination and notice that  
17 the requirements ~~((according to))~~ of this subsection 23.58B.050.B and subsection 23.58B.050.C  
18 shall transfer to a substitute MHA-C unit when such unit becomes available. Upon the transfer of  
19 the requirements, the owner shall give the ineligible household six months' notice prior to any  
20 rent increase.

21 ((~~7.~~)) 16. Maintenance, insurance. MHA-C ~~((housing))~~ units, and the development  
22 in which the MHA-C ~~((housing is))~~ units are located, shall be maintained by the owner in decent  
23 and habitable condition, including the provision of adequate basic appliances. The owner shall

1 keep the MHA-C (~~(housing)~~) units, and the development in which the MHA-C (~~(housing is)~~)  
2 units are located, insured by an insurance company licensed to do business in the state of  
3 Washington and reasonably acceptable to the City, against loss by fire and other hazards  
4 included with broad form coverage, in the amount of 100 percent of the replacement value.

5 ~~((¶))~~ 17. Agreement. The City and the owner of the structure(s) that include the  
6 MHA-C (~~(housing)~~) units shall enter into an agreement specifying the requirements (~~(according~~  
7 ~~to))~~ of this Section 23.58B.050. The agreement shall be recorded on the title of the property on  
8 which the MHA-C (~~(housing is)~~) units are located. The requirements specified in the agreement  
9 shall be consistent with final plans for the MHA-C (~~(housing)~~) units. If the first building permit  
10 is issued for the structural frame for the structure that includes affordable housing according to  
11 this Chapter 23.58B and such structure is acquired to provide City-funded low-income housing,  
12 the agreement according to this subsection 23.58B.050.B.17 may be released at the sole  
13 discretion of the Director of Housing.

14 ~~((¶))~~ 18. Casualty

15 ~~((1))~~ a. If (~~(a unit of MHA-C housing)~~) an MHA-C unit is destroyed or  
16 rendered unfit for occupancy by casualty, the owner of the MHA-C (~~(housing)~~) unit shall,  
17 through the process according to subsection 23.58B.025.A.5, designate a comparable substitute  
18 (~~(unit of MHA-C housing)~~) MHA-C unit within the development, as approved by the Director of  
19 Housing, as soon as such unit becomes available, which the tenant household of the (~~(unit of~~  
20 ~~MHA-C housing)~~) MHA-C unit affected by casualty shall be allowed to move into, and upon  
21 such designation the requirements (~~(according to))~~ of subsection 23.58B.050.B shall transfer to  
22 the substitute unit.

1                                    ~~((2))~~ b. If any casualty loss results in the loss of ~~((the unit or units of~~  
2 ~~MHA-C housing))~~ one or more MHA-C units for a period of one year or more, the duration  
3 according to subsection 23.58B.050.B.1.a shall be automatically extended beyond the original  
4 term hereof for a period equal to the period of time for which the ~~((unit or units of MHA-C~~  
5 ~~housing))~~ MHA-C units are not in service and no comparable ~~((units of MHA-C housing))~~  
6 MHA-C units have been provided and placed in service within the development.

7                                    ~~((2-))~~ C. Additional performance standards. In addition to meeting the standards in  
8 subsection 23.58B.050.B(~~(-1)~~), MHA-C ~~((housing))~~ units located on a site other than the same lot  
9 as the development required to mitigate affordable housing impacts according to this Chapter  
10 23.58B shall meet the following additional standards:

11                                    ~~((a-))~~ 1. Equal or better mitigation. The applicant shall demonstrate to the  
12 satisfaction of the Director of Housing that affordable housing impact mitigation provided  
13 through the performance option on a site other than the same lot as the development required to  
14 mitigate affordable housing impacts according to this Chapter 23.58B is equal to or better than  
15 mitigation provided through performance on the same lot.

16                                    ~~((b-))~~ 2. Location. MHA-C ~~((housing))~~ units provided on a site other than the  
17 same lot as the development required to mitigate affordable housing impacts according to this  
18 Chapter 23.58B shall be located:

19                                    ~~((1-))~~ a. Within the same urban center or urban village as the development  
20 required to mitigate affordable housing impacts according to this Chapter 23.58B; or

21                                    ~~((2))~~ b. Within one mile of the development required to mitigate  
22 affordable housing impacts according to this Chapter 23.58B if such development is located  
23 outside of an urban center or urban village.

1                    ~~((e-))~~ 3. Developer’s agreement. If the owner of the development required to  
2 mitigate affordable housing impacts according to this Chapter 23.58B is not the owner of the  
3 MHA-C ~~((housing))~~ units, then in addition to the agreement required according to subsection  
4 ~~((23.58B.050.B.1-q))~~ 23.58B.050.B.17, the owner of the development required to mitigate  
5 affordable housing impacts according to this Chapter 23.58B and the owner of the MHA-C  
6 ~~((housing))~~ units shall execute a developer’s agreement, acceptable to the Director of Housing,  
7 allowing the exclusive use of the MHA-C ~~((housing))~~ units to satisfy the requirements  
8 ~~((according to))~~ of this Chapter 23.58B in return for necessary and adequate financial support to  
9 the development of ~~((that MHA-C housing))~~ the MHA-C units.

10                    ~~((d-))~~ 4. Letter of credit

11                    ~~((1))~~ a. If the MHA-C ~~((housing is))~~ units are located on a site other than  
12 the same lot as the development required to mitigate affordable housing impacts according to this  
13 Chapter 23.58B, the owner of the development required to mitigate affordable housing impacts  
14 according to this Chapter 23.58B shall provide to the Director of Housing an irrevocable bank  
15 letter of credit, approved by the Director of Housing, in the amount according to subsection  
16 23.58B.040.A.

17                    ~~((2))~~ b. The Director of Housing may draw on the letter of credit one year  
18 after the date of issuance of the certificate of occupancy, or, if a certificate of occupancy is not  
19 required, the final building permit inspection, for the development required to mitigate affordable  
20 housing impacts according to this Chapter 23.58B if the certificate of occupancy or final building  
21 permit inspection for the MHA-C ~~((housing))~~ units has not been issued on or before that date.  
22 The owner of the development required to mitigate affordable housing impacts according to this  
23 Chapter 23.58B shall also pay an amount equal to the interest on the cash contribution, at the rate

1 equal to the prime rate quoted by Bank of America, or its successor, plus three percent per  
2 annum, from the date of issuance of the first building permit that includes the structural frame for  
3 the development required to mitigate affordable housing impacts according to this Chapter  
4 23.58B.

5 ~~((3))~~ c. If and when the City becomes entitled to draw on any letter of  
6 credit, the Director of Housing may take appropriate steps to do so, and the amounts realized, net  
7 of any costs to the City, shall be used in the same manner as cash contributions according to  
8 subsection 23.58B.040.B.

9 Section 51. Section 23.58B.060 of the Seattle Municipal Code, last amended by  
10 Ordinance 125233, is amended as follows:

11 **23.58B.060 Definitions**

12 Definitions in this Chapter 23.58B supersede any definitions of the same terms in Chapter  
13 23.84A and Section 23.58A.004 for the purposes of provisions of this Chapter 23.58B, unless  
14 otherwise specified in this Chapter 23.58B.

15 “Affordable housing” means dwelling units affordable to households with a range of  
16 incomes no higher than 80 percent of median income.

17 “MHA-C ~~((housing))~~ unit” means ~~((housing))~~ a dwelling unit provided to comply with  
18 Chapter 23.58B through the performance option according to Section 23.58B.050.

19 For purposes of this Chapter 23.58B, “dwelling unit” does not include an accessory  
20 dwelling unit.

21 Section 52. Section 23.58C.020 of the Seattle Municipal Code, enacted by Ordinance  
22 125108, is amended as follows:

23 **23.58C.020 ~~((Definition))~~ Definitions**

1 Definitions in this Chapter 23.58C supersede any definitions of the same terms in Chapter  
2 23.84A and Section 23.58A.004 for the purposes of provisions of this Chapter 23.58C, unless  
3 otherwise specified in this Chapter 23.58C.

4 “MHA-R unit” means a dwelling unit, small efficiency dwelling unit, live-work unit, or  
5 congregate residence sleeping room provided to comply with Chapter 23.58C through the  
6 performance option according to Section 23.58C.050.

7 ~~((For purposes of this Chapter 23.58C, unless otherwise specified in this Chapter 23.58C,~~  
8 ~~the term “unit” refers to)) “Unit” means a dwelling unit, ((except an accessory dwelling unit or  
9 ~~detached accessory dwelling unit;)) small efficiency dwelling unit, live-work unit((;)) <sub>1</sub> or~~  
10 ~~congregate residence sleeping room.~~~~

11 “MHA-R unit” means a dwelling unit, small efficiency dwelling unit, live-work unit, or  
12 congregate residence sleeping room provided to comply with Chapter 23.58C through the  
13 performance option according to Section 23.58C.050.

14 For purposes of this Chapter 23.58C, “dwelling unit” does not include an accessory  
15 dwelling unit.

16 Section 53. Section 23.58C.025 of the Seattle Municipal Code, last amended by  
17 Ordinance 125791, is amended as follows:

18 **23.58C.025 Applicability and general requirements**

19 \* \* \*

20 C. ~~((Exemptions. Development is exempt from the requirements of this Chapter 23.58C if~~  
21 ~~it receives public funding and/or an allocation of federal low income housing tax credits, and is~~  
22 ~~subject to a regulatory agreement, covenant, or other legal instrument recorded on the property~~  
23 ~~title and enforceable by The City of Seattle, Washington State Housing Finance Commission,~~

1 ~~State of Washington, King County, U.S. Department of Housing and Urban Development, or~~  
2 ~~other similar entity as approved by the Director of Housing, (1) which restricts at least 40 percent~~  
3 ~~of the residential units to occupancy by households earning no greater than 60 percent of median~~  
4 ~~income, and controls the rents that may be charged, for a minimum period of 40 years, or (2)~~  
5 ~~which restricts at least 40 percent of the residential units to be sold to households earning no~~  
6 ~~greater than 80 percent of median income, for a minimum period of 50 years. The sale price for~~  
7 ~~sales subsequent to the initial sale shall be calculated to allow modest growth in homeowner~~  
8 ~~equity while maintaining long term affordability for future buyers. All buyers of such an~~  
9 ~~ownership unit subsequent to the initial sale shall be households with incomes no greater than 80~~  
10 ~~percent of median income at initial occupancy.)) Exemption. Low-income housing is exempt~~  
11 ~~from the requirements of this Chapter 23.58C.~~

12 D. Relationship to incentive zoning. Where the provisions of the zone refer to this  
13 Chapter 23.58C and where bonus residential floor area or extra residential floor area may be  
14 achieved according to the provisions of the zone and/or Chapter 23.58A, the following  
15 provisions apply:

16 1. All requirements to provide (~~low income or moderate income housing, or~~)  
17 affordable housing (~~as defined in Section 23.58A.004, for achieving~~) to gain bonus residential  
18 floor area or extra residential floor area according to the provisions of the zone and/or Chapter  
19 23.58A shall be satisfied solely by compliance with this Chapter 23.58C.

20 2. Any non-housing requirements for achieving bonus residential floor area or  
21 extra residential floor area shall be satisfied according to the provisions of the zone and/or  
22 Chapter 23.58A.

1                   3. Extra residential floor area achieved in HR zones by transfer of development  
2 potential, providing neighborhood open space, or providing a neighborhood green street setback  
3 according to ~~((Section))~~ subsection 23.45.516.B.2 shall be excluded from the gross floor area of  
4 the development for purposes of ~~((Section))~~ subsection 23.58C.040.A.1 and ~~((the))~~ any units  
5 contained in such extra floor area shall be excluded from the total number of units in the  
6 structure for purposes of ~~((Section))~~ subsection 23.58C.050.A.1.

7                   Section 54. Section 23.58C.030 of the Seattle Municipal Code, last amended by  
8 Ordinance 125291, is amended as follows:

9 **23.58C.030 Permit documentation**

10                  A. General

11                   1. For any development to which this Chapter 23.58C applies, the Master Use  
12 Permit application and the first building permit application that includes the structural frame for  
13 the structure shall include the following:

14                                  a. If the applicant elects the payment option, the amount of the required  
15 cash contribution according to subsection 23.58C.040.A;

16                                  b. If the applicant elects the performance option, the number of MHA-R  
17 units required to be provided according to subsection 23.58C.050.A, the amount of any cash  
18 contribution according to subsection 23.58C.050.A.3.b, and a proposal for MHA-R units that  
19 meet the requirements ~~((according to))~~ of subsection 23.58C.050.C; and

20                                  c. If the applicant seeks relief according to Sections 23.48.231 or  
21 23.49.039 or seeks a modification according to subsection 23.58C.035.B or subsection  
22 23.58C.035.C, the earliest application according to this subsection 23.58C.030.A.1 shall include



1 requests for such relief or modifications including all supporting materials required for a decision  
2 on the requests.

3           2. The Director shall, as a Type I decision and in consultation with the Director of  
4 Housing, determine:

5                   a. If the applicant elects to comply with this Chapter 23.58C through the  
6 payment option according to Section 23.58C.040, the amount of the cash contribution;

7                   b. If the applicant elects to comply with this Chapter 23.58C through the  
8 performance option according to Section 23.58C.050, the number of MHA-R units that shall  
9 meet the requirements ~~((according to))~~ of subsection 23.58C.050.C, the amount of any cash  
10 contribution according to subsection 23.58C.050.A.3.b, and the compliance of the proposal  
11 ~~((required according to subsection 23.58C.030.A.1.b with the))~~ for MHA-R units that satisfy  
12 requirements ~~((according to))~~ of subsection 23.58C.050.C; and

13                   c. Any modification according to subsection 23.58C.035.B.

14           3. The Director shall, as a special exception according to Chapter 23.76,  
15 Procedures for Master Use Permits and Council Land Use Decisions, in consultation with the  
16 Director of Housing, determine any modification according to subsection 23.58C.035.C.

17           4. The final plans that include the structural frame for the structure shall  
18 demonstrate compliance with the requirements ~~((according to))~~ of Section 23.58C.040 or Section  
19 23.58C.050 and state the ongoing requirements ~~((according to))~~ of Section 23.58C.050.

20           5. If the applicant elects to comply with this Chapter 23.58C through the  
21 performance option according to Section 23.58C.050, the requirements ~~((according to))~~ of  
22 Section 23.58C.050 shall be considered terms of the first building permit that includes the  
23 structural frame for the structure.

1                   6. Unit substitution according to subsection 23.58C.050.C.6.f and conversion to  
2 ownership housing according to subsection 23.58C.050.C.6.i shall require a separate review and  
3 approval by the Director in consultation with the Director of Housing.

4                   7. The applicant for a project subject to this Chapter 23.58C shall pay housing  
5 review fees according to Section 22.900G.015.

6                   B. ~~((Timing 1.))~~ Issuance of Master Use Permit. Prior to the issuance of a Type II Master  
7 Use Permit, the applicant shall provide the following:

8                   ~~((a.))~~ 1. If the applicant elects the payment option, the amount of the required cash  
9 contribution according to subsection 23.58C.040.A; or

10                   ~~((b.))~~ 2. If the applicant elects the performance option, the number of MHA-R  
11 units required to be provided according to subsection 23.58C.050.A, the amount of any cash  
12 contribution according to subsection 23.58C.050.A.3.b, a proposal for MHA-R units that meet  
13 the requirements ~~((according to))~~ of subsection 23.58C.050.C, and a draft agreement according  
14 to subsection 23.58C.050.E.

15                   ~~((2. Building))~~ C. Issuance of building permit. Prior to issuance of the first building  
16 permit that includes the structural frame for the structure, the applicant shall provide the  
17 following:

18                   ~~((a.))~~ 1. If the applicant elects to comply with this Chapter 23.58C through the  
19 payment option according to Section 23.58C.040:

20                   ~~((1.))~~ a. Final plans that include the structural frame for the structure  
21 showing the calculation of the amount of the required cash contribution according to subsection  
22 23.58C.040.A; and

1                                    ~~((2))~~ b. Documentation from the Director of Housing of receipt of  
2 payment of the required cash contribution according to subsection 23.58C.040.A; or

3                                    ~~((b-))~~ 2. If the applicant elects to comply with this Chapter 23.58C through the  
4 performance option according to Section 23.58C.050:

5                                    ~~((H))~~ a. Final plans that include the structural frame for the structure that:

6    ~~((a))~~ 1) Include the calculation of the number of MHA-R units  
7 required to be provided according to subsection 23.58C.050.A;

8    ~~((b))~~ 2) Demonstrate compliance with the requirements  
9 ~~((according to))~~ of Section 23.58C.050 and state the ongoing requirements ~~((according to))~~ of  
10 Section 23.58C.050; and

11    (I) 3) Include the calculation of the amount of any cash  
12 contribution according to subsection 23.58C.050.A.3.b;

13                                    ~~((2))~~ b. Documentation from the Director of Housing of receipt of  
14 payment of any cash contribution according to subsection 23.58C.050.A.3.b; and

15                                    ~~((3))~~ c. The executed and recorded agreement required according to  
16 subsection 23.58C.050.E.

17                                    ~~((e-))~~ 3. The applicant may change its election between performance and payment  
18 prior to issuance of the first building permit that includes the structural frame for the structure,  
19 provided that an applicant changing its election shall obtain any necessary approvals affected by  
20 the change in election. Review and approval of a change in election between performance and  
21 payment is a Type I decision, unless the requested change affects a modification according to  
22 subsection 23.58C.035.C.

1 Section 55. Section 23.58C.040 of the Seattle Municipal Code, last amended by  
2 Ordinance 126157, is amended as follows:

3 **23.58C.040 Affordable housing – ((payment)) Payment option**

4 A. Payment amount

5 1. An applicant complying with this Chapter 23.58C through the payment option  
6 shall provide a cash contribution to the City, calculated by multiplying the payment calculation  
7 amount per square foot according to Table A or Table B for 23.58C.040 and Map A for  
8 23.58C.050, as applicable, by the total gross floor area in the development, excluding the floor  
9 area of parking located in stories, or portions of stories, that are underground, and excluding any  
10 floor area devoted to a domestic violence shelter, as follows:

11 a. In the case of construction of a new structure, the gross floor area in  
12 residential use and the gross floor area of live-work units;

13 b. In the case of construction of an addition to an existing structure that  
14 results in an increase in the total number of units within the structure, the gross floor area in  
15 residential use and the gross floor area of live-work units in the addition;

16 c. In the case of alterations within an existing structure that result in an  
17 increase in the total number of units within the structure, the gross floor area calculated by  
18 dividing the total gross floor area in residential use and gross floor area of live-work units by the  
19 total number of units in the proposed development, and multiplying that quotient by the net  
20 increase in units in the development;

21 d. In the case of change of use that results in an increase in the total  
22 number of units, the gross floor area that changed to residential use or live-work units; or

23 e. Any combination of the above.

Table A for 23.58C.040  
 Payment calculation amounts:  
 In Downtown, SM-SLU, SM-U 85 , and SM-NG zones

Zone	Payment calculation amount per square foot
DH1/45	Not applicable
DH2/55	Not applicable
DH2/75	<del>(((\$12.75))</del> <u>\$16.85</u>
DH2/85	Not applicable
DMC 75	<del>(((\$12.75))</del> <u>\$16.85</u>
DMC 85/75-170	<del>(((\$20.75))</del> <u>\$27.42</u>
DMC 95	<del>(((\$12.75))</del> <u>\$16.85</u>
DMC 145	<del>(((\$13.00))</del> <u>\$15.95</u>
DMC 170	<del>(((\$5.50))</del> <u>\$7.27</u>
DMC 240/290-440	<del>(((\$8.25))</del> <u>\$10.90</u>
DMC 340/290-440	<del>(((\$8.25))</del> <u>\$10.90</u>
DMR/C 75/75-95	<del>(((\$20.75))</del> <u>\$27.42</u>
DMR/C 75/75-170	<del>(((\$20.75))</del> <u>\$27.42</u>
DMR/C 95/75	<del>(((\$12.75))</del> <u>\$16.85</u>
DMR/C 145/75	<del>(((\$11.75))</del> <u>\$13.53</u>
DMR/C 280/125	<del>(((\$13.00))</del> <u>\$15.95</u>
DMR/R 95/65	<del>(((\$12.75))</del> <u>\$16.85</u>
DMR/R 145/65	<del>(((\$11.75))</del> <u>\$13.53</u>

DMR/R 280/65	<del>(\$13.00)</del> <u>\$15.95</u>
DOC1 U/450-U	<del>(\$12.00)</del> <u>\$15.86</u>
DOC2 500/300-550	<del>(\$10.25)</del> <u>\$13.55</u>
DRC 85-170	<del>(\$10.00)</del> <u>\$13.22</u>
IDM-65-150	Not applicable
IDM-75-85	Not applicable
IDM 85/85-170	<del>(\$20.75)</del> <u>\$27.42</u>
IDM 165/85-170	<del>(\$20.75)</del> <u>\$27.42</u>
All IDR and IDR/C zones	<del>(\$20.75)</del> <u>\$27.42</u>
PMM-85	Not applicable
All PSM zones	Not applicable
SM-NG 145	<del>(\$13.25)</del> <u>\$16.04</u>
SM-NG 240	<del>(\$20.00)</del> <u>\$24.21</u>
SM-SLU 85/65-160	Not applicable
SM-SLU 85-280	<del>(\$10.00)</del> <u>\$13.22</u>
SM-SLU 100/95	<del>(\$7.50)</del> <u>\$9.91</u>
SM-SLU 100/65-145	<del>(\$7.75)</del> <u>\$10.24</u>
SM-SLU 145	<del>(\$7.75)</del> <u>\$10.24</u>
SM-SLU 175/85-280	<del>(\$10.00)</del> <u>\$13.22</u>
SM-SLU 240/125-440	<del>(\$10.00)</del> <u>\$13.22</u>
SM-SLU/R 65/95	<del>(\$12.75)</del> <u>\$16.85</u>

SM-U 85	<del>(\$13.25)</del> <u>\$17.51</u>
---------	-------------------------------------

1

Table B for 23.58C.040  
 Payment calculation amounts:  
 Outside Downtown, SM-SLU, SM-U 85, and SM-NG zones

Zone	Payment calculation amount per square foot		
	Low	Medium	High
Zones with an (M) suffix	<del>(\$7.00)</del> <u>\$9.25</u>	<del>(\$13.25)</del> <u>\$17.25</u>	<del>(\$20.75)</del> <u>\$27.42</u>
Zones with an (M1) suffix	<del>(\$11.25)</del> <u>\$14.87</u>	<del>(\$20.00)</del> <u>\$26.43</u>	<del>(\$29.75)</del> <u>\$39.31</u>
Zones with an (M2) suffix	<del>(\$12.50)</del> <u>\$16.52</u>	<del>(\$22.25)</del> <u>\$29.40</u>	<del>(\$32.75)</del> <u>\$43.28</u>

2

3

4

5

6

7

8

9

10

11

12

13

14

15

2. Automatic adjustments to payment amounts. ~~((On March 1, 2017, and on the same day in 2018 and 2019, the amounts for payment calculations according to Table A and Table B for 23.58C.040 shall automatically adjust in proportion to the annual change for the previous calendar year (January 1 through December 31) in the Consumer Price Index, All Urban Consumers, Seattle Tacoma Seattle Tacoma Bellevue, WA, All Items (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index. On March 1, 2020, and on the same day each year thereafter, the))~~ The amounts for payment calculations according to Table A and Table B for 23.58C.040 shall automatically adjust annually on March 1, starting in 2024, by an amount in proportion to ~~((the annual increase for the previous calendar year (January 1 through December 31)))~~ the increase, if any, for January 1 through December 31 of the prior calendar year, in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bellevue, WA, Shelter (1982-84 = 100), as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index.

1           B. Use of cash contributions

2                   1. The Director of Housing shall be authorized to accept all cash contributions on  
3 behalf of the City. Cash contributions shall be deposited by the Director of Housing in a special  
4 account and shall be used for purposes authorized by RCW 36.70A.540. Earnings on balances in  
5 the special account shall accrue to that account. At least ~~((5))~~ five percent of total cash  
6 contributions on a yearly basis shall be dedicated to support ownership housing. ~~((Dedicated  
7 funds may be committed over multiple years based on availability of eligible projects.))~~

8                   2. Income levels

9                           a. Rental housing supported by cash contributions shall be rent- and  
10 income-restricted to serve households with incomes no greater than 60 percent of median income  
11 for a minimum period of 50 years, with an expectation of ongoing affordability.

12                           b. Ownership housing supported by cash contributions shall be priced to  
13 serve and sold to households with incomes no greater than 80 percent of median income for a  
14 minimum period of 50 years, with an expectation of ongoing affordability.

15                   3. Location. For purposes of determining the location for use of cash  
16 contributions, the City shall consider the extent to which the housing supported by cash  
17 contributions advances the following factors:

18                           a. Affirmatively furthering fair housing choice;

19                           b. Locating within an urban center or urban village;

20                           c. Locating in proximity to frequent bus service or current or planned light  
21 rail or streetcar stops;



1 d. Furthering City policies to promote economic opportunity and  
2 community development and addressing the needs of communities vulnerable to displacement;  
3 and((;))

4 e. ((locating)) Locating near developments that generate cash  
5 contributions.

6 Section 56. Section 23.58C.050 of the Seattle Municipal Code, last amended by  
7 Ordinance 126509, is amended as follows:

8 **23.58C.050 Affordable housing – ((performance)) Performance option**

9 A. Performance amount

10 1. An applicant complying with this Chapter 23.58C through the performance  
11 option shall provide, as part of the units to be developed in each structure, a number of MHA-R  
12 units that meet the requirements according to subsection 23.58C.050.C calculated by multiplying  
13 the percentage set aside according to Table A or Table B for 23.58C.050 and Map A for  
14 23.58C.050, as applicable, by the total number of units to be developed in each structure,  
15 excluding units in a domestic violence shelter.

16 2. If the number of MHA-R units that meet the requirements according to  
17 subsection 23.58C.050.C calculated according to subsection 23.58C.050.A.1 equals less than  
18 two, the applicant shall:

19 a. Round up to two units; or

20 b. Provide one dwelling unit that meets the requirements according to  
21 subsection 23.58C.050.C that is three bedrooms or larger, as determined by the Director of  
22 Housing.

1                   3. If the number of MHA-R units that meet the requirements according to  
2 subsection 23.58C.050.C calculated according to subsection 23.58C.050.A.1 equals two or more  
3 and includes a fraction of a unit, the applicant shall:

4                           a. Round up to the nearest whole unit; or

5                           b. Round down to the nearest whole unit and pay a cash contribution for  
6 the fraction of a unit not otherwise provided, calculated by multiplying the payment calculation  
7 amount per square foot according to Table A or Table B for 23.58C.040 and Map A for  
8 23.58C.050, as applicable, by the total gross floor area to be developed as measured according to  
9 subsection 23.58C.040.A.1, multiplying that product by the fraction of a unit not provided, and  
10 dividing the resulting number by the total number of units required to be provided based on the  
11 calculation according to subsection 23.58C.050.A.1. Use of cash contributions according to this  
12 subsection 23.58C.050.A.3.b shall be governed according to subsection 23.58C.040.B.

13                   4. When the applicant elects to comply with this Chapter 23.58C through the  
14 performance option for a development that contains multiple structures and the calculation  
15 according to subsection 23.58C.050.A.1 results in fractions of MHA-R units in more than one  
16 structure, the Director may, as a Type I decision in consultation with the Director of Housing,  
17 allow such fractions of units to be combined, provided:

18                           a. If the sum of the combined fractions of units calculated according to this  
19 subsection 23.58C.050.A.4 equals fewer than two, the applicant shall:

20                                   1) Round up to two units; or

21                                   2) Provide one dwelling unit that meets the requirements according  
22 to subsection 23.58C.050.C that is three bedrooms or larger, as determined by the Director of  
23 Housing;



1 subsection 23.58C.025.B in that structure, and the requirements ~~((according to))~~ of subsection  
2 23.58C.050.C.6.j are met; or

3 2) All of the units to whose development this Chapter 23.58C  
4 applies according to subsection 23.58C.025.B in the structure are converted to ownership  
5 housing, and the requirements ~~((according to))~~ of subsection 23.58C.050.C.6.i are met; or

6 2. If ownership MHA-R units are provided to comply with this Chapter 23.58C,  
7 for a period of 75 years from the date of certificate of occupancy or, if a certificate of occupancy  
8 is not required, from the date of the final building permit inspection, for the development to  
9 which this Chapter 23.58C applies according to subsection 23.58C.025.B.

10 C. Performance requirements. ~~((Units))~~ MHA-R units provided to comply with this  
11 Chapter 23.58C through the performance option shall meet the following requirements:

12 1. Distribution. ~~((Units provided through the performance option))~~ MHA-R units  
13 shall be generally distributed throughout each structure in the development containing units.

14 2. Comparability ~~((Units provided through the performance option))~~ MHA-R  
15 units shall be comparable to the other units to be developed in terms of the following:

16 a. Status as a dwelling unit, live-work unit, or congregate residence  
17 sleeping room;

18 b. Number and size of bedrooms and bathrooms;

19 c. Net unit area measured ~~((by square feet))~~ according to subsection  
20 23.86.007.B;

21 d. Access to amenity areas;

22 e. Functionality; and

23 f. Term of the lease.

3. Eligible households. (~~Units provided through the performance option~~) MHA-

R units shall serve only:

a. At initial occupancy by a household:

1) For a rental MHA-R unit with net unit area of 400 square feet or less, households with incomes no greater than 40 percent of median income;

2) For a rental MHA-R unit with net unit area of greater than 400 square feet, households with incomes no greater than 60 percent of median income;

3) For an ownership MHA-R unit, households with incomes no greater than 80 percent of median income, and that meet a reasonable limit on assets. The Director of Housing shall establish by rule the method to establish a reasonable limit on assets.

b. At the time of annual certification according to subsection

23.58C.050.C.6.c:

1) For a rental MHA-R unit with net unit area of 400 square feet or less, households with incomes no greater than 60 percent of median income;

2) For a rental MHA-R unit with net unit area of greater than 400 square feet, households with incomes no greater than 80 percent of median income.

4. Affirmative marketing. (~~Units provided through the performance option~~)

MHA-R units shall be affirmatively marketed to attract eligible households from all racial, ethnic, and gender groups in the housing market area of the property, particularly to inform and solicit applications from households who are otherwise unlikely to apply for housing in the development. Proposed marketing efforts shall be submitted to the Office of Housing for review and approval. Records documenting affirmative marketing efforts shall be maintained and submitted to the Office of Housing upon request.

1                   5. ~~((Public subsidy. If any public subsidy, including the Multifamily Housing~~  
2 ~~Property Tax Exemption authorized by Chapter 5.73 and chapter 84.14 RCW, is used for a~~  
3 ~~development containing units provided through the performance option on the same lot as the~~  
4 ~~development required to comply with this Chapter 23.58C, and the public subsidy operates~~  
5 ~~through subjecting some of the units in the development to restrictions on the income levels of~~  
6 ~~occupants and the rents or sale prices that may be charged, the units provided to comply with this~~  
7 ~~Chapter 23.58C shall be different units than the units that are subject to such restrictions as a~~  
8 ~~condition of the public subsidy.)) Affordable housing; no other restrictions. MHA-R units and  
9 restricted units provided for any other reason, including a property tax exemption or loans and  
10 grants, must be different units.~~

11                   6. Additional requirements for rental MHA-R units provided through the  
12 performance option

13                   a. Rent levels. Monthly rent for MHA-R units shall not exceed 30 percent  
14 of 60 percent of median income or, in the case of rental units with net unit area of 400 square  
15 feet or less, 30 percent of 40 percent of median income. For purposes of this subsection  
16 23.58C.050.C.6.a, “monthly rent” includes a utility allowance for heat, gas, electricity, water,  
17 sewer, and refuse collection, to the extent such items are not paid for tenants by the owner, and  
18 any recurring fees that are required as a condition of tenancy.

19                   b. Limitation on charges. Fees charged to eligible households upon move-  
20 in or transfer within the development shall be limited to a reasonable level to be established by  
21 the Director of Housing by rule. No tenant of a rental MHA-R unit may be charged fees for  
22 income verifications or reporting requirements related to this Chapter 23.58C.

23                   c. Annual certification, third party verification



1 accept tenant self-certifications after the initial income verification and first annual  
2 recertification.

3 d. Reporting. ~~((At such times))~~ Periodically as may be ~~((authorized))~~  
4 required by the Director of Housing, but no less than annually, the owner of the ~~((rental unit))~~  
5 structure that includes the MHA-R units shall submit to the ~~((Director))~~ Office of Housing a  
6 written report~~((, verified upon oath or affirmation by the owner,))~~ demonstrating compliance  
7 with and housing outcomes of this Chapter 23.58C. The report shall include required information  
8 and supporting documentation, verified upon the owner's oath or affirmation and in a form  
9 prescribed by the Office of Housing. ~~((The written report shall state, at a minimum, the~~  
10 ~~occupancy and vacancy of each rental unit, the monthly rent charged for the unit, and the income~~  
11 ~~and size of the household occupying the unit. The Director of Housing may require other~~  
12 ~~documentation to ensure compliance with this subsection 23.58C.050.C, including but not~~  
13 ~~limited to documentation of rents, copies of tenant certifications, documentation supporting~~  
14 ~~determinations of tenant income (including employer's verification or check stubs), and other~~  
15 ~~documentation necessary to track program outcomes and the demographics of households~~  
16 ~~served. The first annual report shall include documentation of issuance of the certificate of~~  
17 ~~occupancy or final building permit inspection for the rental unit.))~~ The Director of Housing is  
18 authorized to assess a late fee of \$50 per day, ~~((to))~~ which shall accrue until the report is  
19 submitted, starting 14 days from the date of the Office of ~~((Housing notifies the owner of the~~  
20 ~~rental unit))~~ Housing's notice that the report is overdue~~((, until the report is submitted))~~.

21 e. Annual fee. The owner of the ~~((rental unit))~~ units shall pay the Office of  
22 Housing an annual fee of ~~(((\$150))~~ \$190 per ~~((rental))~~ MHA-R unit for the ~~((purposes))~~ purpose  
23 of monitoring compliance with the requirements ~~((according to))~~ of this Section 23.58C.050.



1 ~~((On March 1, 2017, and on the same day each year thereafter, the annual fee shall automatically~~  
2 ~~adjust in proportion to the annual change for the previous calendar year (January 1 through~~  
3 ~~December 31))~~ The fee shall automatically adjust annually on March 1, starting in 2024, by an  
4 amount in proportion to the increase, if any, for January 1 through December 31 of the prior  
5 calendar year, in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma-Bellevue,  
6 WA, All Items (1982-1984 = 100), as determined by the U.S. Department of Labor, Bureau of  
7 Labor Statistics or successor index.

8 f. Over-income households; unit substitution. If, based on any  
9 certification, a previously eligible household occupying a rental unit provided through the  
10 performance option is determined to be ineligible due to exceeding the income limits according  
11 to subsection 23.58C.050.C.3.b, the owner of the development to which this Chapter 23.58C  
12 applies shall, through the process according to subsection 23.58C.030.A.6, designate a  
13 comparable substitute rental unit within the development, as approved by the Director of  
14 Housing, as soon as such a unit becomes available, and upon such designation the requirements  
15 ~~((according to))~~ of this subsection 23.58C.050.C shall transfer to the substitute unit. Upon such  
16 determination that a previously eligible household is ineligible, the owner shall promptly give the  
17 ineligible household notice of such determination and notice that the requirements ~~((according~~  
18 ~~to))~~ of this subsection 23.58C.050.C will transfer to a substitute unit when such unit becomes  
19 available. Upon the transfer of the requirements, the owner shall give the ineligible household six  
20 months' notice prior to any rent increase.

21 g. Maintenance, insurance. ~~((Rental units provided through the~~  
22 ~~performance option))~~ MHA-R units, and the structure in which they are located, shall be  
23 maintained by the owner in decent and habitable condition, including the provision of adequate

1 basic appliances. The owner shall keep such units, and the structure in which they are located,  
2 insured by an insurance company licensed to do business in the state of Washington and  
3 reasonably acceptable to the City, against loss by fire and other hazards included with broad  
4 form coverage, in the amount of 100 percent of the replacement value.

5 h. Casualty

6 1) If a rental unit provided through the performance option is  
7 destroyed or rendered unfit for occupancy by casualty that does not affect all of the other units in  
8 the development to which this Chapter 23.58C applies, the owner of the development shall,  
9 through the process according to subsection 23.58C.030.A.6, designate a comparable substitute  
10 rental unit within the development, as approved by the Director of Housing, as soon as such a  
11 unit becomes available, which the tenant household of the unit affected by casualty shall be  
12 allowed to move into, and upon such designation the requirements ~~((according to))~~ of this  
13 subsection 23.58C.050.C shall transfer to the substitute unit.

14 2) If all of the units in the development to which this Chapter  
15 23.58C applies are substantially destroyed by casualty, including by earthquake or fire, the  
16 requirements ~~((according to))~~ of this subsection 23.58C.050.C shall terminate.

17 i. Conversion ~~((to ownership))~~ of housing from rental to ownership. If all  
18 of the units to whose development this Chapter 23.58C applies according to subsection  
19 23.58C.025.B in a structure are converted to ownership housing, including through a conversion  
20 to condominiums, prior to 75 years from the date of certificate of occupancy or, if a certificate of  
21 occupancy is not required, from the date of the final building permit inspection, for the  
22 development to which this Chapter 23.58C applies according to subsection 23.58C.025.B:





1 its use is changed, prior to 75 years from the date of certificate of occupancy or, if a certificate of  
2 occupancy is not required, from the date of the final building permit inspection, for the  
3 development to which this Chapter 23.58C applies according to subsection 23.58C.025.B, so as  
4 to eliminate all of the units to whose development this Chapter 23.58C applies according to  
5 subsection 23.58C.025.B in that structure, the owner of the development shall pay to the City a  
6 payment in lieu of continuing affordability for each rental unit provided through the performance  
7 option that is eliminated, as follows:

8 a) The payment shall be based on the difference between  
9 the monthly restricted rent according to subsection 23.58C.050.C.6.a for each rental unit  
10 provided through the performance option that is eliminated and the average monthly rent of a  
11 comparable unit according to subsection 23.58C.050.C.2 that is not subject to rent and income  
12 restrictions and is located in the same payment and performance area as shown on Map A for  
13 23.58C.050, multiplied by the typical number of months between demolition of multifamily  
14 housing on a property and completion of redevelopment of a property in the zone in which the  
15 eliminated rental unit is located, not to exceed 30 months. The Director shall by rule establish an  
16 appropriate methodology and inputs for determining the payment amount in particular zones.

17 b) The City shall use the payment to support ~~((continued))~~  
18 long-term housing affordability in The City of Seattle, including but not limited to providing  
19 rental assistance to the tenants of rental ~~((units provided through the performance option))~~ MHA-  
20 R units that were eliminated.

21 2) If the units to whose development this Chapter 23.58C applies  
22 according to subsection 23.58C.025.B are in multiple structures and an individual structure is  
23 demolished, or its use is changed, prior to 75 years from the date of certificate of occupancy or,

1 if a certificate of occupancy is not required, from the date of the final building permit inspection,  
2 for the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B,  
3 so as to eliminate all of the units to whose development this Chapter 23.58C applies according to  
4 subsection 23.58C.025.B in the individual structure, the owner of the development shall:

5 a) Except as provided according to subsection  
6 23.58C.050.C.6.j.2.b, pay to the City a payment in lieu of continuing affordability according to  
7 subsection 23.58C.050.C.6.j.1.a for each rental unit provided through the performance option  
8 that is eliminated; or

9 b) If a rental unit that is eliminated resulted from the  
10 combination of fractions of units according to subsection 23.58C.050.A.4, designate, subject to  
11 review by the Director in consultation with the Director of Housing, a comparable substitute  
12 rental unit within the other structures to replace each such unit that is eliminated or, if such  
13 designation is not possible, pay to the City a payment in lieu of continuing affordability  
14 according to subsection 23.58C.050.C.6.j.1.a.

15 c) Demolition or change of use of an individual structure  
16 shall not be a basis for reducing the number of rental (~~units provided through the performance~~  
17 ~~option~~) MHA-R units in the other structures and any comparable substitute rental units shall be  
18 in addition to any existing rental (~~units provided through the performance option~~) MHA-R  
19 units in the other structures.

20 7. Additional requirements for ownership MHA-R units provided through the  
21 performance option

22 a. Affordable sale price; down payment. The initial sales price for an  
23 ownership unit provided through the performance option shall be an amount according to which

1 total ongoing housing costs do not exceed 35 percent of 65 percent of median income, in order to  
2 allow for equity growth for individual homeowners while maintaining affordability for ((future))  
3 income-eligible buyers. The Director of Housing shall establish by rule the method for  
4 calculating the initial sales price including standard assumptions for determining upfront housing  
5 costs, including the down payment, and ongoing housing costs, which shall include mortgage  
6 principal and interest payments, homeowner's insurance payments, homeowner or condominium  
7 association dues and assessments, and real estate taxes and other charges included in county tax  
8 billings. The Director of Housing may establish a maximum down payment amount for eligible  
9 households at initial sale of an ownership unit. The applicant for ((the)) a development to which  
10 this Chapter 23.58C applies shall be responsible for any costs incurred in the initial sale of an  
11 ownership unit necessary to ensure compliance with this Chapter 23.58C, including but not  
12 limited to marketing to eligible households, income verification, buyer education, and  
13 verification of buyer financing.

14 b. Affordable resale price. For an ownership unit provided through the  
15 performance option, the sale price for sales subsequent to the initial sale shall be calculated to  
16 allow modest growth in homeowner equity while maintaining long-term affordability for  
17 ((future)) income-eligible buyers. All buyers of an ownership unit subsequent to the initial sale  
18 shall be households with incomes no greater than 80 percent of median income at initial  
19 occupancy. The Director of Housing shall by rule:

20 1) Establish the method for calculating the resale price and may  
21 establish a maximum down payment amount for eligible households at resale,

22 2) Establish specific requirements for documents ensuring  
23 affordability requirements are met at resale, and

1 3) Provide for recovery of reasonable administrative costs.

2 c. Other restrictions. An eligible household purchasing an ownership unit  
3 provided through the performance option, either at initial sale or resale, shall:

4 1) Occupy the unit as its principal residence for the duration of its  
5 ownership and shall not lease the unit, unless the Director of Housing approves a limited short-  
6 term exception, and

7 2) Comply with all other ((~~program~~)) rules established by the  
8 Director of Housing as necessary to maintain the long-term viability of the MHA-R unit. Such  
9 rules may include, but are not limited to, refinancing approvals and debt limits; limits on credit  
10 for capital improvements at the time of resale; requirements for basic maintenance, inspections,  
11 and compliance procedures; minimum insurance requirements; obligations to provide  
12 information regarding compliance when and as requested; and fees to cover the full costs of  
13 calculating the maximum sales price at resale, marketing to eligible households, and screening  
14 and selecting eligible households to purchase the unit at resale.

15 d. Annual fee. The owner of the ownership unit shall pay the Office of  
16 Housing an annual fee, payable in 12 equal payments, for the ((~~purposes~~)) purpose of monitoring  
17 compliance with the requirements ((~~according to~~)) of this Section 23.58C.050. The initial fee  
18 shall be established by the Director of Housing by rule. ((~~On March 1, 2017, and on the same~~  
19 ~~day each year thereafter, the annual fee shall automatically adjust in proportion to the annual~~  
20 ~~change for the previous calendar year (January 1 through December 31))~~) The annual fee shall  
21 automatically adjust annually on March 1, starting in 2024, by an amount in proportion to the  
22 increase, if any, for January 1 through December 31 of the prior calendar year, in the Consumer



1 Price Index, All Urban Consumers, Seattle-Tacoma-Bellevue, WA, All Items (1982-1984 = 100),  
2 as determined by the U.S. Department of Labor, Bureau of Labor Statistics or successor index.

3 e. Ongoing stewardship. Either (~~prior to or subsequent to~~) before or after  
4 the initial sale, the Director of Housing is authorized to designate an agency or organization with  
5 sufficient capacity, as approved by the Director of Housing, to perform ongoing stewardship and  
6 management functions for ownership (~~(units provided through the performance option)~~) MHA-R  
7 units, including but not limited to the following:

- 8 1) Calculating maximum sale prices;
- 9 2) Marketing sales to eligible households;
- 10 3) Screening, educating, and selecting eligible households;
- 11 4) Approving buyer financing; and
- 12 5) Managing successive resales to eligible households.

13 f. Periodically as may be required by the Director of Housing, but no less  
14 than annually, the applicant or third-party stewardship entity, as applicable, shall submit to the  
15 Office of Housing a written report demonstrating compliance with and housing outcomes of this  
16 Section 23.58C.050. The report shall include required information and supporting  
17 documentation, verified upon the owner's oath or affirmation and in a form prescribed by the  
18 Office of Housing. The Director of Housing is authorized to assess a late fee of \$50 per day,  
19 which shall accrue until the report is submitted, starting 14 days from the date of the Office of  
20 Housing's notice that the report is overdue.

21 8. Additional requirements for MHA-R units provided through the performance  
22 option on a site other than the same lot as the development required to comply with this Chapter  
23 23.58C(~~(:)~~)

1 a. Equal or better – comparability of units. The applicant shall demonstrate  
2 to the satisfaction of the Director of Housing that ((units provided through the performance  
3 option)) MHA-R units on a site other than the same lot as the development required to comply  
4 with this Chapter 23.58C are equal to or better than ((units provided through performance))  
5 MHA-R units on the same lot.

6 b. Location. ((Units provided through the performance option)) MHA-R  
7 units on a site other than the same lot as the development required to comply with this Chapter  
8 23.58C shall be located in a Lowrise or RSL zone. In addition, units shall be located:

9 1) Within the same urban center or urban village as the  
10 development required to comply with this Chapter 23.58C; or

11 2) Within ((one)) 1 mile of the development required to comply  
12 with this Chapter 23.58C if such development is located outside of an urban center or urban  
13 village.

14 c. Tenure. ((Units provided through the performance option)) MHA-R  
15 units on a site other than the same lot as the development required to comply with this Chapter  
16 23.58C shall be ownership units and shall comply with all additional requirements for ownership  
17 units according to subsection 23.58C.050.C.7.

18 d. Public subsidy. If any public subsidy is used for a development, and the  
19 public subsidy operates through subjecting units in the development to restrictions on the income  
20 levels of occupants and the rents or sale prices that may be charged, the development shall not be  
21 eligible to provide units through the performance option according to subsection 23.58C.050.C.8.

22 e. Developer's agreement. If the owner of the development required to  
23 comply with this Chapter 23.58C is not the owner of the ((units provided through the

1 ~~performance option~~) MHA-R units, then in addition to the agreement required according to  
2 subsection 23.58C.050.E, the owner of the development required to comply with this Chapter  
3 23.58C and the owner of the (~~units provided through the performance option~~) MHA-R units  
4 shall execute a developer's agreement, acceptable to the Director of Housing, allowing the  
5 exclusive use of the (~~units provided through the performance option~~) MHA-R units to satisfy  
6 the requirements (~~according to~~) of this Chapter 23.58C in return for necessary and adequate  
7 financial support to the development of those (~~units provided through the performance option~~)  
8 MHA-R units.

9 f. Letter of credit

10 1) If the (~~units provided through the performance option~~) MHA-  
11 R units are located on a site other than the same lot as the development required to comply with  
12 this Chapter 23.58C, the owner of the development required to comply with this Chapter 23.58C  
13 shall provide to the Director of Housing an irrevocable bank letter of credit, approved by the  
14 Director of Housing, in the amount according to subsection 23.58C.040.A.

15 2) The Director of Housing may draw on the letter of credit one  
16 year after the date of issuance of the certificate of occupancy, or, if a certificate of occupancy is  
17 not required, the final building permit inspection, for the development required to comply with  
18 this Chapter 23.58C if the certificate of occupancy or final building permit inspection for the  
19 (~~units provided through the performance option~~) MHA-R units has not been issued on or before  
20 that date. The owner of the development required comply with this Chapter 23.58C shall also  
21 pay an amount equal to the interest on the cash contribution, at the rate equal to the prime rate  
22 quoted by Bank of America, or its successor, plus three percent per annum, from the date of

1 issuance of the first building permit that includes the structural frame for the development  
2 required to comply with this Chapter 23.58C.

3 3) If and when the City becomes entitled to draw on any letter of  
4 credit, the Director of Housing may take appropriate steps to do so, and the amounts realized, net  
5 of any costs to the City, shall be used in the same manner as cash contributions according to  
6 subsection 23.58C.040.B.

7 D. Enforcement. The requirements (~~(according to)~~) of this Section 23.58C.050 shall be  
8 terms of the building permit according to subsection 23.58C.030.A.5. In addition to any other  
9 remedies available to the City, the City is authorized to enforce such permit terms using the  
10 procedures of Chapter 23.90.

11 E. Agreement. If the applicant elects to comply with this Chapter 23.58C through the  
12 performance option, the City and the property owner of the development to which this Chapter  
13 23.58C applies shall enter into an agreement specifying the requirements (~~(according to)~~) of this  
14 Section 23.58C.050. The agreement shall be recorded on the title of the property on which that  
15 development is located. The requirements specified in the agreement shall be consistent with the  
16 final plans. If the first building permit is issued for the structural frame for the structure that  
17 includes affordable housing according to this Chapter 23.58C, and such structure is acquired to  
18 provide City-funded low-income housing, the agreement according to this subsection  
19 23.58C.050.E may be released at the sole discretion of the Director of Housing.

20 Section 57. Section 23.66.100 of the Seattle Municipal Code, last amended by Ordinance  
21 123589, is amended as follows:

22 **23.66.100 Creation of district, legislative findings and purpose**



1 the first location of industry, business, and homes in early Seattle and the focus of commerce and  
2 transportation for more than a half-century.

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

10           3. Social (~~(Diversity)~~) diversity. The District represents an area of unique social  
11 diversity where people (~~(from many income levels and social strata)~~) with a wide range of  
12 incomes live, shop, and work. It is an area (~~(in which social services, including missions,)~~) with  
13 market-rate housing as well as low-income housing, emergency shelters, and (~~(service agencies~~  
14 ~~exist)~~) human services.

15           4. Business (~~(Environment)~~) environment. The District is an area of remarkable  
16 business diversity. The street level of the area north of S. King Street is pedestrian-oriented, with  
17 its storefronts occupied primarily by specialty retail shops, art galleries, restaurants, and taverns.  
18 The upper floors of buildings in the historic core are occupied by professional offices, various  
19 types of light manufacturing, and housing for persons (~~(of many income groups)~~) with a wide  
20 range of incomes. The area south of S. King Street includes the stadium's north parking lot, a  
21 number of structures occupied by light manufacturing and warehousing use, and several  
22 structures converted to office, residential, and mixed use. The stadium's north parking lot may be  
23 redeveloped to accommodate a mix of uses, including a substantial amount of housing. The

1 ongoing restoration and sensitive rehabilitation of many District structures, combined with  
2 proposed compatible new construction, will continue to enhance the District's economic climate.

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

8 6. Geographic (~~(Location)~~) location. The District is uniquely situated adjacent to  
9 Seattle's waterfront, the central business district, the International District, and sports stadium  
10 and exhibition center facilities.

11 Section 58. Section 23.66.310 of the Seattle Municipal Code, last amended by Ordinance  
12 123589, is amended as follows:

13 **23.66.310 Union Station Corridor goals and objectives**

14 The Union Station Corridor is that area bounded by Yesler Way, Fifth Avenue South, Airport  
15 Way South, and Fourth Avenue South. The City, in cooperation with King County Metro, local  
16 property owners and the affected community, formulated a strategy for the redevelopment of the  
17 Union Station Corridor in coordination with the Downtown Transit Project. Specific objectives  
18 for a Planned Community Development in the Union Station Corridor include the following:

19 A. Preservation. The historic Union Station structure should be retained and rehabilitated  
20 with consideration given to a mix of private and public uses.

21 B. Uses. Development in the Corridor should incorporate a mix of uses, such as office,  
22 housing, hotel, and retail uses in conformance with its International District zoning and the  
23 regulations of the International Special Review District. Retention of (~~(existing)~~) low-income

1 housing should be given a high priority. Consideration should be given to the inclusion of public  
2 open space and public uses serving the community.

3 \* \* \*

4 Section 59. Section 23.70.008 of the Seattle Municipal Code, enacted by Ordinance  
5 126519, is amended as follows:

6 **23.70.008 Permitted and prohibited uses**

7 A. Residential uses. Mobile homes((;)) and mobile home parks((;)) that meet the  
8 requirements of subsection 23.70.010.A and ((low income housing meeting)) housing that meets  
9 the requirements of ((this Chapter 23.70)) subsection 23.70.010.B are permitted outright. All  
10 other residential uses are prohibited.

11 \* \* \*

12 Section 60. Section 23.70.010 of the Seattle Municipal Code, enacted by Ordinance  
13 126519, is amended as follows:

14 **23.70.010 Development standards for residential uses**

15 A. Mobile homes and mobile home parks

16 1. In addition to the development standards in this Chapter 23.70, mobile homes  
17 and mobile home parks are subject to the development standards in Chapter 22.904.

18 2. The maximum height for residential structures is 30 feet. The height limit  
19 exceptions and additions of the LR zones pursuant to Section 23.45.514 apply.

20 3. Setbacks and separations. Setbacks shall be from mobile home park lot lines as  
21 follows:

22 a. Minimum of 5 feet from any street lot line; and

23 b. Minimum of 5 feet from any lot line abutting a single-family zone.



1 B. (~~Low income housing. Low income housing~~) Housing and right of first offer  
2 requirements. Housing on a site that is owned by a government entity, non-profit, or religious  
3 organization(~~(, and meeting)~~) and that meets the requirements of this Chapter 23.70 (~~(are)~~) is  
4 subject to the development standards of the underlying zone. (~~In the event that low income~~  
5 ~~housing is provided by a religious organization, the density bonuses under Section 23.42.055~~  
6 ~~apply, but low income housing must comply with the~~) The affordability requirements pursuant  
7 to this subsection 23.70.010.B shall apply in the event of a conflict with affordability  
8 requirements upon which alternative development standards are conditioned according to Section  
9 23.42.055, if applicable.

10 (~~(1. Affordability requirements)~~)

11 (~~(a-)~~) 1. Eligible households. Except as provided in subsection (~~(23.70.010.B.1.e)~~)  
12 23.73.010.B.5 , all dwelling units or congregate residence sleeping rooms shall serve only:

13 (~~(1)~~) a. For rental units, households with incomes no greater than 60  
14 percent of median income(~~(, adjusted by household size)~~).

15 (~~(2)~~) b. For ownership units, households with incomes no greater than 80  
16 percent of median income(~~(, adjusted by household size)~~).

17 (~~(b-)~~) 2. Duration. The obligation to provide dwelling units or congregate  
18 residence sleeping rooms meeting the requirements of this subsection 23.70.010.B shall last for a  
19 period of 75 years from the date of the certificate of occupancy or, if a certificate of occupancy is  
20 not required, from the date of the final building permit inspection for the development to which  
21 this subsection 23.70.010.B applies.

22 (~~(e-)~~) 3. Affordable rent. Monthly rent shall not exceed 30 percent of 60 percent of  
23 median income. (~~For purposes of this subsection 23.70.010.B, "monthly rent" includes a utility~~

1 ~~allowance for heat, gas, electricity, water, sewer, and refuse collection, to the extent such items~~  
2 ~~are not paid for tenants by the owner, and any recurring fees that are required as a condition of~~  
3 ~~tenancy.~~

4 ~~(d-))~~ 4. Affordable sale price

5 ~~((1))~~ a. Affordable price—~~((initial))~~ Initial sales. The initial affordable sale price  
6 must be an amount in which total ongoing housing costs do not exceed 30 percent of 80 percent  
7 of median income. The Director of Housing will establish by rule the method for calculating the  
8 initial sale price including standard assumptions for determining upfront housing costs, including  
9 the down payment, and ongoing housing costs, which must include mortgage principal and  
10 interest payments, homeowner's insurance payments, homeowner or condominium association  
11 dues and assessments, and real estate taxes and other charges included in county tax billings. The  
12 Director of Housing may establish by rule a maximum down payment amount.

13 ~~((2))~~ b. Affordable price—~~((resales))~~ Resales. Eligible households for purchase  
14 of an ownership unit subsequent to the initial sale must have incomes no greater than 80 percent  
15 of median income at initial occupancy. The Office of Housing will establish by rule the formula  
16 for calculating maximum affordable prices for sales subsequent to the initial sale to allow modest  
17 growth in homeowner equity while maintaining long-term affordability for ~~((future))~~ income-  
18 eligible buyers.

19 ~~((e-))~~ 5. Right of first offer, replacement housing, and initial rent and affordable sales  
20 price for current residents~~((:-))~~

21 ~~((1))~~ a. The property owner shall affirmatively offer eligible households of  
22 residents of the mobile home park, at the time the relocation report and plan required by Section  
23 22.904.410 is submitted, a replacement unit in the ~~((low-income))~~ housing development

1 according to this subsection 23.70.010.B, relocation housing while the (~~low income~~) housing  
2 development is under construction, and financial relocation assistance. Financial relocation  
3 assistance shall be provided regardless of whether eligible households accept a replacement unit.

4 ((2)) b. For rental units for eligible households of residents of the mobile home  
5 park at the time the relocation report and plan required by Section 22.904.410 is submitted, the  
6 replacement unit must be equivalent in size to the mobile home in which the resident formerly  
7 lived and, notwithstanding the requirements of subsection (~~23.70.010.B.1.e~~) 23.70.010.B.3, the  
8 affordable monthly rent, while the resident is a tenant of the development, shall be no greater  
9 than 30 percent of 40 percent of median income, adjusted for household size, or one-third of a  
10 residents' monthly income, whichever is less. (~~For purposes of this subsection 23.70.010.B,~~  
11 ~~"monthly rent" includes a utility allowance for heat, gas, electricity, water, sewer, and refuse~~  
12 ~~collection, to the extent such items are not paid for tenants by the owner, and any recurring fees~~  
13 ~~that are required as a condition of tenancy.~~) Affordable rent subsequent to the resident being a  
14 tenant of the development is determined pursuant to subsection (~~23.70.010.B.1.e~~)  
15 23.70.010.B.3.

16 ((3)) c. For ownership units for eligible households of residents of the mobile  
17 home park at the time the relocation report and plan required by Section 22.904.410 is submitted,  
18 the initial affordable sale price must be an amount in which total ongoing housing costs do not  
19 exceed 30 percent of 40 percent of median income. The Director of Housing will establish by  
20 rule the method for calculating the initial sale price including standard assumptions for  
21 determining upfront housing costs, including the down payment, and ongoing housing costs,  
22 which must include mortgage principal and interest payments, homeowner's insurance payments,  
23 homeowner or condominium association dues and assessments, and real estate taxes and other

1 charges included in county tax billings. The Director of Housing may establish by rule a  
2 maximum down payment amount. Affordable resale prices are determined pursuant to subsection  
3 ~~((23.70.010.B.1.d.2))~~ 23.70.010.B.4.b.

4 d. Agreement. As a condition of building permit issuance for a development  
5 according to this subsection 23.70.010.B, the property owner and the City must enter into an  
6 agreement in a form acceptable to the City that includes housing covenants consistent with this  
7 subsection 23.70.010.B and the final plan set approved by the Department. The agreement must  
8 be recorded on the title of the property on which the low-income housing development is located.

9 6. For purposes of this Section 23.70.010, "monthly rent" includes a utility allowance for  
10 heat, gas, electricity, water, sewer, and refuse collection, to the extent such items are not paid for  
11 tenants by the owner, and any recurring fees that are required as a condition of tenancy.

12 Section 61. Section 23.72.002 of the Seattle Municipal Code, enacted by Ordinance  
13 118624, is amended as follows:

14 **23.72.002 Purpose and intent((~~r~~))**

15 The purpose of this ~~((chapter))~~ Chapter 23.72 is to implement the Sand Point amendments to the  
16 Comprehensive Plan by regulating land use and development within the Sand Point Overlay  
17 District in order to integrate the property into the city of Seattle as a multi-purpose regional  
18 center that provides:

19 A. Expanded opportunity for recreation, education, arts, cultural, and community  
20 activities;

21 B. Increased public access to the shoreline and enhanced open space and natural areas;

22 C. Opportunities for ~~((affordable))~~ low-income housing and community and social  
23 services with a special priority for addressing the needs of homeless families; and

1 D. Expanded opportunity for low-impact economic development uses which could  
2 provide employment and services for residents of the property and for the broader community.

3 Section 62. Section 23.72.010 of the Seattle Municipal Code, last amended by Ordinance  
4 126509, is amended as follows:

5 **23.72.010 Development standards**

6 \* \* \*

7 D. New structures. Demolition of existing structures and construction of new structures in  
8 the Sand Point Overlay District are permitted if in compliance with the following provisions and  
9 if consistent with the Sand Point Historic Properties Reuse and Protection Plan, dated April  
10 1998, as documented by a letter from the State Historic Preservation Officer certifying that the  
11 proposal is consistent with the Plan:

12 1. Any new structure shall be located on and limited to the footprint of a structure  
13 that existed on the site as of July 18, 1997, except for:

14 a. ~~((an))~~ An indoor and outdoor tennis center to be located within Subarea  
15 B as depicted on Map A for 23.72.004~~((;))~~ ;

16 b. ~~((affordable))~~ Low-income housing ~~((structures))~~ to be located within  
17 ~~((L3))~~ LR3 zoned portions of the overlay district~~((;))~~ ; and

18 c. ~~((dry))~~ Dry boat storage.

19 2. In determining the footprint of structures existing on July 18, 1997, interior  
20 courtyards enclosed by three or more building walls at least 10 feet in height may be included as  
21 part of the footprint.

22 3. Except for a proposed new tennis center in Subarea B, for which the height  
23 limit is 45 feet, and except for any new structure used for nonmotorized dry boat storage, for

1 which the height limit is 15 feet, the height limit of a new structure is the greater of the height  
2 limit of the underlying zone or the height of the structure that existed on the same site as the new  
3 structure as of July 18, 1997.

4 \* \* \*

5 Section 63. Section 23.73.010 of the Seattle Municipal Code, last amended by Ordinance  
6 125791, is amended as follows:

7 **23.73.010 Floor area limits outside the Conservation Core**

8 \* \* \*

9 B. Exceptions to floor area limit

10 1. A 15 percent increase in the floor area limit is permitted for projects that meet  
11 the following conditions:

12 a. The project retains all the character structures existing on the lot, unless  
13 a departure is approved through the design review process to allow the removal of a character  
14 structure based on the provisions of subsection 23.41.012.B; and

15 b. The project includes uses that contribute to the area's recognized  
16 character as an arts district, including performing arts space or artist-studio dwellings that  
17 typically have design requirements such as nonstandard floor-to-ceiling heights that reduce the  
18 total amount of usable floor area in a structure; or

19 c. A minimum of 50 percent of the total gross floor area of the project is  
20 ~~((housing that is affordable to and occupied by "income-eligible households," as defined in~~  
21 ~~Section 23.58A.004, and is subject to recorded covenants approved by the Director that ensure~~  
22 ~~that the housing remains available to these households for a minimum of 50 years)) moderate-~~  
23 income units; or

1                                   d. Through the design review process a determination is made that  
2 including one or more of the following features offsets the increase in the bulk of the project and  
3 allows for a design treatment that achieves the intent of the neighborhood design guidelines  
4 better than adhering to the floor area limit that would apply without the exception:

5   1) A landscaped courtyard that is visible from the sidewalk and  
6 located primarily at street level on a street that is not a principal pedestrian street;

7   2) A through-block pedestrian corridor that connects parallel  
8 streets bounding the project, consistent with the neighborhood design guidelines; or

9   3) Open space at locations that support the gateway and open space  
10 concepts promoted in the neighborhood design guidelines.

11                                   2. Retaining character structures on a lot. A 25 percent increase in the floor area  
12 limit established in subsection 23.73.010.A is permitted for a project that retains all the character  
13 structures on the same lot according to the provisions in Section 23.73.015, unless a departure is  
14 approved through the design review process to allow the removal of a character structure based  
15 on the provisions of subsection 23.41.012.B. Any increase in floor area permitted according to  
16 this subsection 23.73.010.B.2 shall not be combined with any other increase in floor area  
17 permitted according to subsection 23.73.010.B.1 or 23.73.010.B.3.

18                                   3. A 25 percent increase in the floor area limit is permitted on a lot that qualifies  
19 as a receiving site for a project that adds floor area through the use of TDP as permitted by  
20 Section 23.73.024, provided that the amount of floor area added through the use of TDP is  
21 equivalent to at least 0.25 FAR, as calculated for the receiving site. Any increase in floor area  
22 permitted according to this subsection 23.73.010.B.3 shall not be combined with any other  
23 increase in floor area permitted according to subsection 23.73.010.B.1 or 23.73.010.B.2.

\* \* \*

Section 64. Section 23.73.016 of the Seattle Municipal Code, enacted by Ordinance 123776, is amended as follows:

**23.73.016 Amenity area**

A. Amenity area is not required for structures existing as of April 1, 2000, that are repaired, renovated, or structurally altered to the extent permitted by the development standards of the Land Use Code, provided that street-facing facades are retained and 50 percent or more of the gross floor area is retained.

B. Amenity area is not required for ~~((new construction of affordable housing that meets the following:~~

1. ~~At least 40 percent of the units are rented to households at annual rents not exceeding 30 percent of 60 percent of the median income; and~~

2. ~~The applicant demonstrates compliance with these income criteria for the life of the building))~~ low-income housing.

C. ~~((Existing residential uses that meet the amenity area requirements of Section 23.47A.024 may eliminate amenity))~~ Amenity area~~((, provided they comply with subsections 23.73.016.B.1 and B.2))~~ in existing low-income housing may be removed.

\* \* \*

Section 65. Section 23.75.020 of the Seattle Municipal Code, last amended by Ordinance 124378, is amended as follows:

**23.75.020 Definitions**

A. Scope and applicability





1 “~~((60 percent of MI))~~ 60% AMI unit” means a dwelling unit ~~((of affordable housing,))~~  
2 other than a replacement unit or ~~((80 percent of MI))~~ 80% AMI unit, to be occupied by or  
3 reserved solely for households with incomes at initial occupancy no higher than 60 percent of  
4 median income~~((, as defined in Section 23.84A.025, at the time of initial occupancy by the~~  
5 ~~household)),~~ subject to ~~((the term of and commitment to affordability in))~~ requirements of  
6 subsection ~~((23.75.085.C.2))~~ 23.75.085.D.

7 “~~((80 percent of MI))~~ 80% AMI unit” means a dwelling unit ~~((of affordable housing,))~~  
8 other than a replacement unit or ~~((60 percent of MI))~~ 60% AMI unit, to be occupied by or  
9 reserved solely for households with incomes at initial occupancy no higher than 80 percent of  
10 median income~~((, as defined in Section 23.84A.025, at the time of initial occupancy by the~~  
11 ~~household)),~~ subject to ~~((the term of and commitment to affordability in))~~ requirements of  
12 subsection ~~((23.75.085.C.2))~~ 23.75.085.D.

13 Section 66. Section 23.75.085 of the Seattle Municipal Code, last amended by Ordinance  
14 125603, is amended as follows:

15 **23.75.085 Residential floor area limits; affordable housing incentive ~~((program))~~**

16 A. Purpose. The provisions of this Section 23.75.085 are intended to implement an  
17 affordable housing incentive ~~((program))~~ as authorized by RCW 36.70A.540.

18 B. Findings. Pursuant to the authority of RCW 36.70A.540, the City finds that:

19 1. The phased redevelopment of the properties in the MPC-YT zone addresses the  
20 need for increased residential development to achieve local growth management and housing  
21 policies; and

22 2. The terms of the affordable housing incentive ~~((program))~~ in this Section  
23 23.75.085 ~~((take into account))~~ recognize that, ~~((federal funding is expected for housing that will~~

1 ~~replace existing public housing and that will serve households with incomes, at the time of initial~~  
2 ~~occupancy by the household, at or below 30 percent of median income, but that))~~ for affordable  
3 housing not receiving federal subsidies, the higher income levels specified ~~((in the definitions of~~  
4 ~~“60 percent of MI unit” and “80 percent of MI unit” in this Chapter 23.75))~~ for 60% AMI units  
5 and 80% AMI units, rather than the level stated for rental housing units in the definition of “low-  
6 income households” in RCW 36.70A.540, are needed to address local housing market  
7 conditions.

8 C. ~~((Residential floor area limits 1.))~~ The aggregate residential floor area limit for built  
9 and permitted development on all lots within the MPC-YT zone is established in Table A for  
10 23.75.085 and subject to the following conditions:

11 ~~((a.))~~ 1. The aggregate residential floor area limit is increased in stages, referred to  
12 as “tiers,” when affordable housing is provided in accordance with the terms of this Section  
13 23.75.085 in amounts sufficient to satisfy the conditions for the next tier according to Table A  
14 for 23.75.085.

15 ~~((b.))~~ 2. The Tier 1 limit is the base, so no affordable housing needs to be  
16 provided in order for aggregate residential floor area to reach the Tier 1 limit.

17 ~~((c.))~~ 3. If the total amount of constructed or permitted floor area reaches the  
18 applicable tier limit, but affordable housing production conditions have not been satisfied, no  
19 further building permits for residential floor area may be issued except for replacement units,  
20 ~~((60 percent of MI))~~ 60% AMI units, or ~~((80 percent of MI))~~ 80% AMI units. In counting total  
21 permitted residential floor area, projects with expired or cancelled permits shall not be included.

22 ~~((d.))~~ 4. After the maximum residential floor area allowed has been increased to  
23 Tier 4, no Master Use Permit for a development including residential floor area shall be issued

1 unless the development application includes a number of ~~((80 percent of MI))~~ 80% AMI units  
 2 equal to 4.5 percent of the total number of ~~((dwelling))~~ units in the application that are not either  
 3 replacement units or ~~((60 percent of MI))~~ 60% AMI units.

4 **Table A for 23.75.085**

5 **Maximum floor area limits for residential uses**

6 **based on affordable housing production <sup>1</sup>**

	<del>((Affordable))</del> <u>Cumulative affordable housing production</u> <del>((conditions for))</del> <u>in the Yesler Terrace redevelopment area</u> <del>((cumulative))</del> <u>required to increase maximum floor area limit to the next tier, consistent with subsection 23.75.085.F</u>	Maximum residential floor area allowed in the MPC-YT zone
Tier 1	<ul style="list-style-type: none"> <li>• 187 replacement units</li> </ul>	1,400,000 square feet
(base)	<ul style="list-style-type: none"> <li>• 80 <del>60% ((of MI))</del> <u>AMI</u> units</li> </ul>	
	<ul style="list-style-type: none"> <li>• A number of 80% <del>((of MI))</del> <u>AMI</u> units equal to 4.5 percent of <del>((all housing))</del> <u>total units</u> <del>((completed to date))</del> <u>, not including replacement units and 60% AMI units,</u> in the MPC-YT zone <del>((in accordance with 23.75.085.D, other than replacement units and 60% of MI units.))</del></li> </ul>	
Tier 2	<ul style="list-style-type: none"> <li>• 374 replacement units</li> </ul>	2,750,000 square feet
	<ul style="list-style-type: none"> <li>• 160 <del>60% ((of MI))</del> <u>AMI</u> units</li> </ul>	
	<ul style="list-style-type: none"> <li>• A number of 80% <del>((of MI))</del> <u>AMI</u> units equal to 4.5 percent of <del>((all housing))</del> <u>total units</u> <del>((completed to date))</del> <u>, not including replacement units and 60% AMI units,</u> in the MPC-YT zone <del>((in accordance with 23.75.085.D, other than replacement units and 60% of MI units.))</del></li> </ul>	
Tier 3	<ul style="list-style-type: none"> <li>• 561 <del>((Replacement))</del> <u>replacement</u> units</li> </ul>	3,350,000 square feet
	<ul style="list-style-type: none"> <li>• 290 <del>60% ((of MI))</del> <u>AMI</u> units</li> </ul>	
	<ul style="list-style-type: none"> <li>• A number of 80% <del>((of MI))</del> <u>AMI</u> units equal to 4.5 percent of <del>((all housing))</del> <u>total units</u> <del>((completed to date))</del> <u>, not including replacement units and 60% AMI units,</u> in the MPC-YT zone <del>((in accordance with 23.75.085.D)), other than replacement units and 60% of MI units.))</del></li> </ul>	
Tier 4	Not applicable	3,950,000 square feet

Footnotes to Table A for 23.75.085

<sup>1</sup> Housing units existing as of January 1, 2012 ~~((does))~~ do not count toward the affordable housing production ~~((conditions))~~ requirements or the maximum residential floor area allowed.

1 ~~((2. In order to))~~ D. To count toward the conditions to a higher tier under Table A for  
2 23.75.085, affordable housing shall be committed under recorded covenants or instruments,  
3 acceptable to the Director of Housing, to satisfy the following requirements:

4 ~~((a.))~~ 1. Term. The affordable housing shall serve only income eligible households  
5 for replacement units, ~~((60 percent of MI))~~ 60% AMI units, or ~~((80 percent of MI))~~ 80% AMI  
6 units, as defined in Section 23.75.020, for a minimum of 50 years from the date when the  
7 affordable housing becomes available for occupancy as determined by the Director of Housing.

8 ~~((b.))~~ 2. Affordability. Units must be committed to affordability as follows:

9 ~~((1))~~ a. Except as permitted in subsection ~~((23.75.085.C.2.b.5))~~  
10 23.75.085.D.2.e, for replacement units, monthly rent, including basic utilities, shall be as allowed  
11 under the 1937 U.S. Housing Act, as amended, and agreements between the Seattle Housing  
12 Authority and the U.S. Department of Housing & Urban Development (HUD) and, for City-  
13 funded replacement units, agreements between the Seattle Housing Authority and ~~((the))~~ The  
14 City of Seattle. Rent may increase in proportion to household income for qualifying tenants  
15 provided that rent shall not exceed 30 percent of 80 percent of median income. For purposes of  
16 this Section 23.75.085, Yesler Terrace residents who are eligible to return pursuant to a  
17 relocation plan adopted by the Seattle Housing Authority shall be deemed to have met initial  
18 occupancy requirements.

19 ~~((2))~~ b. Except as permitted in subsection ~~((23.75.085.C.2.b.5))~~  
20 23.75.085.D.2.e, for ~~((60 percent of MI))~~ 60% AMI units, monthly rent, including basic utilities,  
21 shall not exceed 30 percent of 60 percent of median income.

1                                    ~~((3))~~ c. For ~~((80 percent of MI))~~ 80% AMI units that are rental housing,  
2 monthly rent, including basic utilities, shall not exceed 30 percent of 80 percent of median  
3 income.

4                                    ~~((4))~~ d. For ~~((80 percent of MI))~~ 80% AMI units that are offered for sale,  
5 the initial sale price shall not exceed an amount determined by the Director of Housing to be  
6 affordable to a household with an income, at the time of initial occupancy by the household, no  
7 higher than 80 percent of median income. The unit shall be subject to recorded covenants or  
8 instruments satisfactory to the Director of Housing providing for ~~((sales prices on any resales  
9 consistent with affordability requirements on the same basis))~~ limits on sale and resale prices  
10 according to Section 23.75.020 and this Section 23.75.085 for at least 50 years. The Director of  
11 Housing is authorized to adopt~~((s))~~ by rule~~((s))~~ the method of determining affordability, including  
12 estimated monthly housing costs and requirements relating to down payment amount and  
13 homebuyer contributions.

14                                    ~~((5))~~ e. The Director of Housing is authorized to amend covenants to  
15 adjust affordability and income limits up to a maximum of 30 percent of 80 percent of median  
16 income if the Director of Housing determines that:

17                                    ~~((a))~~ 1) In the case of replacement units, a reduction in federal  
18 operating subsidies has made such funding insufficient to maintain the replacement units for  
19 households with incomes at or below 30 percent of median income;

20                                    ~~((b))~~ 2) In the case of ~~((60 percent of MI))~~ 60% AMI units, after  
21 40 years from initial occupancy of a building, rent levels are insufficient to operate and maintain  
22 the units or to meet any required debt coverage ratios as required by financing;



1 submitted, starting 14 days from the date of the Office of Housing’s notice that the report is  
2 overdue. For ownership affordable housing, the applicant or third-party stewardship entity, as  
3 applicable, must comply with reporting requirements of this subsection 23.75.085.D.5.

4 6. Compliance monitoring fees

5 a. Rental affordable housing. The owner of rental affordable housing shall  
6 pay the Office of Housing an annual fee of \$190 per affordable housing unit for the purpose of  
7 monitoring compliance according to this Section 23.75.085. The annual fee shall automatically  
8 adjust annually on March 1, starting in 2024, by an amount in proportion to the increase, if any,  
9 for January 1 through December 31 of the prior calendar year, in the Consumer Price Index, All  
10 Urban Consumers, Seattle-Tacoma-Bellevue, WA, All Items (1982-1984=100), as determined by  
11 the U.S. Department of Labor, Bureau of Labor Statistics, or successor index, unless the Director  
12 of Housing determines that a lower fee covers the cost of monitoring compliance.

13 b. Ownership affordable housing. The owner of each ownership affordable  
14 housing unit shall pay to the Office of Housing or third-party stewardship entity, as applicable,  
15 an annual fee payable in 12 equal payments for the purpose of monitoring compliance with this  
16 Section 23.75.085. The fee shall be established by the Director of Housing by rule.

17 ~~((3-))~~ E. No ~~((subsidies))~~ other restrictions for ~~((80 percent of MI))~~ 80% AMI units;  
18 exceptions

19 ~~((a. The associated covenant required in order for an 80 percent of MI unit to~~  
20 ~~count toward the conditions to a higher tier under Table A for 23.75.085 must include provisions~~  
21 ~~prohibiting subsidies provided for or related to that unit. For purposes of this subsection~~  
22 ~~23.75.085.C.3, "subsidies" includes federal loans or grants, City of Seattle housing loans or~~  
23 ~~grants, developer contributions for affordable housing made in exchange for bonus floor area in a~~



1 ~~zone other than MPC YT, county housing funds, and State of Washington housing funds, except~~  
2 ~~as provided in this subsection 23.75.085.C.3.~~

3 ~~b. Housing that is or upon completion would be subject to any restrictions~~  
4 ~~on the income of occupants, rents, or sale prices, independent of requirements in this Section~~  
5 ~~23.75.085 and Chapter 5.73, may not be counted as affordable housing under this Section~~  
6 ~~23.75.085, except as provided in subsection 23.75.085.C.3.c.)~~ 1. Except as permitted in  
7 subsection 23.75.085.E.2, 80% AMI units provided according to this Section 23.75.085 must be  
8 different than restricted units provided for any other reason.

9 ~~((e.))~~ 2. For purposes of this subsection ((23.75.085.C.3)) 23.75.085.E, ((the  
10 following do not constitute a subsidy, and any related conditions regarding incomes, rents, or  
11 sale prices do not constitute restrictions)) 80% AMI units may be the same units as provided to  
12 satisfy conditions of the following subsidies:

13 ~~((1))~~ a. ((Any benefit to the developer of discounted)) Discounted land  
14 sales prices;

15 ~~((2))~~ b. ((Use of)) Washington State Housing Finance Commission bonds  
16 and 4-percent low-income housing tax credits; and

17 ~~((3))~~ c. ((The qualification for and use of property)) The first 12 years of  
18 a property tax ((exemptions)) exemption pursuant to Chapter 5.73.

19 ~~((D.))~~ F. Production((-))

20 1. A ((unit of affordable housing that satisfies the conditions of subsection  
21 23.75.085.C)) replacement unit, 60% AMI unit, or 80% AMI unit shall ~~((be counted))~~ count for

22 purposes of Table A for 23.75.085 when the affordable housing is subject to recorded covenants

23 or instruments that conform to this Section 23.75.085 and are satisfactory to the Director of

1 Housing in form, content, and priority. Any unit or units of housing provided as a condition to  
2 bonus floor area pursuant to any Land Use Code section other than 23.75.085 shall not ~~((be~~  
3 ~~counted))~~ count for purposes of Table A for 23.75.085.

4 2. ~~((All dwelling units))~~ Units other than replacement units, ~~((60 percent of MI))~~  
5 60% AMI units, and ~~((80 percent of MI))~~ 80% AMI units shall ~~((be counted as completed))~~  
6 count for purposes of Table A for 23.75.085 when a Master Use Permit for construction of those  
7 units has been issued, unless and until either :

8 a. ~~((the))~~ The Master Use Permit decision is cancelled before the Master  
9 Use Permit is issued, or the Master Use Permit issued pursuant to such decision expires or is  
10 cancelled, without the highrise structure having been constructed; or

11 b. ~~((a))~~ A ruling by a hearing examiner or court of competent jurisdiction  
12 reversing or vacating such decision, or determining such decision or the Master Use Permit  
13 issued thereunder to be invalid, becomes final and no longer subject to judicial review.

14 E. Tier determination. Upon application by any owner within the MPC-YT zone, the  
15 Director may make a Type I decision as to the residential floor area tier in effect.

16 F. Rules. The Director and the Director of Housing are authorized jointly to adopt rules to  
17 interpret and implement the provisions of this Section 23.75.085, in addition to rules that may be  
18 adopted by the Director of Housing independently as authorized in this Section 23.75.085.

19 G. Distribution of residential floor area limits by sector. Table B for 23.75.085  
20 establishes residential maximum floor area limits by sector. The sum of the sector allocations  
21 exceeds the maximum established for the entire zone, but this subsection ~~23.75.085.G~~ does not  
22 allow the total amount of residential floor area in all sectors combined to exceed the limit in  
23 effect under Table A for 23.75.085.

\* \* \*

H. Floor area subject to the limits in this Section 23.75.085 is all residential gross floor area except for accessory parking and floor area in residential structures existing as of January 1, 2012.

I. Fees. ~~((For developments that include 80 percent of MI units provided to meet affordable housing production conditions in))~~ The applicant for a project that includes 80% AMI units according to this Section 23.75.085~~((, the applicant and owner shall pay fees to the Office of Housing as specified under))~~ shall pay housing review fees according to Section 22.900G.015.

Section 67. Section 23.76.032 of the Seattle Municipal Code, last amended by Ordinance 126685, is amended as follows:

~~((**23.76.032 Expiration and renewal of Type I and II Master Use Permits**~~

~~A. Type I and II Master Use Permit expiration))~~

**23.76.029 Type I and II Master Use Permit duration and expiration date**

~~((1))~~ An issued Type I or II Master Use Permit expires three years from the date a permit is approved for issuance as described in Section 23.76.028, except as follows:

~~((a))~~ A. A Master Use Permit with a shoreline component expires pursuant to WAC 173-27-090.

~~((b))~~ B. A variance component of a Master Use Permit expires as follows:

~~((1))~~ 1. Variances for access, yards, setback, open space, or lot area minimums granted as part of a short plat or lot boundary adjustment run with the land in perpetuity as recorded with the King County Recorder.

~~((2))~~ 2. Variances granted as separate Master Use Permits pursuant to subsection 23.76.004.G expire three years from the date the permit is approved for issuance as described in

1 Section 23.76.028 or on the effective date of any text amendment making more stringent the  
2 development standard from which the variance was granted, whichever is sooner. If a Master  
3 Use Permit to establish the use is issued prior to the earlier of the dates specified in the preceding  
4 sentence, the variance expires on the expiration date of the Master Use Permit.

5 ~~((e-))~~ C. The time during which pending litigation related to the Master Use Permit or the  
6 property subject to the permit made it reasonable not to submit an application for a building  
7 permit, or to establish a use if a building permit is not required, is not included in determining the  
8 expiration date of the Master Use Permit.

9 ~~((e-))~~ D. Master Use Permits with a Major Phased Development or Planned Community  
10 Development component under Sections 23.47A.007, 23.49.036, or 23.50.015 expire as follows:

11 ~~((4))~~ 1. For the first phase, the expiration date shall be three years from the date  
12 the permit is approved for issuance;

13 ~~((2))~~ 2. For subsequent phases, the expiration date shall be determined at the  
14 time of permit issuance for each phase, and the date shall be stated in the permit.

15 ~~((e-))~~ E. Permits for uses allowed under Section 23.42.038, temporary or intermittent use  
16 permits issued pursuant to Section 23.42.040, and transitional encampment interim use permits  
17 issued under Section 23.42.056 expire on the date stated in the permit.

18 ~~((f-))~~ F. Except as otherwise provided in this subsection ~~((23.76.032.A.1.f))~~ 23.76.029.F,  
19 Master Use Permits for development pursuant to ~~((Sections))~~ Section 23.49.180 ~~((and~~  
20 23.49.181)) expire on the date set by the Director in the Master Use Permit decision, which date  
21 may be a maximum of 15 years from the date the Master Use Permit is approved for issuance.  
22 The Director shall consider the complexity of the project, economic conditions of the area in  
23 which the project is located, and the construction schedule proposed by the applicant in setting

1 the expiration date. If no expiration date is set in the Master Use Permit decision, the expiration  
2 date is three years from the date a permit is approved for issuance.

3 ~~((1))~~ 1. In order for the Director to set the Master Use Permit expiration date, the  
4 applicant shall:

5 ~~((a))~~ a. Submit with the application a site plan showing a level of detail  
6 sufficient to assess anticipated impacts of the completed project; and

7 ~~((b))~~ b. Submit a proposed schedule for complying with the conditions  
8 necessary to gain the amount of extra floor area and the extra height sought for the project.

9 ~~((2))~~ 2. The expiration date of the Master Use Permit may be extended past the  
10 expiration date set in the Master Use Permit decision or the date established in this subsection  
11 ~~((23.76.032.A.1.f))~~ 23.76.029.F if:

12 ~~((a))~~ a. On the expiration date stated in the Master Use Permit decision, a  
13 building permit for the entire development has been issued, in which case the Master Use Permit  
14 is extended for the life of the building permit if the Master Use Permit would otherwise expire  
15 earlier, or

16 ~~((b))~~ b. A complete application for a building permit that either is for the  
17 entire development proposed pursuant to Section 23.49.180, or is for construction to complete  
18 the entire development proposed pursuant to Section 23.49.180, is:

19 ~~((i))~~ 1) Submitted before the expiration date of the Master Use  
20 Permit; and

21 ~~((ii))~~ 2) Made sufficiently complete to constitute a fully complete  
22 building permit application as defined in the Seattle Building Code, or for a highrise structure  
23 regulated under Section 403 of the Seattle Building Code, made to include the complete

1 structural frame of the building and schematic plans for the exterior shell of the building, in  
2 either case before the expiration date of the Master Use Permit, in which case the Master Use  
3 Permit is extended for the life of the building permit issued pursuant to the application if the  
4 Master Use Permit would otherwise expire earlier.

5 ~~((g.))~~ G. The permit expires earlier pursuant to Section 22.800.100.

6 ~~((h.))~~ H. The time during which the property subject to the Master Use Permit is used for  
7 a transitional encampment interim use is not included in determining the expiration date of the  
8 Master Use Permit.

9 **23.76.030 Type I and II Master Use Permit expiration and exceptions to expiration**

10 ~~((2.))~~ On the expiration date determined as provided in ~~((subsection 23.76.032.A.1))~~ Section  
11 23.76.029, a Master Use Permit expires unless one of the conditions in this ~~((subsection~~  
12 ~~23.76.032.A.2))~~ Section 23.76.030 exists:

13 ~~((a.))~~ A. A building permit is issued before the expiration date, in which case the Master  
14 Use Permit shall be extended for the life of the building permit.

15 ~~((b.))~~ B. A valid and fully complete application for a building permit is submitted prior to  
16 the Master Use Permit expiration date and a building permit is subsequently issued. In such  
17 cases, the Master Use Permit shall be extended for the life of the building permit.

18 ~~((c.))~~ C. For projects that do not require a building permit, the use has been established  
19 prior to the expiration date and is not terminated prior to that date by abandonment, change of  
20 use, or otherwise. In such cases the Master Use Permit expires when the use permitted by the  
21 Master Use Permit is terminated by abandonment, change of use, or otherwise.

22 ~~((d.))~~ D. The Master Use Permit is renewed pursuant to ~~((subsection 23.76.032.C))~~  
23 Section 23.76.032.

1           ~~((e-))~~ E. A Major Phased Development or Planned Community Development component  
2 is part of the Master Use Permit, in which case subsection ~~((23.76.032.A.1.d))~~ subsection  
3 23.76.029.D applies.

4           ~~((f-))~~ F. The Master Use Permit is for development subject to Section 23.49.180, in which  
5 case the provisions in subsection ~~((23.76.032.A.1.f))~~ 23.76.029.F apply.

6 **23.76.031 Type I and Type II Master Use Permits’ relationship to building permits**

7 ~~((B-))~~ If a Master Use Permit is issued for a project, a building permit is issued for the project,  
8 and the project is constructed pursuant to the building permit:

9           ~~((1-))~~ A. Conditions of or incorporated in the Master Use Permit shall remain in effect,  
10 notwithstanding expiration of the Master Use Permit pursuant to ~~((subsection 23.76.032.A))~~  
11 Sections 23.76.029 and 23.76.030, until the project is demolished or until an earlier date on  
12 which:

13                   ~~((a-))~~ 1. The condition by its terms expires or is fully satisfied;

14                   ~~((b-))~~ 2. The condition is removed through a permitting decision; or

15                   ~~((c-))~~ 3. If the condition was imposed as to a specific use within the project, that  
16 use is terminated; and

17           ~~((2-))~~ B. Terms of a building permit relating to requirements ~~((according to))~~ of Section  
18 23.58C.050 shall remain in effect for the time period specified according to subsection  
19 23.58C.050.B, notwithstanding:

20                   ~~((a-))~~ 1. Expiration of the Master Use Permit according to ~~((subsection~~  
21 23.76.032.A,)) Sections 23.76.029 and 23.76.030; or

22                   ~~((b-))~~ 2. Any contrary provision of Title 22.

23           ~~((C. Master Use Permit renewal))~~

1 **23.76.032 Type I and II Master Use Permit renewal**

2 ((+)) A. Except for Major Phased Development permits, the Director shall renew issued  
3 Master Use Permits for projects that are in conformance with applicable regulations, including  
4 but not limited to land use and environmentally critical areas regulations and SEPA policies in  
5 effect at the time renewal is sought. Except as provided in subsections ((~~23.76.032.C.2 and~~  
6 ~~23.76.032.C.3~~)) 23.76.032.B and 23.76.032.C, Master Use Permit renewal is for a period of two  
7 years. A Master Use Permit shall not be renewed beyond a period of five years from the original  
8 date the permit is approved for issuance. The Director shall not renew issued Master Use Permits  
9 for projects that are not in conformance with applicable regulations in effect at the time renewal  
10 is sought.

11 ((-)) B. If an application for a building permit is submitted before the end of the two year  
12 term of renewal, and is subsequently issued, the Master Use Permit shall be extended for the life  
13 of the building permit.

14 ((-)) C. The Director may renew a Master Use Permit for the temporary relocation of  
15 police and fire stations issued pursuant to Section 23.42.040 for a period not to exceed 12  
16 months.

17 ((-)) D. The Director may renew a Master Use Permit for a transitional encampment  
18 interim use issued according to subsection 23.42.056.E for additional one-year terms.

19 Section 68. Section 23.76.060 of the Seattle Municipal Code, last amended by Ordinance  
20 125791, is amended as follows:

21 **23.76.060 Expiration and extension of Council land use decisions**

22 \* \* \*

23 B. Council conditional uses and public projects((-))



1                   1. Approvals of Council conditional uses and public projects expire three years  
2 from the effective date of approval unless:

3                   a. Within the three year period, an application is filed for a Master Use  
4 Permit, that is subsequently issued; or

5                   b. Another time for expiration is specified in the Council's decision.

6                   2. If a Master Use Permit is issued for a project permitted by Council approval of  
7 a Council conditional use or a public project, the Council's approval of the Council conditional  
8 use or public project remains in effect until the date that the Master Use Permit expires pursuant  
9 to the provisions of (~~Section 23.76.032~~) Sections 23.76.029, 23.76.030, and 23.76.031, or until  
10 the date specified by the Council, whichever is later. If a Master Use Permit is issued for a  
11 project permitted by Council approval of a Council conditional use or Council approval of a  
12 public project, a building permit is issued for the project, and the project is constructed pursuant  
13 to the building permit, conditions required by the Council's approval of the Council conditional  
14 use or the Council's approval of the public project shall remain in effect, notwithstanding  
15 expiration of the Council's approval of the Council conditional use or the Council's approval of  
16 the public project, until the project is demolished or until an earlier date on which:

17                   a. (~~the~~) The condition by its terms expires;

18                   b. (~~the~~) The condition is removed through a permitting decision; or

19                   c. (~~if~~) If the condition was imposed as to a specific use within the  
20 project, that use is terminated.

21                   Section 69. Section 23.84A.002 of the Seattle Municipal Code, last amended by  
22 Ordinance 125854, is amended as follows:

23 **23.84A.002 “A”**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

\* \* \*

~~(("Affordable housing." See "Housing, affordable."))~~

\* \* \*

Section 70. Section 23.84A.016 of the Seattle Municipal Code, last amended by Ordinance 126685, is amended as follows:

**23.84A.016 “H”**

\* \* \*

"Household" means a housekeeping unit consisting of any number of non-transient persons composing a single living arrangement within a dwelling unit as provided in Section 23.42.048, not otherwise subject to occupant limits in group living arrangements regulated under state law, or on short-term rentals as provided in Section 23.42.060.

~~(("Household, low income" means a household whose income does not exceed eighty (80) percent of median income.~~

~~"Household, moderate income" means a household whose income does not exceed median income.~~

~~"Household, very low income" means a household whose income does not exceed fifty (50) percent of median income.~~

~~"Housing, affordable" means a housing unit for which the occupant is paying no more than thirty (30) percent of household income for gross housing costs, including an allowance for utility costs paid by the occupant.)~~

"Housing, low-income" means ~~((housing affordable to, and occupied by, low income households))~~ a structure or structures for which:

1                   1. An application for public funding for the capital costs of development or  
2 rehabilitation of the structure(s) has been or will be submitted; and

3                   2. Public funding is awarded prior to issuance of the first building permit that  
4 includes the structural frame for each structure and is conditioned on one or more regulatory  
5 agreements, covenants, or other legal instruments, enforceable by The City of Seattle, King  
6 County, State of Washington, Washington State Housing Finance Commission, or other public  
7 agency if approved by the Director of Housing, being executed and recorded on the title of the  
8 property that includes the low-income housing and such legal instruments either:

9                   a. For a minimum period of 40 years, require rental of at least 40 percent  
10 of the dwelling units, small efficiency dwelling units, or congregate residence sleeping rooms as  
11 restricted units with rent and income limits no higher than 60 percent of median income; or

12                   b. For a minimum period of 50 years, require at least 40 percent of the dwelling  
13 units as restricted units sold to buyers with incomes no higher than 80 percent of median income  
14 at prices (initial sale and resale) to allow modest growth in homeowner equity while maintaining  
15 long-term affordability for income-eligible buyers, all as determined by the Director of Housing.

16                   (~~"Housing, moderate income" means housing affordable to, and occupied by, moderate-~~  
17 ~~income households.~~

18                   ~~"Housing, very low income" means housing affordable to, and occupied by, very low-~~  
19 ~~income households)).~~

20                   \* \* \*

21                   Section 71. Section 23.84A.024 of the Seattle Municipal Code, last amended by  
22 Ordinance 126682, is amended as follows:

23 **23.84A.024 "L"**

1 \* \* \*

2 ~~((“Low-income disabled multifamily structure.” See “Multifamily structure, low-income~~  
3 ~~disabled.”~~

4 ~~“Low-income elderly/low-income disabled multifamily structure.” See “Multifamily~~  
5 ~~structure, low-income elderly/low-income disabled.”~~

6 ~~“Low-income household.” See “Household, low-income.”)~~

7 “Low-income housing.” See “Housing, low-income.”

8 “Low-income unit.” See “Unit, low-income.”

9 Section 72. Section 23.84A.025 of the Seattle Municipal Code, last amended by  
10 Ordinance 126684, is amended as follows:

11 **23.84A.025 “M”**

12 \* \* \*

13 “Median income” means the annual median family income imputed for the Seattle area(  
14 as)) based on income limits published from time to time by the U.S. Department of Housing and  
15 Urban Development (HUD), with adjustments according to household size (~~(in a manner~~  
16 ~~determined by the Director, which adjustments shall be))~~ based upon a method used by (~~(the~~  
17 ~~United States Department of Housing and Urban Development))~~ HUD to adjust income limits  
18 for subsidized housing, and which adjustments for purposes of (~~(determining affordability of~~  
19 ~~rents or sale prices))~~ calculating rent and sales price limits shall be based on (~~(the))~~ an average  
20 size of household (~~(considered to correspond to the size of the housing unit (one (1))~~ of one  
21 ~~person for ((studio))~~ zero-bedroom units and (~~(one and a half (1.5))~~ 1.5 persons per bedroom for  
22 other units(~~(s))~~), all as determined by the Director of Housing.

23 \* \* \*

1 (~~"Moderate income household." See "Household, moderate income."~~

2 ~~"Moderate income housing." See "Housing, moderate income."))~~

3 "Moderate-income unit." See "Unit, moderate-income."

4 \* \* \*

5 (~~"Multifamily structure, low income disabled." See "Multifamily residential use, low-~~  
6 ~~income disabled".~~

7 ~~"Multifamily structure, low income elderly." See "Multifamily residential use, low-~~  
8 ~~income elderly".~~

9 ~~"Multifamily structure, low income elderly/low income disabled." See "Multifamily~~  
10 ~~residential use, low income elderly/low income disabled".~~

11 ~~"Multifamily structure, very low income disabled." See "Multifamily residential use, very~~  
12 ~~low income disabled".~~

13 ~~"Multifamily structure, very low income elderly." See "Multifamily residential use, very~~  
14 ~~low income elderly".~~

15 ~~"Multifamily structure, very low income elderly/very low income disabled." See~~  
16 ~~"Multifamily residential use, very low income elderly/very low income disabled".))~~

17 \* \* \*

18 Section 73. Section 23.84A.030 of the Seattle Municipal Code, last amended by  
19 Ordinance 125681, is amended as follows:

20 **23.84A.030 "P"**

21 \* \* \*

22 "Permanent supportive housing" means low-income housing that is paired with on or off-  
23 site voluntary human services to support people living with complex and disabling behavioral

1 health or physical health conditions and experiencing homelessness or at imminent risk of  
2 homelessness prior to moving into such housing.

3 "Person" means any individual, partnership, corporation, association, or public or private  
4 organization of any character.

5 \* \* \*

6 Section 74. Section 23.84A.032 of the Seattle Municipal Code, last amended by  
7 Ordinance 126685, is amended as follows:

8 **23.84A.032 “R”**

9 \* \* \*

10 "Residential use" means any one or more of the following:

11 1. "Accessory dwelling unit" means one or more rooms that:

12 a. Are located within a principal dwelling unit or within an accessory  
13 structure on the same lot as a principal dwelling unit;

14 b. Meet the standards of Section 23.44.041, Section 23.45.545, or Chapter  
15 23.47A, as applicable;

16 c. Are designed, arranged, and intended to be occupied by not more than  
17 one household as living accommodations independent from any other household; and

18 d. Are so occupied or vacant.

19 2. "Attached accessory dwelling unit" means an accessory dwelling unit that is  
20 within a principal dwelling unit.

21 3. "Adult family home" means an adult family home defined and licensed as such  
22 by the State of Washington in a dwelling unit.

1                   4. "Apartment" means a multifamily residential use that is not a cottage housing  
2 development, rowhouse development, or townhouse development.

3                   5. "Artist's studio/dwelling" means a combination working studio and dwelling  
4 unit for artists, consisting of a room or suite of rooms occupied by not more than one household.

5                   6. "Assisted living facility" means a use licensed by the State of Washington as a  
6 boarding home pursuant to chapter 18.20 RCW (~~Chapter 18.20~~) that contains at least two  
7 assisted living units for people who have either a need for assistance with activities of daily  
8 living (which are defined as eating, toileting, ambulation, transfer (e.g., moving from bed to chair  
9 or chair to bath), and bathing) or some form of cognitive impairment but who do not need the  
10 skilled critical care provided by nursing homes. See "Assisted living unit."

11                  7. "Carriage house" means a dwelling unit in a carriage house structure.

12                  8. "Carriage house structure" means a structure within a cottage housing  
13 development, in which one or more dwelling units are located on the story above an enclosed  
14 parking garage at ground level that either abuts an alley and has vehicle access from that alley, or  
15 is located on a corner lot and has access to the parking in the structure from a driveway that abuts  
16 and runs parallel to the rear lot line of the lot. See also "Carriage house."

17                  9. "Caretaker's quarters" means a use accessory to a non-residential use consisting  
18 of a dwelling unit not exceeding 800 square feet of living area and occupied by a caretaker or  
19 watchperson.

20                  10. "Congregate residence" means a use in which rooms or lodging, with or  
21 without meals, are provided for any number of non-transient persons not constituting a single  
22 household.

1                   11. "Cottage housing development" means a use consisting of cottages arranged  
2 on at least two sides of a common open space or a common amenity area. A cottage housing  
3 development may include a carriage house structure. See "Cottage," "Carriage house," and  
4 "Carriage house structure."

5                   12. "Detached accessory dwelling unit" means an accessory dwelling unit in an  
6 accessory structure.

7                   13. "Domestic violence shelter" means a ~~((dwelling unit))~~ structure or portion of a  
8 structure managed by a nonprofit organization, which unit provides housing at a confidential  
9 location and support services for victims of domestic violence.

10                  14. "Floating home" means a dwelling unit constructed on a float that is moored,  
11 anchored, or otherwise secured in the water.

12                  15. "Low-income housing."

13                  ~~((15))~~16. "Mobile home" means a structure that is designed and constructed to be  
14 transportable in one or more sections and built on a permanent chassis, designed to be used as a  
15 dwelling unit without a permanent foundation, and connected to utilities that include plumbing,  
16 heating, and electrical systems. A structure that was transportable at the time of manufacture is  
17 still considered to meet this definition notwithstanding that it is no longer transportable.

18                  ~~((16))~~17. "Mobile home park" means a tract of land that is rented for the use of  
19 more than one mobile home occupied as a dwelling unit.

20                  ~~((17))~~18. "Multifamily residential use" means a use consisting of two or more  
21 dwelling units in a structure or portion of a structure, excluding accessory dwelling units.

22                  ~~((18. "Multifamily residential use, low-income disabled" means a multifamily~~  
23 ~~residential use in which at least 90 percent of the dwelling units are occupied by one or more~~



1 ~~persons who have a handicap as defined in the Federal Fair Housing Amendments Act and who~~  
2 ~~constitute a low income household.~~

3           19. ~~"Multifamily residential use, low income elderly" means a residential use in~~  
4 ~~which at least 90 percent of the dwelling units are occupied by one or more persons 62 or more~~  
5 ~~years of age who constitute a low income household.~~

6           20. ~~"Multifamily residential use, low income elderly/low income disabled" means~~  
7 ~~a multifamily residential use in which at least 90 percent of the dwelling units (not including~~  
8 ~~vacant units) are occupied by a low income household that includes a person who has a handicap~~  
9 ~~as defined in the Federal Fair Housing Amendment Act or a person 62 years of age or older, as~~  
10 ~~long as the housing qualifies for exemptions from prohibitions against discrimination against~~  
11 ~~families with children and against age discrimination under all applicable fair housing laws and~~  
12 ~~ordinances.~~

13           21. ~~"Permanent supportive housing" means a multifamily residential use, which is~~  
14 ~~paired with on or off site voluntary human services to support a person living with a complex~~  
15 ~~and disabling behavioral health or physical health condition who was experiencing homelessness~~  
16 ~~or was at imminent risk of homelessness prior to moving into housing:~~

17                   a. ~~In which at least 50 percent of the dwelling units are occupied by~~  
18 ~~households whose income at original occupancy does not exceed 30 percent of median income~~  
19 ~~and the remaining dwelling units are occupied by very low income households at original~~  
20 ~~occupancy;~~

21                   b. ~~That receives public funding or an allocation of federal low income~~  
22 ~~housing tax credits; and~~



1 f. No portion of any other dwelling unit, except for an attached accessory  
2 dwelling unit, is located between any dwelling unit and the street faced by the front of that unit.

3 ((24))22. "Single-family dwelling unit" means a detached principal structure  
4 having a permanent foundation, containing one dwelling unit, except that the structure may also  
5 contain one or two attached accessory dwelling units where expressly authorized pursuant to this  
6 Title 23. A detached accessory dwelling unit is not considered a single-family dwelling unit for  
7 purposes of this Chapter 23.84A.

8 ((25))23. "Townhouse development" means a multifamily residential use that is  
9 not a rowhouse development, and in which:

10 a. Each dwelling unit occupies space from the ground to the roof of the  
11 structure in which it is located;

12 b. No portion of a dwelling unit occupies space above or below another  
13 dwelling unit, except for an attached accessory dwelling unit and except for dwelling units  
14 constructed over a shared parking garage, including shared parking garages that project up to 4  
15 feet above grade; and

16 c. Each dwelling unit is attached along at least one common wall to at  
17 least one other dwelling unit, with habitable interior space on both sides of the common wall, or  
18 abuts another dwelling unit on a common lot line.

19 \* \* \*

20 "Restricted unit." See "Unit, restricted."

21 \* \* \*

22 Section 75. Section 23.84A.038 of the Seattle Municipal Code, last amended by  
23 Ordinance 126042, is amended as follows:

1 **23.84A.038 “T”**

2 \* \* \*

3 "TDR site, DMC housing" means a lot meeting the following requirements:

- 4 1. The lot is located in a Downtown Mixed Commercial (DMC) zone;
- 5 2. Each structure to be developed on the lot has or will have a minimum of 50  
6 percent of total gross above-grade floor area as dwelling units or congregate residence sleeping  
7 rooms committed (~~((to low-income housing))~~) as restricted units affordable to and occupied by  
8 households with annual incomes no higher than 80 percent of median income for a minimum of  
9 50 years, unless such requirement is waived or modified by the Director of (~~(the Office of)~~)  
10 Housing for good cause;
- 11 3. The lot will have above-grade gross floor area equivalent to at least 1 FAR as  
12 dwelling units or congregate residence sleeping rooms committed (~~((to very low-income housing~~  
13 ~~use))~~) as restricted units affordable to and occupied by households with annual incomes no higher  
14 than 50 percent of median income for a minimum of 50 years; and
- 15 4. The (~~(low-income housing and very low-income housing commitments on the~~  
16 ~~lot comply with the standards in subsection 23.49.012.B.1.b and))~~ DMC housing TDR site  
17 requirements are memorialized in a recorded agreement between the owner of (~~(such low-income~~  
18 ~~and very low-income))~~ the housing and the Director of (~~(the Office of)~~) Housing.

19 "TDR site, housing" means a lot meeting the following requirements:

- 20 1. The lot is located in any Downtown zone except PMM, DH-1, and DH-2 zones,  
21 or is located in the South Lake Union Urban Center in any SM zone with a height limit of 85 feet  
22 or higher;

1                   2. Each structure on the lot has a minimum of 50 percent of total gross above-  
2 grade floor area as dwelling units or congregate residence sleeping rooms committed (~~((to low-~~  
3 ~~income housing))~~) as restricted units affordable to and occupied by households with annual  
4 incomes no higher than 80 percent of median income for a minimum of 50 years;

5                   3. The lot has above-grade gross floor area equivalent to at least 1 FAR as  
6 dwelling units or congregate residence sleeping rooms committed (~~((to very low income housing~~  
7 ~~use))~~) as restricted units affordable to and occupied by households with annual incomes no higher  
8 than 50 percent of median income for a minimum of 50 years;

9                   4. The (~~(above grade gross floor area on the lot committed to satisfy the~~  
10 ~~conditions in))~~ dwelling units or congregate residence sleeping rooms according to subsections 2  
11 and 3 of this definition is (~~(contained))~~) in one or more structures existing as of July 27, 2001, and  
12 the floor area was in residential use as of that date; and

13                   5. The (~~(low income housing and very low income housing commitments on the~~  
14 ~~lot comply with the standards in subsection 23.49.012.B.1.b and))~~) housing TDR site  
15 requirements are memorialized in a recorded agreement between the owner of the (~~(low income~~  
16 ~~and very low income))~~) housing and the Director of Housing.

17                   "TDR site, Landmark housing" means a lot meeting the following requirements:

18                   1. The lot is located in any Downtown zone except IDM, IDR, PSM, PMM, DH-  
19 1, and DH-2 zones;

20                   2. (~~(The lot contains))~~) A structure on the lot is a designated Landmark under  
21 Chapter 25.12 and such structure will be renovated to include a minimum of 50 percent of total  
22 gross above-grade floor area dwelling units or congregate residence sleeping rooms committed

1 ~~((to low income housing))~~ as restricted units affordable to and occupied by households with  
2 annual incomes no higher than 80 percent of median income for a minimum of 50 years;

3 3. The ~~((lot))~~ structure according to subsection 2 of this definition has or will have  
4 above-grade gross floor area equivalent to at least 1 FAR of dwelling units or congregate  
5 residence sleeping rooms committed ~~((to very low income housing use))~~ as restricted units  
6 affordable to and occupied by households with annual incomes no higher than 50 percent of  
7 median income for a minimum of 50 years; and

8 4. The ~~((low income housing and very low income housing commitments on the~~  
9 ~~lot comply with the standards in subsection 23.49.012.B.1.b and))~~ landmark housing TDR site  
10 requirements are memorialized in a recorded agreement between the owner of ~~((such low income~~  
11 ~~and very low income))~~ the housing and the Director of ~~((the Office of))~~ Housing.

12 \* \* \*

13 Section 76. Section 23.84A.040 of the Seattle Municipal Code, last amended by  
14 Ordinance 125173, is amended as follows:

15 **23.84A.040 “U”**

16 "Underground" means entirely below the surface of the earth, measured from existing or  
17 finished grade, whichever is lower, excluding access.

18 “Unit, low-income” means a dwelling unit that, for a minimum period of at least 50  
19 years, is a restricted unit affordable to and reserved solely for families with annual incomes not  
20 to exceed 60 percent of median income for rental units or 80 percent of median income for  
21 ownership units according to one or more regulatory agreements, covenants, or other legal  
22 instruments that, as a condition to issuance of the first building permit that includes the structural  
23 frame for the structure that includes the low-income unit, shall be executed and recorded on the

1 title of the property and are enforceable by The City of Seattle, King County, State of  
2 Washington, Washington State Housing Finance Commission, or other public agency if  
3 approved by the Director of Housing.

4 “Unit, moderate-income” means a dwelling unit that, for a minimum period of at least 50  
5 years, is a restricted unit affordable to and reserved solely for families with annual incomes not  
6 to exceed 80 percent of median income for rental units or 100 percent of median income for  
7 ownership units according to one or more regulatory agreements, covenants, or other legal  
8 instruments that, as a condition to issuance of the first building permit that includes the structural  
9 frame for the structure that includes the moderate-income unit, shall be executed and recorded on  
10 the title of the property and are enforceable by The City of Seattle, King County, State of  
11 Washington, Washington State Housing Finance Commission, or other public agency if  
12 approved by the Director of Housing.

13 “Unit, restricted” means a unit on a property subject to a recorded agreement with the  
14 City of Seattle that limits both the unit’s rent or sale price, as applicable, and eligible residents’  
15 annual income at a specified percentage of median income. For purposes of each restricted unit,  
16 eligible residents shall be a “family” according to 24 CFR Section 5.403 or successor provision,  
17 and the family’s “annual income” shall be determined according to 24 CFR Section 5.609 or  
18 successor provision, unless otherwise approved in writing by the Director of Housing.

19 \* \* \*

20 Section 77. Section 23.86.007 of the Seattle Municipal Code, last amended by Ordinance  
21 126682, is amended as follows:

22 **23.86.007 Floor area and floor area ratio (FAR) measurement**

23 \* \* \*





1 Section 78. 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 \_\_\_\_\_ day of \_\_\_\_\_, 2023,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2023.

7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9 Approved / returned unsigned / vetoed this \_\_\_\_ day of \_\_\_\_\_, 2023.

10 \_\_\_\_\_  
11 Bruce A. Harrell, Mayor

12 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

13 \_\_\_\_\_  
14 \_\_\_\_\_, City Clerk

15 (Seal)

## SUMMARY and FISCAL NOTE\*

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
Office of Housing	Laura Hewitt Walker	Nick Tucker (for OH) Christie Parker (for SDCI)

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

### **1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to land use and zoning; correcting typographical and other technical errors, correcting section references, and clarifying regulations in sections that relate or may apply to low-income housing and other developments with units subject to affordability restrictions; amending, adopting new, and repealing obsolete defined terms relating to affordability of and eligibility to reside in certain housing; increase consistency and clarity of provisions that relate to low-income housing and restricted units; amending a limited number of provisions, including applicability of design review and authorization to request waiver or modification of certain development standards, to facilitate development of low-income housing; amending the title of Sections 23.44.019, 23.45.550, 23.47A.040, 23.48.100, and 23.49.007, amending Sections 22.900G.015, 23.34.012, 23.34.020, 23.41.004, 23.42.055, 23.42.057, 23.42.070, 23.44.024, 23.44.034, 23.44.041, 23.45.510, 23.45.512, 23.45.516, 23.47A.004, 23.47A.005, 23.47A.013, 23.48.005, 23.48.020, 23.48.232, 23.48.605, 23.48.920, 23.49.008, 23.49.010, 23.49.012, 23.49.014, 23.49.023, 23.49.037, 23.49.041, 23.49.058, 23.49.164, 23.49.180, 23.54.015, 23.58A.002, 23.58A.003, 23.58A.004, 23.58A.014, 23.58A.024, 23.58A.042, 23.58B.010, 23.58B.020, 23.58B.025, 23.58B.040, 23.58B.050, 23.58B.060, 23.58C.020, 23.58C.025, 23.58C.030, 23.58C.040, 23.58C.050, 23.66.100, 23.66.310, 23.70.008, 23.70.010, 23.72.002, 23.72.010, 23.73.010, 23.73.016, 23.75.020, 23.75.085, 23.76.032, 23.76.060, 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.030, 23.84A.032, 23.84A.038, 23.84A.040, and 23.86.007, and repealing Sections 23.49.015 and 23.49.181 of the Seattle Municipal Code.

#### **Summary and Background of the Legislation:**

The land use code (LUC) revisions included in this legislation simplify, clarify, and improve readability of complex, unclear, or obsolete provisions specific to affordable housing. The legislation also increases consistency and succinctness of routine provisions related to low-income housing or restricted units in otherwise market-rate buildings (annual reporting requirements or calculation of maximum sales prices, for example). These changes could reduce permit review timelines for low-income housing and other residential development that includes units subject to affordability restrictions.

The legislation repeals more than a dozen obsolete and redundant LUC definitions related to affordable housing and eligible residents. It updates the project specific definition of “low-income housing” and adds new unit-specific definitions for “low-income unit,” “moderate-income unit,” and “restricted unit.” Those definitional updates and streamlining makes it

possible to replace a lot of inconsistent and lengthy verbiage about what constitutes low-income housing or an affordable unit throughout the land use code.

Other changes could potentially reduce the cost of developing low-income housing, by eliminating extended timelines for and unexpected costs of design review. Amendments to provisions exempting low-income housing from design review and allowing applicants to request modifications and waivers for certain development standards, none of which can increase the size of the building envelope, are intended to facilitate the development of low-income housing. These provisions currently apply to a particular type of low-income housing (i.e. permanent supportive housing). They also apply on a temporary basis to low-income housing with a certain share of units with affordability restrictions no higher than 60% area median income (AMI). The proposed changes would mean developments where homes are sold to buyer households with incomes no higher than 80% AMI (ones developed by Habitat for Humanity or Homestead Community Land Trust, for example) could be eligible for an exemption from design review. Design review adds time to permitting for new low-income housing. In addition to time spent during the design review process, the design review guidance can necessitate an infusion of additional City funds to keep much-needed affordable housing moving forward.

This legislation includes changes to and routine maintenance of land use code provisions specific to low-income housing and other units with affordability restrictions. The proposed amendments are referred to as “omnibus” amendments because the bulk of the changes are technical. Although those amendments are non-substantive, they make existing requirements much easier to read and understand and also make them more consistent throughout the Land Use Code.

## 2. CAPITAL IMPROVEMENT PROGRAM

Does this legislation create, fund, or amend a CIP Project?      \_\_\_ Yes  X  No

## 3. SUMMARY OF FINANCIAL IMPLICATIONS

Does this legislation amend the Adopted Budget?      \_\_\_ Yes  X  No

Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?  
No.

Are there financial costs or other impacts of *not* implementing the legislation?  
No. Failure to adopt the proposed cleanup amendments to the Land Use Code and related regulations would continue lack of clarity and cause ongoing interpretive issues.

#### 4. OTHER IMPLICATIONS

- a. Does this legislation affect any departments besides the originating department?**  
This legislation affects the Seattle Department of Construction and Inspections and the Office of Housing. The former has land use regulatory authority over low-income housing; the latter funds low-income housing and oversees compliance for the duration of the housing covenants.
- b. Is a public hearing required for this legislation?**  
Yes
- c. Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**  
Yes
- d. Does this legislation affect a piece of property?**  
No
- e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**  
Housing subject to long-term affordability restrictions, particularly publicly-funded low-income housing, improves access to rental housing and homeownership opportunities for Seattle's lowest income and most at-risk households, who are disproportionately Black, Indigenous, or other people of color. The Office of Housing addresses historical inequities in access to housing. Some share of Housing Levy funds will go to community-based organizations to support work to create or preserve they type of housing they want and most appropriate for their communities based on their own assessment.
- f. Climate Change Implications**
- 1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**  
No
  - 2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**  
No
- g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**  
N/A

# Director’s Report and Recommendation

2023 Low-Income Housing/Affordable Units Land Use Code Omnibus Ordinance  
May 12, 2023

## Introduction

The Seattle Office of Housing (“OH”) coordinates with the Seattle Department of Construction and Inspections (“SDCI”) on changes to and routine maintenance of Land Use Code (“LUC”) provisions specific to low-income housing and other homes with affordability restrictions. The proposed amendments are “omnibus” amendments, meaning they update and correct affordable housing-related provisions in multiple LUC chapters.

The proposed amendments are categorized as follows:

- ① Repeal more than a dozen obsolete and redundant LUC definitions related to affordable housing and eligible residents.
- ② Update the project specific definition of “low-income housing” and add new unit-specific definitions for “low-income unit,” “moderate-income unit,” and “restricted unit.”
- ③ Simplify and increase consistency of provisions by using the terms “low-income housing,” “low-income unit,” “moderate-income unit,” and “restricted unit” throughout the LUC, as applicable.
- ④ Make existing design review exemption and authorization to request waiver or modification of certain development standards (only if they do not increase building envelope size) for permanent supportive housing applicable to all low-income housing. Currently, these provisions are also available, on a temporary basis, to low-income housing that includes at least a minimum share of affordable units for households with incomes no higher than 60% AMI (area median income). Those temporary provisions sunset in January 2024. The proposed changes would make those provisions permanent and also extend them to include sale and resale-restricted homes providing ongoing affordability to buyer households with incomes no higher than 80% AMI.
- ⑤ Simplify and increase consistency of routine requirements for developments with units subject to housing affordability restrictions, where possible. Nothing in this legislation changes the terms of housing agreements already in effect.
- ⑥ Consolidate all affordable housing-related provisions of incentive zoning in downtown zones in SMC Chapter 23.58A.
- ⑦ Simplify and improve clarity and readability of affordable housing-related LUC provisions, including by correcting punctuation and grammatical errors.

Most of the amendments are technical in nature. Obsolete LUC provisions are repealed, and complex provisions are simplified and clarified. The substantive amendments include changing existing use-related provisions so that they apply to all, rather than just some, low-income housing. For low-income housing, the legislation makes the temporary design review exemption permanent and authorizes requests for waiver or modification of certain development standards that do not increase the size of

the building envelope. The amendments proposed in this omnibus legislation aim to facilitate development of low-income housing by streamlining permit reviews and reducing permitting timelines and costs.

The following is a section-by-section description of the proposed amendments. The numbering system outlined above identifies the category that best describes each change. The Director’s Report starts by outlining changes to Chapter 23.84A “Definitions” since those terms are foundational to the legislation. After that section, amendments are addressed sequentially by LUC chapter. Amended LUC sections may also include minor grammatical corrections to existing language, corrections of typographical errors, and corrections or simplification of Code section hierarchy and updated references as applicable. Descriptions of those technical edits are limited or omitted.

## SMC Chapter 23.84A - Definitions

- ① Repeal the following definitions listed below in Sections 23.84A.002, 23.84A.016, 23.84A.024, 23.84A.025, 23.84A.032, and 23.84A.042. Update LUC provisions using obsolete terms to instead reference low-income housing, low-income unit, moderate-income unit, or restricted unit, as applicable.
  - “Affordable housing” and “Housing, affordable”
  - “Household, low-income” and “Low-income household”
  - “Household, moderate-income” and “Moderate-income household”
  - “Household, very low-income” and “Very low-income household”
  - “Housing, moderate income” and “Moderate-income housing”
  - “Housing, very low-income” and “Very low-income housing”
  - “Low-income disabled multifamily structure” and “Multifamily structure, low-income disabled”
  - “Low-income elderly/low-income disabled multifamily structure” and “Multifamily structure, low-income elderly/low-income disabled”
  - “Multifamily structure, low-income elderly”
  - “Multifamily structure, very low-income disabled” and “Very low-income disabled multifamily structure”
  - “Multifamily structure, very low-income elderly” and “Very low-income elderly multifamily structure”
  - “Multifamily structure, very low-income elderly/very low-income disabled” and “Very low-income elderly/very low-income disabled multifamily structure”
  - “Multifamily residential use, low-income disabled”
  - “Multifamily residential use, low-income elderly”
  - “Multifamily residential use, low-income elderly/low-income disabled”

### Section 23.84A.016 “H”

- ② Change the definition of “Housing, low-income,” which is currently “housing affordable to, and occupied by, low-income households,” to “a structure or structures for which:
  1. An application for public funding for the capital costs of development or rehabilitation of the structure(s) has been or will be submitted; and

2. Public funding is awarded prior to issuance of the first building permit that includes the structural frame for each structure and is conditioned on one or more regulatory agreements, covenants, or other legal instruments, enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other public agency, if approved by the Director of Housing being executed and recorded on the title of the property that includes the low-income housing and such legal instruments either:
  - a. For a minimum period of 40 years, require rental of at least 40 percent of the dwelling units, small efficiency dwelling units, or congregate residence sleeping rooms as restricted units with rent and income limits no higher than 60 percent of median income; or
  - b. For a minimum period of 50 years, require at least 40 percent of the dwelling units as restricted units sold to buyers with incomes no higher than 80 percent of median income at prices (initial sale and resale) to allow modest growth in homeowner equity while maintaining long-term affordability for income-eligible buyers, all as determined by the Director of Housing.”

This definition is carefully crafted to mirror terms of standard regulatory agreements for low-income housing, including agreements for projects financed solely with low-income housing tax credits, tax-exempt bonds, and private debt. It provides sufficient flexibility to apply to publicly funded housing developments that are not necessarily City-funded. Most low-income housing exceeds the minimum requirements described in this definition for affordability levels and duration given the highly competitive nature of scarce public funding to address our region’s housing crisis.

Details specific to tenure, AMI limits, and term of affordability are currently spelled out in the body of the LUC, often in an inconsistent manner, meaning that a development that satisfies the low-income housing requirements of one provision might not satisfy the requirements of another provision. The proposed low-income housing definition is substantively consistent with existing provisions governing Mandatory Housing Affordability (MHA) exemptions but provides far greater clarity to help ensure consistent interpretation as projects move through permitting.

#### Section 23.84A.024 “L”

- ② Add cross reference to new term, “Low-income unit,” as defined under “Unit, low-income” in Section 23.84A.040.

#### Section 23.84A.025 “M”

- ⑦ Simplify and improve clarity and readability of the definition of “median income.”
- ② Add cross reference to new term, “moderate-income unit,” which is defined under “Unit, moderate-income” in Section 23.84A.040.

#### Section 23.84A.030 “P”

- ③ Move the definition for “permanent supportive housing” (or “PSH”) to this Section 23.84A.030 and update it to clarify PSH as a type of low-income housing paired with on- or off-site human services to support people living with complex and disabling behavioral health or physical health conditions and experiencing homelessness or at imminent risk of homelessness prior to moving

into such housing. “Permanent supportive housing” would continue to also be listed as a “residential use” in Section 23.84A.032.

#### Section 23.84A.032 “R”

- ⑦ The definition of “domestic violence shelter” (under “residential use”) currently refers to domestic violence shelters as “a dwelling unit.” This is corrected to read “a structure or portion of a structure.”
- ② Add “low-income housing,” as defined in Section 23.84A.016, to list of “residential uses.”
- ⑦ Retain “permanent supportive housing” in Section 23.84A.032’s list of “residential uses,” but repeal the description, which is now in Section 23.84A.030 “P”.

#### Section 23.84A.038 “T”

- ③ Use the newly defined term “restricted units” to simplify and clarify the definitions of “TDR site, DMC housing,” “TDR Site, housing,” and “TDR site, Landmark housing.”

#### Section 23.84A.040 “U”

- ② Add three new unit-specific definitions. The first two differentiate the maximum AMI limit depending on tenure (rental versus ownership). The third definition, “restricted unit” is a generic term used to reference units in a property subject to a LUC-required regulatory agreement with the City. The definitions are:

“Unit, low-income” means a dwelling unit that, for a minimum period of at least 50 years, is a restricted unit affordable to and reserved solely for families with annual incomes not to exceed 60 percent of median income for rental units or 80 percent of median income for ownership units according to one or more regulatory agreements, covenants, or other legal instruments that, as a condition to issuance of the first building permit that includes the structural frame for the structure that includes the low-income unit, shall be executed and recorded on the title of the property and are enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other public agency if approved by the Director of Housing.

“Unit, moderate-income” means a dwelling unit that, for a minimum period of at least 50 years, is a restricted unit affordable to and reserved solely for families with annual incomes not to exceed 80 percent of median income for rental units or 100 percent of median income for ownership units according to one or more regulatory agreements, covenants, or other legal instruments that, as a condition to issuance of the first building permit that includes the structural frame for the structure that includes the moderate-income unit, shall be executed and recorded on the title of the property and are enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other public agency if approved by the Director of Housing.

“Unit, restricted” means a unit on a property subject to a recorded agreement with the City of Seattle that limits both the unit’s rent or sale price, as applicable, and eligible residents’ annual income at a specified percentage of median income. For purposes of each restricted unit, eligible residents shall be a “family” according to 24 CFR Section 5.403 or successor provision,



and the family's "annual income" shall be determined according to 24 CFR Section 5.609 or successor provision, unless otherwise approved in writing by the Director of Housing.

## SMC Chapter 22.900G Fees Collected for Other Departments

### Section 23.900G.015 Fees for review by the Office of Housing

- ⑥ Amend Section 23.900G.015 – Simplify housing review fee provisions and delete reference to sections that are either repealed or in which housing-related incentives language now references Chapter 23.58A "Incentive provisions." Applicability and housing review fee amount is unchanged.

## SMC Chapter 23.34 Amend Official Land Use Maps (Rezoning)

### Section 23.34.012 Neighborhood Residential Small Lot (RSL) zone, function and locational criteria

- ⑦ Amend subsection 23.34.012.A – Clarify language about the housing affordability function of RSL zones.

### Section 23.34.020 Lowrise 3 (LR3) zone, function and locational criteria

- ⑦ Amend subsection 23.34.020.C – Technical edit to condense phrase and correct punctuation.

## SMC Chapter 23.41 Design Review

### Section 23.41.004 Applicability

- ④ Repeal subsection 23.41.004.A.5 and amend subsection 23.41.004.B.8 – Absent temporary provisions adopted in 2020, developments of a size that trigger design review requirements and in which at least 40% of total units are restricted at levels no higher than 60% AMI are subject to administrative design review. Ord. 126072 and Ord. 126188, adopted by City Council in 2020 under the COVID Emergency Order, temporarily changed the administrative design review requirement to a design review exemption. In December 2022, City Council adopted Ord. 120464 to extend the design review exemption until January 2024 under the Homelessness Emergency Order. The proposal is to repeal subsection 23.41.004.A.5 and amend subsection 23.41.004.B.8 to establish an ongoing design review exemption for low-income housing, as defined by this legislation. This change would make the design review exemption available for the first time to publicly funded developments that include affordable ownership homes for households with incomes no higher than 80% AMI. The number of developments eligible for a design review exemption would increase modestly. Based on OH ownership funding awards for 2020, 2021, and 2022, the net annual increase would average approximately two to three projects totaling 40 to 60 units. For rental housing funded by OH during the same time period, annual new construction of multifamily housing that is not PSH but temporarily eligible for exemption from design review averages approximately five to six projects totaling 685 units.

Examples of guidance culminating from design review include enhancements to building entries to distinguish them from their surroundings, artwork or special landscaping in exterior communal areas, additional seating to encourage congregation and social interaction in patio areas, increased window depth throughout a building, or use of textured materials similar to

other buildings in the immediate area. Recommendations can increase soft costs, like design and architecture time and fees, sometimes also increase hard costs of construction, in which case subsidy amounts agreed to by the Seattle Office of Housing or another public funding partners could need to be increased. This could translate to less low-income housing even though immediate and long-term need for low-income housing already dwarf available resources. Exempting low-income housing from design review can mitigate associated and often unexpected cost increases. This exemption has been in place on a temporary basis for the large majority of low-income housing development activity for the past three years with no known adverse impacts.

- ④ Repeal subsection 23.41.004.D – The provisions in this subsection 23.41.004.D are “temporary provisions for affordable housing projects” first enacted under the Covid Emergency Order. This subsection, until it sunsets in January 2024, authorizes applicants to request waiver and modification for specific development standards through the design review exemption for low-income housing with at least a minimum share of 60% AMI units. The list of development standards for which waivers and modifications can be requested through design review is the same as currently allowed by Section 23.42.057 as a Type I decision for PSH. This legislation amends that Section so that it applies to all low-income housing, not just PSH. (Detail about development standards permissible for waiver and modification requests is provided in the explanation for Section 23.42.057 below.)
- ④ New subsection 23.41.004.D – A new subsection would also allow low-income housing that vests according to Section 23.76.026 prior to the effective date of this legislation to use the design review exemption. That option could help a few City-funded projects that are still early enough in the permitting process.

## SMC Chapter 23.42 General Use Provisions

### Section 23.42.055 Low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.42.055 title - Amend Section title to read “Development of affordable units on property owned or controlled by a religious organization.”
- ⑦ Amend Section 23.42.055 - Simplify and provide greater clarity and readability of provisions related to development of affordable units on religious organization-owned property. Define “affordable units” for purposes of this Section, which has unique affordability requirements consistent with state authorizing statute RCW 35A.63.300. Condense affordability requirements for housing on religious-owned property. The changes remove details that are addressed in required regulatory agreements and are beyond a level appropriate for the LUC. What constitutes “monthly rent” is an example of language that is repealed.

### Section 23.42.057 Permanent supportive housing

- ④ Amend Section 23.42.057 title – Change the title of this Section to read “Waivers and modifications for low-income housing.”
- ④ Amend Section 23.42.057 – Amend this Section to allow waiver or modification from certain development standards for all low-income housing, including affordable homes for buyer

households with incomes no higher than 80% AMI. Currently, SDCI may issue Type I decisions (which do not require public notice) on waiver and modification requests only from PSH applicants. The amendments would extend that authorization to include all low-income housing. As mentioned in the Section 23.41.004 amendments summary above, applicants whose residential projects have a certain share of units affordable no higher than 60% AMI can request waiver and modification of the same development standards according to temporary design review provisions. Those provisions sunset in January 2024. With this legislation, authorization to submit requests would no longer be temporary and it would apply to all low-income housing. Development standards that could be modified are unchanged. They relate to size of parking spaces, ratios of parking space sizes, overhead weather protection, façade details, size and design of indoor and outdoor communal areas, street-level details, and other similar physical development standards as determined by the SDCI Director, provided they do not increase the size of the building envelope. The existing community engagement requirement for PSH in Section 23.42.057 is unchanged.

- ④ New subsection 23.42.057.D – A new subsection would also allow low-income housing that vests according to Section 23.76.026 prior to the effective date of this legislation to request waivers and modifications under Section 23.42.057 if needed. That option could help a small number of City-funded projects that are still early enough in the permitting process.

#### Section 23.42.070 Parking for rented or leased multifamily dwelling units and commercial uses

- ③ Amend Section 23.42.070.B.2 – Amend this subsection to reference the term “moderate-income units.” This is an existing exception related to leases for housing and residential parking.

### SMC Chapter 23.44 Neighborhood Residential

#### Section 23.44.019 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.44.019 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

#### Section 23.44.024 Clustered housing planned developments

- ③ Amend Section 23.44.024 – Replace the words “affordable housing,” which is undefined for purposes of Chapter 23.44, with low-income housing.

#### Section 23.44.034 Planned residential development (PRD)

- ③ Amend Section 23.44.034 - Replace the words “affordable housing,” which is undefined for purposes of Chapter 23.44, with low-income housing.

#### Section 23.44.041 Accessory dwelling units

- ③ Amend subsection 23.44.041.A.1 – This subsection allows a second accessory dwelling unit to be built on a lot by one of three ways. The applicant can add a second accessory dwelling unit by (1) converting floor area within an existing structure; (2) building a new structure that complies with green building standards; or (3) entering into an agreement with the City to rent the

second accessory dwelling unit at affordability levels no higher than 80% AMI for 50 years. The amendment replaces language describing the third option with the defined term low-income unit. For applicants that opt for deed restrictions on the second accessory dwelling unit, the change reduces the affordability limit to 60% AMI for rental occupancy and allows the 80% AMI limit if the accessory dwelling unit is owner occupied. The minimum 50-year duration of the housing covenants is unchanged.

## SMC Chapter 23.45 Multifamily

### Section 23.45.510 Floor area

- ③ Amend subsection 23.45.510.D.13 – Replace permanent supportive housing with low-income housing. This change extends to all low-income housing an existing floor area exemption for accessory human services. That type of use is currently only exempt for purposes of calculating FAR in PSH developments. Although most low-income housing that also includes accessory human services is PSH, this change eliminates an FAR penalty for other low-income housing that might include this use. Consumer and credit counseling, information and referral services for employment or education, food banks, and community health care clinics are examples of accessory human service uses.

### Section 23.45.512 Density limits and family-size unit requirements – LR zones

- ③ Amend subsection 23.45.512.A.4 – This subsection currently allows a higher density limit for certain affordable housing in LR1 zones. The amendment simplifies a three-part Code provision to a single sentence stating, “Low-income housing shall have a maximum density of one dwelling unit per 400 square feet of lot area.” The density exception is unchanged, but using the term low-income housing clarifies the affordability requirements and adopts a standard duration for housing covenants (the language currently refers to the “life of the structure,” which is inconsistent with the City’s and other public agencies’ regulatory agreements).

### Section 23.45.516 Method to achieve extra residential floor area in HR zones

- ⑦ Amend subsection 23.45.516.B.1 – Removes the word “program” in reference to affordable housing incentives. The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.

### Section 23.45.550 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.45.550 title – Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

## SMC Chapter 23.47A Commercial

### Section 23.47A.004 Permitted and prohibited uses

- ③ Amend Table A for 23.47A.004 – In column of table that states permanent supportive housing is permitted outright in C2 zones, change permanent supportive housing to low-income housing. Currently low-income housing that is not PSH would require application for a conditional use permit in C2 zones.

### Section 23.47A.005 Street-level uses

- ③ Amend subsection 23.47A.005.C.2.a – In a provision about allowable street-level residential uses, replace reference to low-income housing existing as of 5/1/2006 with simply low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.
- ⑦ Amend subsection 23.47A.005.C.2.d – Delete reference to conversion of live-work space to an accessory dwelling unit that meets the owner occupancy requirement of subsection 23.44.041.C. The current Code does not include an owner occupancy requirement.
- ③ Repeal subsection 23.47A.005.C.2.e and subsection 23.47A.005.C.2.f – These subsections identify other affordable housing allowed as street-level residential uses. With the amendment to reference low-income housing in subsection 23.47A.005.C.2.a, these subsections are no longer necessary.
- ③ Amend subsection 23.47A.005.D.1.o - In a list of uses that must comprise at least 80 percent of the street-level, street-facing façade, replace permanent supportive housing with low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.

### Section 23.47A.013 Floor area ratio

- ③ Amend subsection 23.47A.013.B.9 - Replace permanent supportive housing with low-income housing. This change extends to all low-income housing an existing floor area exemption for accessory human services. Accessory human services are currently exempt for purposes of calculating FAR only in PSH developments. Although most low-income housing that also includes accessory human services is PSH, this change eliminates an FAR penalty for other low-income housing that might include this use. Consumer and credit counseling, information and referral services for employment or education, food banks, and community health care clinics are examples of accessory human service uses.

### Section 23.47A.040 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.47A.040 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

## SMC Chapter 23.48 Seattle Mixed

### Section 23.48.005 Uses

- ③ Amend subsection 23.48.005.D.1.j - In a list of one or more uses required along the street-level façade of specified streets, replace permanent supportive housing with low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.

### Section 23.48.020 Floor area ratio (FAR)

- ③ Amend subsection 23.48.020.B.8 - Replace permanent supportive housing with low-income housing. This change extends to all low-income housing an existing floor area exemption for

accessory human services. That type of use is currently only exempt for purposes of calculating FAR in PSH developments. Although most low-income housing that also includes accessory human services is PSH, this change eliminates an FAR penalty for other low-income housing that might include this use. Consumer and credit counseling, information and referral services for employment or education, food banks, and community health care clinics are examples of accessory human service uses.

#### Section 23.48.100 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.48.100 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.

#### Section 23.48.232 Lot area limits in SM-SLU/R 65-95

- ③ Amend subsection 23.48.232.F.4.c – Replace detailed affordability provisions with the term moderate-income unit in a provision that provides an option for satisfying requirements to include a non-residential structure in an otherwise residential or mixed-use zone. Simplification of this provision eliminates an obsolete 20-year term of affordability for restricted units. The AMI limits are unchanged.

#### Section 23.48.605 Uses in SM-U zones

- ③ Amend subsection 23.48.605.C.1.k – In a list of one or more uses required along the street-level façade of specified streets replace permanent supportive housing with low-income housing. This could enable greater flexibility of uses in ground floor levels for publicly subsidized housing.

#### Section 23.48.920 Floor area ratio in SM-RB zones

- ③ Amend subsection 23.48.920.B.6 - Replace detailed eligibility language specific to a higher FAR limit for certain affordable housing with the term low-income housing. The change expands the provision to include affordable ownership for households with incomes no higher than 80% AMI. Currently, the FAR limit only applies to low-income housing with rent and income limits no higher than 60% AMI, publicly funded developments that include affordable ownership homes for households with incomes no higher than 80% AMI.

### SMC Chapter 23.49 Downtown Zoning

#### Section 23.49.007 Mandatory housing affordability (MHA)

- ⑦ Amendment to Section 23.49.007 title - Change the title of this Section to “Mandatory housing affordability (MHA) in Downtown zones” for clarity and consistency with titles of parallel sections in other zone chapters.

#### Section 23.49.008 Structure height

- ⑥ Amend Section 23.49.008 – Throughout this Section, reference Chapter 23.58A “Incentive provisions” in lieu of bonus provisions according to Chapter 23.49.015. Chapter 23.49.015 became obsolete with implementation of MHA in Downtown zones. This Code clean-up does not change requirements for development in Downtown zones. Requirements for bonus residential floor area continue to be satisfied by complying with Chapter 23.58C, the affordable

housing incentive program authorized by RCW 36.70A.540 commonly referred to as MHA-Residential.

- ⑦ Amend subsection 23.49.008.G – Amend this subsection for clarity. This subsection allows 10 additional feet in height and has MHA requirements different than Chapter 23.58C for the floor area and units on that additional floor.
- ⑦ New subsection 23.49.008.I – Add a new subsection stating that low-income housing may achieve maximum height according to provisions of the zone without meeting the requirements of Section 23.49.008. This language mirrors existing language in Section 23.49.023, which outlines incentive zoning requirements for South Downtown zones. Although this change does not alter existing requirements, it eliminates the potential for unnecessary reviews to establish that low-income housing provides more restricted units than required through incentive zoning, if applicable.

#### Section 23.49.010 General requirements for residential uses

- ⑥ Amend subsection 23.49.010.B.1 – In reference to common recreation area requirements, replace “excluding any floor area in a residential use gained in a project through a voluntary agreement for housing according to Section 23.49.015” with “excluding any bonus residential floor area achieved according to Section 23.58A.014.” Chapter 23.49.015 became obsolete with implementation of MHA in Downtown zones.

#### Section 23.49.012 Bonus floor area for voluntary agreements for housing and child care

- ⑥ Amend Section 23.49.012 - Repeal housing-related portions of this Section that became obsolete in 2017 with adoption of Downtown upzones to implement MHA and instead reference Chapter 23.58A, “Incentive provisions.” This Code clean-up does not change requirements for development in Downtown zones. Requirements for bonus non-residential floor area are satisfied by complying with Chapter 23.58C, the affordable housing impact mitigation program commonly referred to as MHA-Commercial.
- ⑦ Amend subsection 23.49.012.C.1 (as renumbered) – Condense and update in lieu payment provisions for childcare. The per square foot cash contribution amount is updated to reflect the current payment amount according to [SDCI Tip 258, Developer Contributions - Incentive Zoning](#). Amended language related to automatic adjustments to the payment amount in proportion to changes in the CPI-U All Items index improves clarity and readability consistent with original intent.
- ⑦ Amend subsection 23.49.012.C.2 (as renumbered) – Update the name of the Washington state department that oversees licensing for childcare facilities. Also update the name of the Human Services Department’s childcare assistance program.

#### Section 23.49.014 Transfer of development rights

- ③ Amend subsection 23.49.014.B.8 – Simplify and clarify requirements for affordable housing as a condition to transfer of housing TDR, Landmark housing TDR, or DMC housing TDR by using the term restricted units.

Section 23.49.015 Bonus residential floor area in DOC1, DOC2, and DMC zones outside South Downtown for voluntary agreements for low-income housing and moderate-income housing

- ⑥ Repeal Section 23.49.015 - This Section became obsolete in 2017 upon adoption of Downtown upzones to implement MHA. All provisions related to bonus floor area above base height limit now reference Chapter 23.58A.

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

- ⑦ Amend subsection 23.49.023.B - Delete the word “programs” in reference to options for satisfying conditions to extra floor area.
- ③ Amend subsection 23.49.023.B.2 – Simplify and clarify a provision waiving extra floor area requirements for affordable, income-restricted housing by using the term low-income housing.

Section 23.49.037 Alternative development standards for low-income housing on property owned or controlled by a religious organization

- ⑦ Amend Section 23.49.037 title - Amend the title of this Section to read “Alternative standards for development of affordable units on property owned or controlled by a religious organization.” This is consistent with Section 23.42.055 as amended.
- ⑦ Amend Section 23.49.037 – Change “affordability and eligibility requirements of Section 23.42.055” to read “requirements of Section 23.42.055.” The reference relates to all requirements of that Section, not just the “affordability and eligibility” requirements.

Section 23.49.041 Combined lot development

- ⑦ Amend subsection 23.49.041.D.5 - Simplify this provision by deleting a redundant reference to housing affordability levels that the SDCI Director may consider when deciding whether to allow combined lot development.

Section 23.49.058 Downtown Office Core 1 (DOC1), Downtown Office Core 2 (DOC2), and Downtown Mixed Commercial (DMC) upper-level development standards

- ⑥ Amend subsection 23.49.058.C.1.b – Replace reference to Section 23.49.015 with reference to Chapter 23.58A, “Incentive provisions.” Section 23.49.015 became obsolete in 2017 with adoption of Downtown upzones to implement MHA.

Section 23.49.164 Downtown Mixed Residential, maximum width, depth and separation requirements

- ③ Amend subsection 23.49.164.C - Simplify this subsection by using the term low-income housing. Alternative development standards that apply to low-income housing existing on or before 9/11/1988 would apply to all low-income housing. The amendments enable a lengthy description of affordability and term of housing covenants to be repealed since those details are captured in the definition of low-income housing.
- ③ Amend subsection 23.49.164.D.7 – Simplify this subsection by using the term low-income housing. SDCI Director consultation with the Director of Neighborhoods prior to a decision on



waiver and modification requests for affordable housing is modified to also include the Director of Housing. The basis for SDCI’s decision on departures in South Downtown DMR/C zones is clarified as facilitation of low-income housing development. The amendments enable a lengthy description of affordability and term of housing covenants to be repealed since those details are captured in the definition of low-income housing.

#### Section 23.49.180 Additional height in the PSM 85-120 zone

- ⑥ Amend subsection 23.49.180.A – Amend this subsection regarding “general intent” to provide greater clarity and readability and to reference the definition of affordable housing according to Chapter 23.58A, “Incentive provisions.”
- ⑥ Amend subsections 23.49.180.C and 23.49.180.E.1 – Amend these subsections to reference Chapter 23.58A, “Incentive provisions.” Although there are no longer developable lots in the PSM 85-120 zone, this change means an obsolete Section 23.49.181 can be repealed.

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

- ⑥ Delete Section 23.49.181 - Repeal obsolete Section 23.49.181 in concert with amendments to Section 23.49.180. All provisions related to bonus floor area in the PSM 85-120 zone now reference Chapter 23.58A.

### SMC Chapter 23.54 Quantity and design standards for access, off-street parking, and solid waste storage

#### Section 23.54.015 Required parking and maximum parking limits

- ③ Amend Table B for 23.54.015 – This amendment replaces detailed provisions in the body of the Table and in multiple footnotes with a single, short statement that parking is not required for low-income units and moderate-income units. The provision would apply to low-income units and moderate-income units in multifamily residential uses and cottage housing developments. Existing provisions provide a parking exemption for each unit affordable at 80% AMI. As amended, homes with long-term initial sale and resale price restrictions ensuring affordability to buyer households with incomes no higher than 100% AMI would also qualify for the per unit exemption. To date, there are no homes subject to affordability limits higher than 80% AMI in Seattle. Development of such units would require exclusively private sector financing, which is unlikely. However, the change is consistent with the original intent of the provision to reduce parking requirements for affordable housing.
- ③ Amend footnote 5 in Table D for 23.54.015 – This focuses applicability of existing exemption and waiver provisions on units in publicly funded low-income housing. For units with an affordability limit above 30% AMI but less than 60% AMI (for rental) or 80% AMI (for ownership), a waiver is only allowed if alternative bike storage is provided. That requirement is unchanged. The affordability limit is increased to 80% AMI so that the exemption also would apply to development that creates homeownership opportunities with ongoing affordability of sales and resales for low-income buyers. The 80% AMI affordability limit provides additional flexibility and potential cost savings for publicly funded development of affordable for-sale homes.

## SMC Chapter 23.58A Incentive provisions

### Section 23.58A.002 Scope of chapter; general rules

- ⑦ Add new subsection 23.58A.002.D - Add a new subsection stating that low-income housing may achieve bonus floor area according to provisions the zone without meeting the requirements of Chapter 23.58A. This language mirrors existing language in Section 23.49.023, which outlines incentive zoning requirements for South Downtown zones. Although this change does not alter existing requirements, it eliminates the potential for unnecessary reviews to establish that low-income housing provides more restricted units than required through incentive zoning, if applicable.

### Section 23.58A.003 Affordable housing incentive programs: purpose and findings

- ⑦ Amend Section title - Amend the title of this Section to read “Affordable housing incentives: purpose and findings.” Delete the word “programs.” The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.
- ⑦ Amend subsection 23.58A.003.A and subsection 23.58A.003.C.1 - Remove the word “program” in these two subsections. The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.
- ⑦ Amend subsection 23.58A.003.C1 – Simplify and clarify this subsection regarding findings by referencing affordable housing as defined specifically for purposes of Chapter 23.58A. In addition, delete an unnecessary modifier for affordable housing that reads “not receiving public subsidies” since AMI limits for publicly funded affordable housing are equivalent to or lower than Chapter 23.58A AMI limits that apply to performance units provided as a condition to extra floor area.

### Section 23.58A.004 Definitions

- ⑦ Amend Section 23.58A.004 – Replace “a unit or units of housing” with defined term “restricted units” in Chapter 23.58A’s definition of “affordable housing.” Replace “low-income housing” with “affordable housing,” as defined for purposes of Chapter 23.58A, throughout this Section and other technical corrections and clarifications.

### Section 23.58A.014 Bonus residential floor area for affordable housing

- ⑦ Amend subsection 23.58A.014.B.1 - Clarify calculation of floor area provided as affordable housing as a condition of bonus floor area by using the term “net unit area.” Subsection 23.86.007.B defines that term for the purpose of measuring residential units. In addition, remove a provision that became obsolete many years ago with adoption of affordability requirements for units with net unit area 400 square feet or less.
- ⑤ Amend subsection 23.58A.014.B.2 – Add new provision to authorize release of the housing performance agreement if a property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.
- ⑦ Amend subsection 23.58A.014.B.3 – Simplify duration of affordable housing agreement language.

- ⑦ Amend subsection 23.58A.014.B.4 – Simplify and clarify provisions related to size and distribution of affordable housing units.
- ⑤ Amend subsection 23.58A.014.B.5.b - Replace existing annual report provision with standard reporting requirements for properties that include restricted units. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.014.B.5.c - Add a new subsection with a standard annual compliance fee for properties that include restricted units for renter occupancy. The fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58A.014.B.6.a – Condense detailed language related to initial sale and resale prices.
- ⑦ Amend subsection 23.58A.014.B.6.b (as renumbered) - Clarify provision by replacing “consistent with the affordability restriction on the same basis” with reference to the Code section that provides requirements for initial sale and resale prices.
- ⑤ Add new subsection 23.58A.014.B.6.c – Add standard reporting requirements for properties that include restricted units for owner occupancy. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.014.B.6.d – Add a new subsection authorizing a standard annual stewardship fee by rule for properties that include restricted units for owner occupancy, as currently is in the MHA framework. Stewardship fee provisions are now succinct and uniform throughout the land use code.
- ⑦ Amend subsection 23.58A.014.B.8.a – Condense provisions outlining priority locations for off-site affordable housing.
- ⑤ Amend subsection 23.58A.014.B.9 - Replace lengthy and complicated language governing the use of subsidies for affordable housing provided as a condition of bonus floor area with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements for bonus floor area may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying that public benefits required according to Section 23.58A.014 are met.
- ⑤ Amend subsection 23.58A.014.B.10 – Technical edits to existing requirement about housing review fees according to Section 22.900G.015. The applicability and amount of the fee is unchanged.
- ⑦ Amend Section 23.58A.014.C – Condense and update in lieu payment provisions for affordable housing. The per square foot cash contribution amount is updated to reflect the current payment amount according to [SDCI Tip 258, Developer Contributions - Incentive Zoning](#). Amended language related to automatic adjustments to the payment amount in proportion to

changes in the CPI-U All Items index improves clarity and readability consistent with original intent.

#### Section 23.58A.024 Bonus non-residential floor area for affordable housing and child care

- ⑦ Amend subsection 23.58A.024.B.1 – Clarify calculation of floor area provided as affordable as a condition of bonus floor area by using the term “net unit area.” That term is defined in subsection 23.86.007.B for the purpose of measuring residential units.
- ⑤ Amend subsection 23.58A.024.B.2 – Add new provision to authorize release of the housing performance agreement if the property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.
- ⑦ Amend subsection 23.58A.024.B.3 – Simplify duration of affordable housing agreement language.
- ⑦ Amend subsection 23.58A.024.B.4 – Simplify and clarify provisions related to size and distribution of affordable housing units.
- ⑤ Amend subsection 23.58A.024.B.5.b - Replace existing annual report provision with standard reporting requirements for properties that include restricted units. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.024.B.5.c - Add a new subsection with a standard annual compliance fee for properties that include restricted units for renter occupancy. The fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58A.024.B.6.a – Condense detailed language related to initial sale and resale prices.
- ⑦ Amend subsection 23.58A.024.B.6.b (as renumbered) - Clarify provision by replacing “consistent with the affordability restriction on the same basis” with reference to the Code section that provides requirements for initial sale and resale prices.
- ⑤ Add new subsection 23.58A.024.B.6.c – Add standard reporting requirements for properties that include restricted units for owner occupancy. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58A.024.B.6.d – Add a new subsection authorizing a standard annual stewardship fee by rule for properties that include restricted units for owner occupancy, as currently is in the MHA framework. Stewardship fee provisions are now succinct and uniform throughout the land use code.
- ⑦ Amend subsection 23.58A.024.B.8.a – Condense provisions outlining priority locations for off-site affordable housing.

- ⑤ Amend subsection 23.58A.024.B.9 - Replace lengthy and complicated language governing the use of subsidies for affordable housing provided as a condition of bonus floor area with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements for bonus floor area may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying that public benefits required according to Section 23.58A.024 are met.
- ⑤ Amend subsection 23.58A.024.B.10 – Technical edits to existing requirement about housing review fees according to Section 22.900G.015. The applicability and amount of the fee is unchanged.
- ⑦ Amend Section 23.58A.014.D – Condense and update in lieu payment provisions for affordable housing and childcare. The per square foot cash contribution amounts are updated to reflect the current payment amounts according to [SDCI Tip 258, Developer Contributions - Incentive Zoning](#). Amended language related to automatic adjustments to the payment amounts in proportion to changes in the CPI-U All Items index improves clarity and readability consistent with original intent.

#### Section 23.58A.042 Transferable development potential (TDP) and rights (TDR)

- ③ Amend subsection 23.58A.042.E.2 - Simplify and clarify requirements for affordable housing as a condition to transfer of housing TDR, Landmark housing TDR, or DMC housing TDR by using the term “restricted units.”

## SMC Chapter 23.58B Affordable housing impact mitigation program for commercial development

### 23.58B.010 Intent for implementation

- ⑦ Amend Section 23.58B.010 - Replace “program performance” with “outcomes.” This is consistent with the context, which relates to evaluation of MHA-C outcomes, and eliminates potential confusion with MHA’s performance option.

### 23.58B.020 Applicability and general requirements

- ③ Amend subsection 23.58B.020.C – Replace lengthy paragraph detailing eligibility for MHA-C exemption with single sentence reading “Low-income housing that includes floor area in commercial use is exempt from the requirements of this Chapter 23.58B.”
- ⑦ Amend subsection 23.58B.020.D – Clarify and improve readability of this subsection explaining the relationship of MHA-C to incentive zoning.

### Section 23.58B.025 Permit documentation

- ⑦ Amend Section 23.58B.025 – Throughout this Section, clarify calculation of floor area of MHA-C units provided through the performance option by using the term “net unit area.” Subsection 23.86.007.B defines that term for the purpose of measuring residential units.

- ⑤ New subsection 23.58B.025.A.6 – Add a new subsection referencing permit fees required according to Section 22.900G.015, consistent with parallel subsections in other LUC chapters. Applicability and housing review fee amount is unchanged.

#### Section 23.58B.040 Mitigation of impacts – payment option

- ⑦ In Tables A and B for Section 23.58B.040, the per square foot cash contribution amounts are updated to reflect the current payment amounts according to [SDCI Tip 257, Developer Contributions - Mandatory Housing Affordability](#). Amended language related to automatic adjustments to payment amounts in proportion to changes in the CPI-U Shelter index improves clarity and readability consistent with original intent.
- ⑦ Amend subsection 23.58B.040.B.2 – Delete vague and unnecessary language about commitment of MHA-C funds “over multiple years.”

#### Section 23.58B.050 Mitigation of impacts – performance option

- ⑦ Amend subsection 23.58B.050.A.1 – Clarify calculation of floor area of MHA-C units provided through the performance option by using the term “net unit area.” Subsection 23.86.007.B defines that term for the purpose of measuring residential units.
- ⑤ Amend subsection 23.58B.050.B.7 (as renumbered) - Replace lengthy and complicated language governing the use of subsidies for MHA-C units provided through the performance option with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements of Chapter 23.58B may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying that public benefits required according to Section 23.58B.050 are met.
- ⑤ Amend subsection 23.58B.050.B.11 (as renumbered) – Condense and clarify annual report provisions with standard reporting requirements for properties that include MHA-C units provided under the performance option. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58B.050.14 (as renumbered) – Condense and clarify annual compliance fee requirements for properties that include MHA-C units provided through the performance option. The fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Amend subsection 23.58B.050.B.17 (as renumbered) - Add new provision to authorize release of the housing performance agreement if the property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.

#### Section 23.58B.060 Definitions

- ③ Amend Section 23.58B.060 – Change the term “MHA-C housing” to “MHA-C unit” and in the definition of MHA-C unit, change “means housing provided” to “means a restricted unit” provided. Use the term MHA-C unit throughout Chapter 23.58B, as applicable.

## Chapter 23.58C Mandatory housing affordability for residential development

### 23.58C.020 Definition

- ⑦ Amend Section 23.58A.020 – Improve clarity and readability of Chapter 23.58C’s definition of “unit” and correct punctuation errors. Establish term “MHA-R unit” for any restricted unit provided to comply with Chapter 23.58C. Replace phrase “unit provided through the performance option” with “MHA-C unit” throughout the Chapter.

### 23.58C.025 Applicability and general requirements

- ③ Amend subsection 23.58C.025.C – Replace lengthy paragraph detailing eligibility for MHA-R exemption with single sentence reading “Low-income housing is exempt from the requirements of this Chapter 23.58C.”
- ⑦ Amend subsection 23.58C.025.D – Clarify and improve readability of this subsection explaining the relationship of MHA-R to incentive zoning.

### 23.58C.030 Permit documentation

- ⑤ New 23.58C.030.A.7 – Add a new subsection referencing permit fees required according to Section 22.900G.015, consistent with parallel subsections in other LUC chapters. Applicability and housing review fee amount is unchanged.

### 23.58C.040 Affordable housing—payment option

- ⑦ In Tables A and B for Section 23.58C.040, the per square foot cash contribution amounts are updated to reflect the current payment amounts according to [SDCI Tip 257, Developer Contributions - Mandatory Housing Affordability](#). Amended language related to automatic adjustments to payment amounts in proportion to changes in the CPI-U Shelter index improves clarity and readability consistent with original intent.
- ⑦ Amend subsection 23.58C.040.B.1 – Delete vague and unnecessary language about commitment of MHA-C funds “over multiple years.”

### 23.58C.050 Affordable housing—performance option

- ⑦ Amend subsection 23.58C.050.C.2.c – Add reference to 23.86.007.B, which defines net unit area.
- ⑤ Amend subsection 23.58C.050.C.5 - Replace lengthy and complicated language governing the use of subsidies for MHA-C units provided through the performance option with a simple “no other restrictions” clause specific to the unit rather than the project. This means that any unit provided to satisfy requirements of Chapter 23.58C may not be the same unit as provided to satisfy unrelated affordability and income restrictions (e.g., property tax exemption requirements). This simplifies the process for certifying delivery of public benefits according to Section 23.58C.050.
- ⑤ Amend subsection 23.58C.050.C.6.d - Condense and clarify annual report provisions with standard reporting requirements for properties that include MHA-R units provided under the performance option. Reporting requirements are now succinct and uniform throughout the land use code.

- ⑤ Amend subsection 23.58C.050.6.e – Condense and clarify annual compliance fee requirements for properties that include MHA-R units for renter occupancy. The fee amount is unchanged and adjustments for inflation would now be at the discretion of the Director of Housing rather than mandatory. Compliance fee provisions are now succinct and uniform throughout the land use code.
- ⑦ Amend subsection 23.58C.050.6.i – Clarify calculation of payment in lieu of continuing affordability when rental MHA-R units are converted to ownership MHA-R units, consistent with intent. The percentage of in-lieu payment amount owed is unchanged.
- ⑦ Amend subsection 23.58C.050.C.7.c.2 – Delete “program” in reference to rules established by the Director of Housing.
- ⑤ Amend subsection 23.58C.050.C.7.d – Condense and clarify annual stewardship fee requirements for properties that include MHA-R units for owner occupancy. Director of Housing establishment of the initial fee by rule is unchanged. Stewardship fee provisions are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.58C.050.C.7.f – Add new provision requiring the applicant or third-party stewardship entity, as applicable, to submit a compliance report for affordable homes for owner-occupancy no less than annually.
- ⑤ Amend subsection 23.58C.050.E – Add new provision to authorize release of the housing performance agreement if the property is acquired to provide low-income housing and the acquisition is funded by the Office of Housing.

## SMC 23.66 Special review districts

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

- ⑦ Amend subsection 23.66.100.A – Change “housing types for all income groups” to “housing types for people of all income levels.”
- ⑦ Amend subsection 23.66.100.C – Improve clarity and readability of general provisions related to social diversity in pioneer square zones. Change “housing for persons of many income groups” to “housing for persons with a wide range of incomes.”

### Section 23.66.310 Union Station Corridor goals and objectives

- ⑦ Amend subsection 23.66.310.B – Delete the word “existing” in aspirational provision about preservation of low-income housing.

## SMC 23.70 Mobile home park overlay district

### Section 23.70.008 Permitted and prohibited uses

- ⑦ Amend subsection 23.70.008.A – In subsection related to uses permitted outright in the mobile home park overlay district, delete use of defined term low-income housing, which as modified is inconsistent with the overlay’s housing requirements. Improve clarity and readability of this sentence.



## Section 23.70.010 Development standards for residential uses

- ⑦ Amend subsection 23.70.010.B – Improve clarity and readability of this subsection related to housing with affordability restrictions. Clarify provision that addresses requirements that would apply in event the lot is subject to more than one regulatory agreement. In subsection 23.70.008.B.1.a, delete “adjusted for household size” after references to median income. The definition of “median income” according to Section 23.84A.025 adjusts for household size. Subsection 23.70.008.B.1.b is corrected to also reference congregate residence sleeping rooms, consistent with subsection 23.70.008.B.1.a.
- ⑦ Amend subsection 23.70.010.B.5.a (as renumbered) – Change reference to “low-income housing development” to instead read “housing development according to subsection 23.70.008.B.”
- ⑦ New subsection 23.70.010.B.6 – Consolidate details about what constitutes “monthly rent” for purposes of subsection 23.70.010.B in a single subsection. Identical language is currently repeated twice in subsection 23.70.010.B.

## SMC Chapter 23.72 Sand Point overlay district

### Section 23.72.002 Purpose and intent

- ③ Amend subsection 23.72.002.C – Change “affordable housing” to “low-income housing.”

### Section 23.72.010 Development standards

- ③ Amend subsection 23.72.010.D.1.b – Change “affordable housing structures” to “low-income housing” and correct acronym for the zone referenced in this subsection.

## SMC Chapter 23.73 Pike/Pine conservation overlay district

### Section 23.73.010 Floor area limits outside the Conservation Core

- ③ Amend subsection 23.73.010.B.1.c – Replace detailed description of affordable housing eligible for exceptions to the floor area limit with reference to the newly defined term “moderate-income unit.” The affordability levels required are unchanged.

### Section 23.73.016 Amenity area

- ③ Amend subsection 23.73.016.B – Replace detailed description of affordable housing eligible for an amenity requirement exemption with reference “low-income housing,” as newly defined. The affordability limit for rental units is unchanged. The amendment extends the exemption to also include ownership low-income housing, which has 80% AMI limit. In addition, the change reduces the duration of the affordability requirements from 99 years to 40 or 50 years, depending on tenure, consistent with standard regulatory terms for low-income housing that is City-funded and/or financed with low-income housing tax credits and tax-exempt bonds.
- ③ Amend subsection 23.73.016.C – Shorten and clarify provision allowing amenity area in existing affordable housing to be eliminated. Use term low-income housing, parallel to change in 23.73.016.B.

## SMC Chapter 23.75 Master Planned Communities

### Section 23.75.020 Definitions

- ⑦ Amend subsection 23.75.020.B – Amend the definition of “affordable housing” to reference “replacement unit,” “60% AMI unit,” and “80% AMI unit,” which are each defined for purposes specific to Chapter 23.75. In the definition of “affordable housing,” state what “household” means since the Chapter 23.84A definition of that same term is incompatible as it relates to restricted units. Also state what “annual income” means for purposes of Chapter 23.75.

In the definition of “replacement unit,” change reference to “housing unit” to just “unit” since the Chapter 23.84A definition of “housing unit” is incompatible with requirements for restricted units.

Replace the words “percent of MI” with “% AMI.” In the definitions of “60% AMI unit” and “80% AMI unit” delete “of affordable housing” because affordable housing by definition includes those unit types. For each of these defined terms, delete “as defined in Section 23.84A.025” in reference to term median income.

Update Chapter 23.75 to use defined terms, as amended.

### Section 23.73.085 Residential floor area limits; affordable housing incentive program

- ⑦ Amend Section 23.75.085 title - Amend the title to read “Residential floor area limits; affordable housing incentives.” Remove the word “program.” The City does not oversee the LUC’s various incentive zoning provisions as a discrete program.
- ⑦ Amend subsection 23.75.085.B.2 – Replace detailed language regarding affordability with reference to terms already defined for purposes of this Chapter 23.75. Delete reference to “program.”
- ⑦ Amend Table A for 23.75.085 – Edit Column 2 heading for clarity. Edit Column 2 descriptions of what units count for purposes achieving Tier 1, 2, 3 and 4 maximum residential floor area allowed in the MPC-YT zone. Edit footnote 1 of Table A for clarity.
- ⑦ Amend subsection 23.75.085.D.2.d (as renumbered) – Clarify provision by replacing “requirements on the same basis” with references to the Code sections that provide requirements for initial sale and resale prices.
- ⑦ Amend subsection 23.75.085.D.3 (as renumbered) – Clarify a requirement about minimum average floor area of affordable housing units by using a term “net unit area.” That term is defined in Section 23.86.007.B for the specific purpose of ensuring consistent methodology for measurement of units in developments subject to affordability requirements.
- ⑤ Add a new subsection 23.75.085.D.5 – Add a new subsection with standard reporting requirements for properties that include restricted units. Reporting requirements are now succinct and uniform throughout the land use code.
- ⑤ Add new subsection 23.75.085.D.6 - Add a new subsection with a standard annual compliance fee for properties that include affordable units. For rental units, the fee amount and annual adjustment for inflation are the same as adopted in 2016 with MHA framework legislation. A

new clause allows a lower fee if the Director of Housing determines it will cover compliance monitoring costs. Authorize a standard annual stewardship fee by rule for properties that include restricted units for owner occupancy, as currently is in the MHA framework. Compliance and stewardship fee provisions are now succinct and uniform throughout the land use code.

- ⑤ Amend subsection 23.75.085.E (as renumbered) - Replace lengthy and complicated language governing use of subsidies for affordable housing provided as a condition of bonus floor area with a simple “no other restrictions” clause specific to units rather than the overall project. This means that any unit provided to satisfy MPC-YT development requirements may not, in some cases, be the same unit provided to satisfy unrelated affordability and income restrictions. Some exceptions to this rule apply for developers in the MPC-YT zone. In that zone, developers may “double dip” by using the same units to satisfy public benefits required for both Section 23.75.085 and as a condition of reduced land prices, Washington State Housing Finance Commission bonds and four percent tax credits, and property tax exemptions authorized by Chapter 5.73 (MFTE). This legislation leaves those exceptions in place, with an added qualifier limiting the duration of MFTE to 12 years, consistent with original intent and the terms of the Cooperative Agreement between the City and Seattle Housing Authority. This means that property owners can offer the same unit(s) to satisfy requirements for both their MPC-YT development allowances and their property tax exemptions for up to 12 years.
- ⑦ Amend subsection 23.75.085.F (as renumbered) – Clarify provisions about when affordable housing units count for purposes of allowing development in tiers according to Table A for 23.75.085.
- ⑤ Amend subsection 23.75.085.I – Technical edits to existing requirement about housing review fees according to Section 22.900G.015. The applicability and amount of the fee is unchanged.

## SMC Chapter 23.76 Procedures for Master Use Permits and Council land use decisions

### Section 23.76.032 Expiration and renewal of Type I and Type II Master Use Permits

- ⑦ Amend subsection 23.76.032.A.1.f – Delete reference to Section 23.49.181, which is repealed by this legislation.

## SMC Chapter 23.86 Measurements

### Section 23.86.007 Floor area and floor area ratio (FAR) measurement

- ⑦ Amend subsection 23.86.007.B – Amend the definition of “net unit area” to clarify this is a square footage measurement. This eliminates the need to work in the words “square feet” whenever the term “net unit area” is used in the LUC. The LUC defines net unit area to ensure that the size of individual units is measured in a consistent manner. This is especially important for restricted units, where AMI limits oftentimes vary depending on net unit area.

## Recommendation

Adoption of these amendments will make land use code provisions related to low-income housing and affordable units easier to understand, administer, and apply. Adoption of these amendments will also help facilitate development of publicly funded low-income housing. The Office of Housing and Seattle Department of Construction and Inspections recommend approval of the proposed legislation.

# Land Use Code Omnibus

## Amending low-income housing and affordable units Code provisions

06.14.2023

Seattle Office of Housing



**City of Seattle**

# Today's presentation

- Introduction
- What this Omnibus does
- Questions



# Omnibus introduction

- Updates low-income housing and affordable units land use code (LUC) provisions
  - Primarily technical LUC clean-up
  - A small number of amendments will facilitate development of publicly-funded low-income housing



# Outcome 1: Updated defined terms

Current LUC	This Legislation
<ul style="list-style-type: none"><li>• Over a dozen obsolete defined terms</li><li>• Inconsistent application of LUC provisions to low-income housing and other units with affordability restrictions.</li></ul>	<ul style="list-style-type: none"><li>• Four key defined terms used throughout the LUC</li><li>• Projects: “Low-income housing”</li><li>• Units: “Low-income unit;” “Moderate-income unit;” and “Restricted unit”</li></ul>





# Outcomes 2: Expanded application of design review exemption and waivers/modifications

Current LUC	This Legislation
<ul style="list-style-type: none"><li>• Permanent supportive housing is design review exempt; waiver/modification of certain development standards can be requested</li><li>• Same applies to low-income housing with units <math>\leq</math> 60% AMI, but under temporary provisions that sunset in January 2024</li><li>• Same does <u>not</u> apply to publicly funded development of homes with ongoing affordability for low-income buyers</li></ul>	<ul style="list-style-type: none"><li>• Extends the design review exemption to all publicly-funded low-income housing developments</li><li>• Authorizes waiver/modification requests for certain development standards, separate from design review, to all publicly-funded low-income housing developments</li><li>• Estimated annual use of these provisions:<ul style="list-style-type: none"><li>• 5 to 6 rental projects (~ 685 apartments)</li><li>• 2 to 3 ownership projects (~ 40 to 60 homes)</li></ul></li></ul>

# Outcomes 3: Consolidated incentive zoning provisions

Current LUC	This Legislation
<ul style="list-style-type: none"><li>• Incentive zoning provisions related to affordable housing:<ul style="list-style-type: none"><li>• Lengthy and complicated;</li><li>• Largely became obsolete with adoption of MHA</li></ul></li></ul>	<ul style="list-style-type: none"><li>• Repeals obsolete code sections</li><li>• Consistent reference to the “Incentive provisions” LUC chapter (23.58A)</li></ul>



# Outcome 4: Improved consistency, clarity, and readability

Current LUC	This Legislation
<ul style="list-style-type: none"><li>• Complicated, unclear, and inconsistent LUC provisions re: low-income housing and affordable units</li></ul>	<ul style="list-style-type: none"><li>• Comprehensive review of Title 23 to provide simplified, clearer, and consistent language</li><li>• Defined terms improve LUC readability and consistency</li><li>• Consistent standard requirements for units with housing affordability restrictions</li></ul>

# Questions?

Laura Hewitt Walker

Strategic Advisor,  
Market Incentives & Land Use  
Seattle Office of Housing

(206) 677-0455

[Laura.Hewitt@seattle.gov](mailto:Laura.Hewitt@seattle.gov)



**Amendment 1 Version #1 to CB 120591 – Office of Housing Land Use Code Omnibus**

**Sponsor:** Councilmember Morales

Add a Land Use Code definition of social housing

**Effect:** This amendment would add a definition of Social Housing to the Land Use Code. Social housing would be defined as a category of low-income housing in which affordable units are maintained in perpetuity.

CB 120591 would consolidate the definitions of low, very low, and moderate income housing into a single definition: “Housing, low-income.” That definition would encompass structures with at least 40 percent of rental or owned units at up to 60 percent of area median income or 80 percent of Area Median Income (AMI), respectively.<sup>1</sup>

In November the Council adopted [Resolution 32069](#) requesting that King County place on the Ballot Initiative 135 establishing a Social Housing Public Development Authority (PDA). Initiative 135 was approved by the voters in February 2023. The mission of the Social Housing PDA is to “develop, own and maintain publicly finance mixed-income social housing development.” Housing owned by the PDA would be available to households at a range of incomes between 0 and 120 percent of AMI.

By defining social housing as a category of low-income housing, social housing would have the same regulatory benefits afforded to low-income housing developments by CB 120591, such as a permanent exemption from Design Review, allowance as a street-level use in designated pedestrian zones, and certain Floor Area Ratio exemptions.

This amendment would amend Section 70 of CB 120591 as follows:

Section 70. Section 23.84A.016 of the Seattle Municipal Code, last amended by

Ordinance 126685, is amended as follows:

**23.84A.016 “H”**

\* \* \*

---

<sup>1</sup> For 2023, a two-person household at 60 percent of Area Median Income (AMI) has a household income no greater than \$65,750 annually. A two-person household at 80 percent AMI has a household income no greater than \$80,750.

"Household" means a housekeeping unit consisting of any number of non-transient persons composing a single living arrangement within a dwelling unit as provided in Section 23.42.048, not otherwise subject to occupant limits in group living arrangements regulated under state law, or on short-term rentals as provided in Section 23.42.060.

~~("Household, low income" means a household whose income does not exceed eighty (80) percent of median income.~~

~~"Household, moderate income" means a household whose income does not exceed median income.~~

~~"Household, very low income" means a household whose income does not exceed fifty (50) percent of median income.~~

~~"Housing, affordable" means a housing unit for which the occupant is paying no more than thirty (30) percent of household income for gross housing costs, including an allowance for utility costs paid by the occupant.)~~

"Housing, low-income" means ~~((housing affordable to, and occupied by, low income households))~~ any one or more of the following:

1. A ~~a~~ structure or structures for which:

~~1. a.~~ An application for public funding for the capital costs of development or rehabilitation of the structure(s) has been or will be submitted; and

~~2. b.~~ Public funding is awarded prior to issuance of the first building permit that includes the structural frame for each structure and is conditioned on one or more regulatory agreements, covenants, or other legal instruments, enforceable by The City of Seattle, King County, State of Washington, Washington State Housing Finance Commission, or other

public agency if approved by the Director of Housing, being executed and recorded on the title of the property that includes the low-income housing and such legal instruments either:

~~a. 1)~~ For a minimum period of 40 years, require rental of at least 40 percent of the dwelling units, small efficiency dwelling units, or congregate residence sleeping rooms as restricted units with rent and income limits no higher than 60 percent of median income; or

~~b. 2)~~ For a minimum period of 50 years, require at least 40 percent of the dwelling units as restricted units sold to buyers with incomes no higher than 80 percent of median income at prices (initial sale and resale) to allow modest growth in homeowner equity while maintaining long-term affordability for income-eligible buyers, all as determined by the Director of Housing.

2. Social housing, which means housing affordable to households with incomes between 0 percent and 120 percent of median income that is developed, with or without public funding; publicly owned; and maintained in perpetuity by a public development authority. Social Housing is intended to promote social cohesion, sustainability, and social equity through an intentional distribution of units to households with a broad mix of income ranges and household sizes.

~~(("Housing, moderate income" means housing affordable to, and occupied by, moderate income households.~~

~~"Housing, very low income" means housing affordable to, and occupied by, very low-income households)).~~

\* \* \*



Legislation Text

---

**File #:** CB 120592, **Version:** 1

---

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to land use and zoning; updating regulations for rooftop features in the Pioneer Square Preservation District; and amending Sections 23.49.008 and 23.66.140 of the Seattle Municipal Code.

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

Section 1. Section 23.49.008 of the Seattle Municipal Code, last amended by Ordinance 126600, is amended as follows:

**23.49.008 Structure height**

The following provisions regulating structure height apply to all property in Downtown zones except the DH1 zone. Structure height for PSM, IDM, and IDR zones is regulated by this Section 23.49.008, and by Sections 23.49.178, 23.49.208, and 23.49.236.

\* \* \*

**D. Rooftop features**

1. The following rooftop features are permitted with unlimited rooftop coverage up to the maximum heights indicated below:

a. Open railings, planters, clerestories, skylights, play equipment, parapets, and firewalls up to 4 feet above the applicable height limit;

b. Insulation material, rooftop decks and other similar features, or soil for landscaping located above the structural roof surface, may exceed the maximum height limit by up to 2 feet if enclosed by parapets or walls that comply with subsection 23.49.008.D.1.a;



c. Solar collectors up to 7 feet above the applicable height limit; and

d. The rooftop features listed below shall be located a minimum of 10 feet from all lot lines and may extend up to 50 feet above the roof of the structure on which they are located or 50 feet above the applicable height limit, whichever is less, except as regulated by Chapter 23.64:

- 1) Religious symbols for religious institutions;
- 2) Smokestacks; and
- 3) Flagpoles.

2. The following rooftop features are permitted up to the heights indicated below, as long as the combined coverage of all rooftop features listed in this subsection 23.49.008.D.2, does not exceed 75 percent of the roof area for structures that are subject to maximum floor area limits per story pursuant to Section 23.49.058; or 50 percent of the roof area for other structures, unless a different limit is specified by other provisions.

a. The following rooftop features are permitted to extend up to 15 feet above the applicable height limit:

- 1) Solar collectors that exceed the height listed in subsection 23.49.008.D.1.c;
- 2) Stair penthouses;
- 3) Play equipment and open-mesh fencing, as long as the fencing is at least 15 feet from the roof edge;
- 4) Covered or enclosed common recreation areas ~~((or))~~ and eating and drinking ~~(( establishment))~~ establishments;
- 5) Covered or enclosed rooftop recreational spaces within the PSM 100/100-120 zone and permitted uses within them, with coverage limits as described by subsection 23.66.140.C.4.j;
- ~~((5))~~ 6) Mechanical equipment; ~~((and))~~
- ~~((6))~~ 7) Greenhouses and solariums; and

~~((7))~~ 8) Wind-driven power generators.

b. Elevator penthouses as follows:

1) In the PMM zone, up to 15 feet above the applicable height limit;

2) Except in the PMM zone, up to 23 feet above the applicable height limit for a penthouse designed for an elevator cab up to 8 feet high;

3) Except in the PMM zone, up to 25 feet above the applicable height limit for a penthouse designed for an elevator cab more than 8 feet high;

4) Except in the PMM zone, if the elevator provides access to a rooftop designed to provide usable open space, an additional 10 feet above the amount permitted in subsections 23.49.008.D.2.b.2 and 23.49.008.D.2.b.3 shall be permitted.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

d. Greenhouses are permitted to extend up to 15 feet above the applicable height limit, as long as the combined total coverage of all features gaining additional height listed does not exceed 60 percent of the roof area.

e. Mechanical equipment, whether new or replacement, may be allowed up to 15 feet above the roof elevation of a structure existing prior to June 1, 1989.

### 3. Screening of rooftop features

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Pike Place Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection 23.49.008.D.2.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten percent of the applicable height limit, or 15 feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative conditional use for rooftop features. Except in the PMM zone, the rooftop features listed in subsection 23.49.008.D.1.d may exceed a height of 50 feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use under Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's Comprehensive Plan, and the following criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar, and visual access of properties within a 300 foot radius.

c. The feature, supporting structure, and structure below shall be compatible in design elements such as bulk, profile, color, and materials.

d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential penthouses above height limit in a DRC zone

a. A residential penthouse exceeding the applicable height limit shall be permitted in a DRC zone only on a mixed-use, City-designated Landmark structure for which a certificate of approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this Section 23.49.008 may cover a maximum of 50 percent of the total roof surface. Except as the Director may allow under subsection 23.49.008.D.5.b:

1) A residential penthouse allowed under this subsection 23.49.008.D.5 shall be set back a minimum of 15 feet from the street lot line.

2) A residential penthouse may extend up to 8 feet above the roof, or 12 feet above the roof if set back a minimum of 30 feet from the street lot line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within 300 feet from the structure, the Director may allow one or both of the following in a Type I decision:

1) An increase of the penthouse height limit under subsection 23.49.008.D.5.a by an amount up to the average height of the structure's street-facing parapet; or

2) A reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 23.49.008.D.5.b shall be consistent with the certificate of approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this subsection 23.49.008.D.5 shall not exceed the maximum structure height in the DRC zone under Section 23.49.008.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 23.49.008.D.5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

\* \* \*

Section 2. Section 23.66.140 of the Seattle Municipal Code, last amended by Ordinance 126600, is amended as follows:

**23.66.140 Height**

\* \* \*

C. Rooftop features and additions to structures

1. The height limits established for the rooftop features described in this Section 23.66.140 may be increased by the average height of the existing street parapet or a historically substantiated reconstructed

parapet on the building on which the rooftop feature is proposed.

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

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

4. Height limits for rooftop features

a. Religious symbols for religious institutions, smokestacks, and flagpoles may extend up to 50 feet above the roof of the structure or the maximum height limit, whichever is less, except as regulated in Chapter 23.64, provided that they are a minimum of 10 feet from all lot lines.

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

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

d. The following rooftop features may extend up to 8 feet above the roof or maximum height limit, whichever is less, if they are set back a minimum of 15 feet from the street and 3 feet from an alley. They may extend up to 15 feet above the roof if set back a minimum of 30 feet from the street. A setback

may not be required at common wall lines subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The combined coverage of the following listed rooftop features shall not exceed 25 percent of the roof area:

- 1) Solar collectors, excluding greenhouses;
- 2) Stair and elevator penthouses;
- 3) Mechanical equipment;
- 4) Minor communication utilities and accessory communication devices, except

that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of the rooftop features listed in subsection 23.66.140.C.4.d.1 through 23.66.140.C.4.d.4, not to exceed 35 percent of the roof area, may be permitted subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

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

f. Rooftop penthouses. The following types of occupied rooftop penthouse uses are permitted as a rooftop feature of a new building, or as a rooftop addition on an existing structure if it is at least 40 feet in height. Measurement of height for purposes of this subsection 23.66.140.C.4.f may include the height

of already-permitted and already-built rooftop penthouses regulated by this subsection 23.66.140.C.4.f.

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

2) When permitted, office penthouses may cover a maximum of 50 percent of the total roof surface, may extend up to ~~((12))~~ 15 feet above the roof of the structure, shall be functionally integrated into the existing structure, and shall be set back a minimum of 15 feet from all property lines. Accessory mechanical equipment may be placed on roofs of these penthouses if needed to support these uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in subsection 23.66.140.C.4.d.

3) Penthouses for lodging uses. When permitted, penthouses for lodging uses may cover a maximum of 50 percent of the total roof surface, may extend up to ~~((12))~~ 15 feet above the roof of the structure, shall be functionally integrated into the existing structure, and shall be set back a minimum of 15 feet from all property lines. For purposes of this subsection 23.66.140.C.4.f.3, lodging uses may include accessory uses such as dining areas, and eating and drinking establishments. Accessory mechanical equipment may be placed on roofs of these penthouses if needed to support lodging uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in subsection 23.66.140.C.4.d.

4) Penthouses for eating and drinking establishments. When permitted, penthouses for these uses may cover a maximum of 50 percent of the total roof surface, may extend up to ~~((12))~~ 15 feet above the roof of the structure, shall be functionally integrated into the existing structure, and shall be set back a minimum of 15 feet from all property lines. Accessory mechanical equipment may be placed on roofs of these penthouses if needed to support these uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in subsection

23.66.140.C.4.d.

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

6) View studies depicting views toward a proposed improvement, including from distances up to 300 feet, are required for all rooftop penthouses. Increasing setbacks, lowering roof heights, or other design adjustments may be required to ensure the penthouse is minimally visible.

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

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

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

1) The use of the addition above the limit on structure height applicable under Section 23.49.178 is limited to residential use; and

2) The addition occupies only all or a portion of the part of a lot that is bounded by an alley on one side and is bounded on at least two sides by walls of the existing structure that are not street-facing facades.

j. ~~((Enclosed))~~ Covered or enclosed rooftop recreational spaces for new structures and structures built later than January 19, 2008

1) If included on new structures or structures built later than January 19, 2008, covered or enclosed rooftop recreational spaces and solar collectors are authorized and may exceed the



maximum height limit by up to 15 feet. A covered or enclosed rooftop recreational space may be used as a recreational space or as an eating and drinking establishment if the standards in this subsection 23.66.140.C.4.j are met. The applicant shall make a commitment that the proposed development will meet the green building standard and shall demonstrate compliance with that commitment, all in accordance with Chapter 23.58D, and meet a Green Factor requirement of .30 or greater according to the provisions of Section 23.86.019. Each covered or enclosed rooftop recreational space shall include interpretive signage explaining the sustainable features employed on or in the structure. ((Commercial, residential, or industrial uses shall not be established within enclosed rooftop recreational spaces that are allowed to exceed the maximum height limit under this subsection 23.66.140.C.4.j.)) Measurement for purposes of this subsection 23.66.140.C.4.j shall include the height and setbacks of any already-permitted and already-built enclosed rooftop recreational spaces regulated by this subsection 23.66.140.C.4.j. Accessory mechanical equipment may be placed on roofs of these rooftop spaces if needed to support these uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in this subsection 23.66.140.C.4.j.

2) Elevator penthouses serving a covered or an enclosed rooftop recreational space or eating and drinking establishment may exceed the maximum height limit by up to 20 feet.

3) ~~((Enclosed))~~ Covered or enclosed rooftop recreational spaces, eating and drinking establishments, mechanical equipment, and elevator and stair penthouses shall not exceed ((45)) 50 percent coverage of the roof area.

4) ~~((Enclosed))~~ Covered or enclosed rooftop recreational spaces, eating and drinking establishments, mechanical equipment, and elevator and stair penthouses on new structures shall be set back a minimum of 30 feet from all streets and 3 feet from all alleys. Solar collectors shall be set back as provided in subsections 23.66.140.C.4.c and 23.66.140.C.4.d.

5) Owners of structures with covered or enclosed rooftop recreational spaces permitted pursuant to this subsection 23.66.140.C.4.j shall submit to the Director, the Pioneer Square

Preservation Board, and the Director of Neighborhoods a report documenting compliance with the commitment and Green Factor requirements set forth in subsection 23.66.140.C.4.j.1.

k. Greenhouses are permitted if they meet height and setback provisions in subsection 23.66.140.C.4.d and if the combined total coverage of greenhouses, solar collectors, stair and elevator penthouses, and mechanical equipment does not exceed 35 percent of the roof area. If the coverage includes greenhouses, a combined coverage of these rooftop features not to exceed 45 percent of the roof area may be permitted subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

\* \* \*

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

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

(Seal)

**SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
SDCI	Gordon Clowers	Christie Parker

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

**1. BILL SUMMARY**

**Legislation Title:** AN ORDINANCE relating to land use and zoning; updating regulations for rooftop features in the Pioneer Square Preservation District; and amending Sections 23.49.008 and 23.66.140 of the Seattle Municipal Code.

**Summary and Background of the Legislation:** The legislation clarifies and corrects standards for permissible rooftop features and uses downtown and in the Pioneer Square Preservation District.

- This bill allows rooftop features to have both common recreation areas and eating and drinking establishments in newer buildings in Pioneer Square, and clarifies which coverage limits apply to them.
- The legislation increases permissible heights in Pioneer Square from 12 feet to 15 feet above rooftops for rooftop penthouses, including on historic-contributing buildings. Such uses and heights would continue to be subject to site-specific evaluation by the Pioneer Square Preservation District Board as part of a permitting process, to ensure their compatibility with the District. No increase in roof coverage would be associated with this change.
- The legislation accommodates an eating and drinking establishment use to be permitted in covered or enclosed recreational spaces of buildings built in Pioneer Square since 2008. This would apply to approximately 11 properties in Pioneer Square, including existing buildings, vacant properties, and properties currently with non-historic contributing buildings that could be subject to future development. No increase in height limit would be associated with this change, but a 5 percent increase in roof coverage allowing a total of 50% roof coverage by these uses is proposed.

A variety of rooftop penthouse uses, including eating and drinking establishments, is already allowed in most other Downtown zones, but only for certain rooftop spaces in Pioneer Square as was authorized in Ordinance 126600. The proposal would slightly broaden this opportunity in Pioneer Square to be allowed in rooftop recreational spaces in buildings built since 2008 or future new buildings, allowing additional economic activity in keeping with the historic character of the neighborhood.

**2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**       Yes  No



**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

Recent and ongoing updates to the Seattle Energy Code will continue to help reduce carbon emissions into the air by affecting fuel use and use of electricity in many future new buildings. For example, space heating and hot water heating for many residential uses would be less often achieved by natural gas use. With respect to the current proposal, the differences relate to allowing 3 feet more height for rooftop spaces than under the current code. Also, it would allow use of another already-allowed type of roof penthouse to be occupied by eating and drinking establishments in addition to other recreational uses. This was already evaluated for the 2022 rooftop features, for which no likelihood of increased carbon emissions was identified. Other “green” requirements relating to satisfying the requirements of this kind of rooftop space would continue to be required.

**2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle’s resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

The proposed minor clarifications in height and use for rooftop penthouses in Pioneer Square would not make a tangible difference in overall resiliency of the neighborhood or city as a whole.

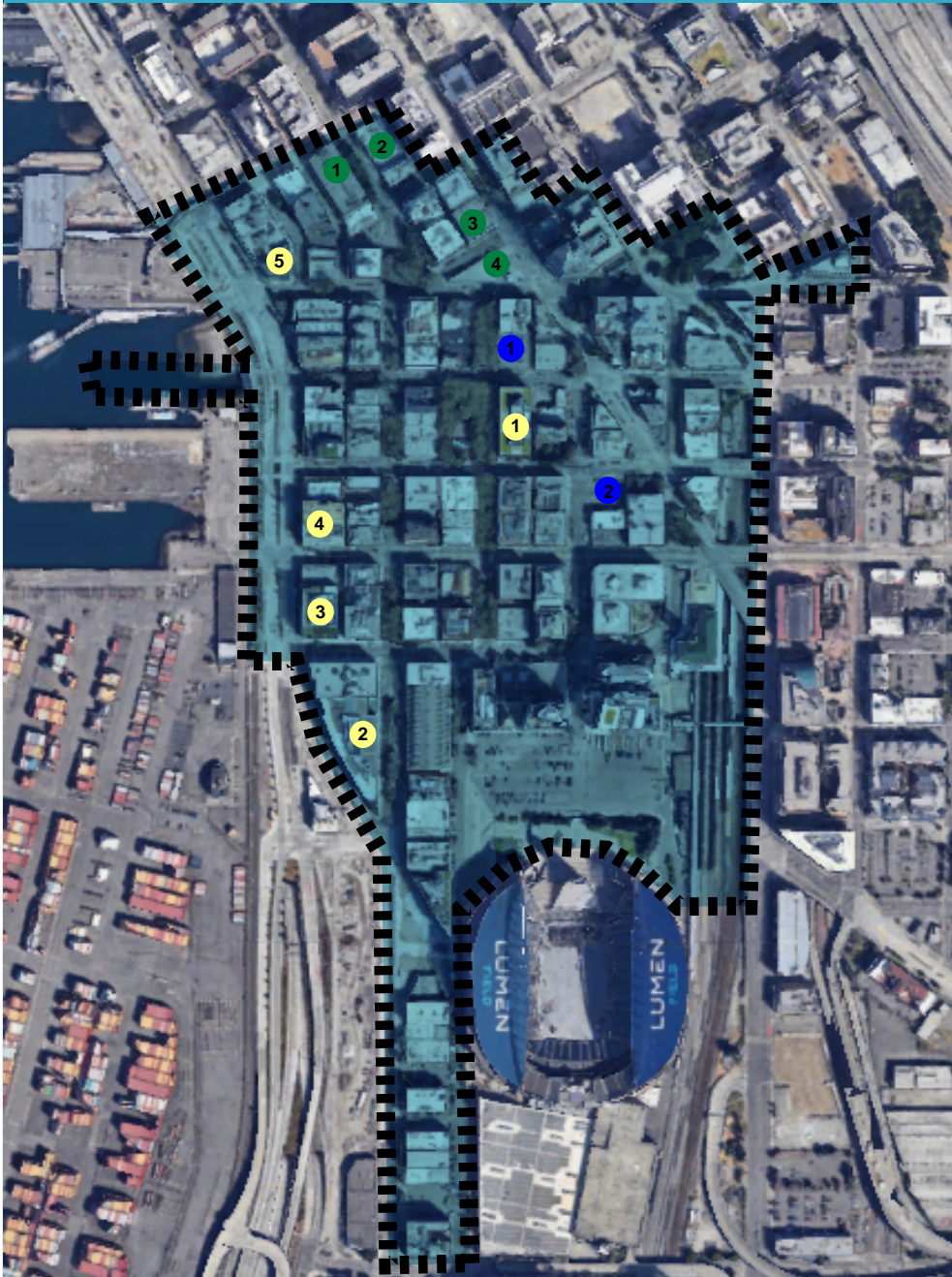
**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program’s desired goal(s)?**

This proposal does not introduce a new program or initiative.

**Summary Attachments:**

Summary Attachment 1 – Map of eligible Pioneer Square Preservation District sites for new construction rooftop features amendment

## Eligible Pioneer Square Preservation District sites for "new construction" rooftop features amendment



### Existing Development built after Jan 19, 2008:

- 1 200 Occidental
- 2 505 1st Ave
- 3 450 Alaskan
- 4 74 S Jackson
- 5 Citizen M Hotel

### Surface Parking Lots:

- 1 112 Occidental
- 2 300 2nd Ave

### Non-Contributing Parking Garages:

- 1 1st & Columbia Garage
- 2 714 1st Ave Garage
- 3 Butler Garage
- 4 Sinking Ship Garage

#### *Notes and Clarifications:*

- Assumes existing residential developments built after 2008 (80 S. Main and Gridiron, etc.) would not be viable economic candidates for rooftop conversion
- Assumes no contributing structures would be demolished for redevelopment or be eligible for this provision because of SMC 23.66.115.A.1.
- Excludes all Pre-2008 construction or contributing buildings to the District.

## **Director's Report and Recommendation Pioneer Square Rooftop Features Cleanup Amendments**

### **Summary of Proposal**

The current proposal would amend various provisions of the Land Use Code addressing rooftop features in the Pioneer Square neighborhood of Downtown Seattle. This includes amendments that would correct and amend provisions that were previously made in Ordinance 126600. The new amendments clarify and slightly expand the height provisions and range of use options for certain penthouse uses and recreational spaces on rooftops in Pioneer Square.

The current proposal would:

- Increase height allowances for rooftop penthouse features in the Pioneer Square Preservation District from 12 feet to 15 feet, to increase consistency with similar provisions in other Downtown zones; this affects heights for penthouses with residential, office, lodging, and eating and drinking establishments.
- Clarify that lodging uses' rooftop penthouse additions may include accessory uses such as dining areas, and eating and drinking establishments. This is meant to avoid confusion about the ability to allow the presence of a combination of such uses as part of a principal lodging use.
- Allow for eating and drinking establishments to be a commercial use located within rooftop recreational spaces already accommodated by the Land Use Code on new buildings and buildings built since January 2008. This removes a prohibition against such commercial uses in the current code text, and it also allows placement of accessory mechanical equipment on top of these spaces if needed to support these uses.
- Correct a discrepancy between rooftop features guidance in Section 23.49.008 pertaining to all Downtown zones and the subset of Downtown zones located in the Pioneer Square Preservation District. This clarifies that the relevant coverage limits for enclosed or covered rooftop recreational spaces are contained in Section 23.66.140 and not Section 23.49.008.
- Clarify that rooftop recreational spaces already accommodated by the Land Use Code on new or existing buildings built since 2008 may have covered spaces as well as enclosed spaces, and that covered and enclosed spaces should both be counted and documented for permit reviews.
- Clarify that height allowances for elevators serving rooftop recreational spaces, and other related coverage limits and setbacks also apply to eating and drinking establishment uses in such spaces. The proposal also increases the roof coverage limit for this kind of rooftop use by 5%, to a total of 50%, matching the coverage allowed for other rooftop



penthouse use types in Pioneer Square.

## **Background and Purpose**

The City Council adopted Ordinance 126600 in 2022 which, in part, allowed more rooftop coverage in most zones across the city to accommodate more mechanical equipment to meet Energy Code requirements. For Pioneer Square, the prior amendments also defined new opportunities for rooftop penthouse uses to include lodging uses, eating and drinking establishments, and retrofitting of recreational spaces on roofs of existing buildings built since January 2008. This gave more flexibility in use to encourage new investment, customer visits, and economic activity in existing buildings in Pioneer Square, to aid neighborhood revitalization efforts.

### **Rooftop requirements in the Land Use Code primarily relate to height and coverage limits**

Seattle's Land Use Code measures height limits for the main physical bulk of a building from ground level to roof level. Because other rooftop features serving a building, like the penthouse above an elevator, skylights, and mechanical equipment must sit on top of a roof, the Land Use Code allows them to be located above the height limit so that the main portion of the building can reach the intended maximum height set by the zoned height limit. The code sets the terms for how high those rooftop features can be and what percentage of a rooftop they can cover. These terms have evolved over many years to recognize that certain features need to be taller, sometimes up to 15 feet above the height limit or more, to work properly. The intent is to allow those necessary rooftop features to be present but avoid having them appear to add significant bulk to a building.

The Land Use Code allows the presence of a diverse range of uses on rooftops. For residential uses, recreational amenity features like decks and entertainment rooms may be provided. It also allows features such as solar power systems, antennas, and greenhouses, to name a few.

## **Analysis**

This section describes the rationale for the proposed amendments in this 2023 legislation.

### **Intent of the 2023 proposal**

The overall intent of the proposed amendments is to:

- Correct and clarify provisions of codes relating to rooftop uses in the Pioneer Square Preservation District, with respect to amendments previously made in Ordinance 126600 in particular:
  - Adjust height limits upward by 3 feet for certain rooftop features, increasing them from 12 feet to 15 feet in height in the Pioneer Square neighborhood.
  - Add a new capability to have eating and drinking establishments located in rooftop recreational spaces located on new buildings or buildings built since 2008 in the Pioneer Square Preservation District. This is meant to add support for these uses to occur in more buildings and add to the neighborhood's economic activity and revitalization.

### **Three-foot increase in permissible height for rooftop penthouse uses**

The prior amendments for Pioneer Square had maintained a 12-foot height allowance for penthouse uses, following past limits set for office and residential penthouses. The probable past reasoning for this allowance and setback provisions related to limiting the chances of penthouse additions being visible from surrounding locations.

Going forward, a 12-foot height above roof elevation for these uses might prove to be too limiting of building and mechanical system design or other future code requirements. The proposal would adjust this penthouse height allowance up to 15 feet, which is a frequently-used height allowance in other zones throughout the city, including Downtown zones. This would result in a greater standardization of roof feature height allowances, with a modest 3 foot increase in height allowances for certain kinds of penthouses on existing buildings in Pioneer Square. The difference in maximum height capability and related potential for visibility of rooftop features would continue to be addressed by the Pioneer Square Preservation District Board's review of proposed penthouse additions, which includes site-specific analysis. This means there is little or no chance of an adverse outcome related to land use compatibility or visual impacts due to historic building rooftop additions.

### **Eating and drinking establishments in rooftop recreational spaces on newer buildings**

This type of rooftop feature for recreational space is a distinct category of Pioneer Square rooftop use addressed by the Land Use Code. The proposal would increase the diversity of possible uses that may occur in these spaces, to include a commercial use – eating and drinking establishments. This use is different than the typical range of accessory recreational uses contemplated by the existing code, which may include spaces for active recreation, or passive recreation like group dinners and socializing.

While similar in nature to dinners and socializing by building occupants, this new kind of eating and drinking establishment use would likely accommodate an increased activity level, with customers, and entertainment and outdoor activities on rooftops being possible. This might generate spillover potential for noise received by other nearby building occupants, as was evaluated in the SEPA environmental review for Ordinance 126600.

Because Ordinance 126600 already has enabled such activities to occur on other existing buildings in Pioneer Square, this is not a wholly new kind of rooftop activity in Pioneer Square. Rather, it would extend the eligibility for this possible activity to a small subset of existing and potential future building sites in the neighborhood. These are identified in the attached figure (“Eligible Pioneer Square Preservation District sites for new construction rooftop features amendment”).

This subset of proposed rooftop recreational space amendments are written to apply only to the category of future new buildings or existing buildings built since 2008. The existing 15-foot height limit and coverage limit for these recreational spaces would continue to be 15 feet. So, this would not result in any additional height scaling of these uses on building rooftops in Pioneer Square. Buildings using this provision also must be able to meet existing green building

performance standards, a “green factor” landscaping requirement, and code-defined rooftop coverage limits. A proposed increase of 5% in coverage limit for this use would accommodate the counting of covered as well as enclosed spaces, and match the level of coverage given by the code for other rooftop penthouse uses in Pioneer Square.

The City allows for many potential uses to be located on rooftops with limits already prescribed in the Land Use Code regarding heights and setbacks. Evaluation of future proposals of these enclosed spaces would continue to be the responsibility of the Pioneer Square Preservation District Board, who would consider if a given proposal might create any concerns about localized impacts. Design details and other site characteristics would be relevant to a particular development proposal's review, which would be evaluated for their sufficiency by the Board, to minimize these potential impacts.

## **Comprehensive Plan Policies**

### ***Land Use Element***

*Policy LU-5.4: Use maximum height limits to maintain the desired scale relationship between new structures, existing development, and the street environment; address varied topographic conditions; and limit public view blockage. In certain Downtown zones and in Industrial zones, heights for certain types of development uniquely suited to those zones may be unlimited.*

*Policy LU-5.5: Provide for residents' recreational needs on development sites by establishing standards for private or shared amenity areas such as rooftop decks, balconies, ground-level open spaces, or enclosed spaces.*

*Policy LU-5.15: Address view protection through*

- *zoning that considers views, with special emphasis on shoreline views;*
- *development standards that help to reduce impacts on views, including height, bulk, scale, and view corridor provisions, as well as design review guidelines; and*
- *environmental policies that protect specified public views, including views of mountains, major bodies of water, designated landmarks, and the Downtown skyline.*

### ***Land Use Element – Commercial/Mixed-Use Areas***

*Policy LU-9.15: Allow limited exceptions to the height limit in order to accommodate ground-floor commercial uses or special rooftop features, encourage development of mixed-use structures, enable structures to function appropriately, accommodate special features consistent with the special character or function of an area, or support innovative design that furthers the goals of this Plan.*

## **Public Outreach and Notice**

For the prior rooftop features ordinance, opportunities for public input included a discussion at the Construction Codes Advisory Board (CCAB) on August 5, 2021. Members of CCAB expressed support for the proposed updates of the rooftop coverage limits. The prior proposal was also discussed during the Pioneer Square Preservation Board meeting held on October 20, 2021. The Council adopted the legislation on June 14, 2022 and no appeal was raised.

A public hearing on the proposed legislation will occur at the Council's Land Use Committee. Additional opportunities to provide input will occur as the City Council deliberates on the current proposal.

## **Recommendation**

The SDCI Director recommends that the Mayor send the legislation to City Council for their approval, to correct and update rooftop feature regulations pertaining to the Pioneer Square Preservation District in the Land Use Code. This would slightly expand provisions related to new height and use options for penthouse and recreational spaces on rooftops in Pioneer Square.

June 21, 2023

## MEMORANDUM

**To:** Land Use Committee  
**From:** Lish Whitson, Analyst  
**Subject:** Council Bill 120592 – Pioneer Square Rooftop Regulations

---

On June 28, the Land Use Committee (Committee) will receive a briefing on [Council Bill \(CB\) 120592](#), which would modify height limits and rooftop use requirements in Pioneer Square. The bill is intended to encourage investment and economic activity in keeping with the neighborhood’s historic character. The bill would amend the height provisions in the Downtown Chapter of the Land Use Code, [Chapter 23.49](#) of the Seattle Municipal Code (SMC), and Pioneer Square Special Review District regulations, SMC [Chapter 23.66](#). This memorandum describes the bill and identifies next steps.

### **Pioneer Square rooftop regulations**

To mitigate the appearance of the height, bulk, and scale of structures, the Land Use Code (Code) regulates rooftop features. Rooftop features are defined by the Code as, “any part of or attachment to the structure that projects above a roof line,” and include things like mechanical equipment, parapets and railings, penthouses for stair and elevator overruns, solar collectors, greenhouses, and amenity areas. Generally speaking, the lower a building, the more likely it is for a person to see rooftop features from the street and for the building to, consequently, appear taller and bulkier.

CB 120592 would make the following changes to rooftop regulations for buildings built in 2008 or later in Pioneer Square Mixed zones:

1. Allow covered or enclosed rooftop recreational spaces on rooftops to extend up to 15 feet above the applicable height limit;
2. Permit covered and unenclosed rooftop recreational spaces or eating and drinking establishments on rooftops to exceed the height limit by up to 15 feet (previously only enclosed spaces were permitted); and
3. Provide that accessory mechanical equipment may extend above these spaces.

For any buildings, including historic structures, the bill would increase the height that penthouses containing residences, offices, lodging, or eating and drinking establishments can extend above roofs from 12 feet to 15 feet.

Height limits in the Pioneer Square Mixed zone range from 85 feet to 150 feet, with the Smith Tower zoned to allow heights up to 245 feet. With this change, rooftop features may be a little bit more noticeable from street level. Open air rooftop restaurants and bars may lead to increased nighttime noise levels on nearby blocks.

Council Bill 120592 would update regulations regarding rooftop features adopted last year under [Ordinance 126600](#). Among other changes to rooftop coverage limits to zones across the City, Ordinance 126600 allowed extra height for mechanical equipment serving rooftop penthouses in Pioneer Square. The Ordinance also allowed penthouses for lodging and eating and drinking establishments in Pioneer Square. The Ordinance required view studies for rooftop penthouses and authorized the Seattle Department of Construction and Inspections to require increased setbacks, lower heights, or other design adjustments to reduce the visual impacts of rooftop penthouses.

### **Next Steps**

The Committee will hold a public hearing on the bill at its July 6 Special Meeting. If the Committee decides to vote on the bill at that meeting, it will need to waive the Council rules that discourage voting on the bills on the same day as the hearing. If the Council votes on the bill on July 6, it could be considered by the City Council as early as July 11.

cc: Esther Handy, Executive Director  
Aly Pennucci, Deputy Director  
Yolanda Ho, Supervising Analyst

A photograph of the Seattle skyline featuring the Space Needle prominently on the left. The city is filled with various high-rise buildings under a clear blue sky. In the foreground, there are green trees and a portion of a building.

# Pioneer Square Rooftop Code Amendments

Photo by John Skelton



**Seattle** Department of  
Construction & Inspections

City Council Land Use Committee  
June 28, 2023

# SDCI PURPOSE AND VALUES

---

## Our Purpose

Helping people build a safe, livable, and inclusive Seattle.

## Our Values

- Equity
- Respect
- Quality
- Integrity
- Service



# PROPOSAL GOAL

---

- Add more flexibility, while remaining compatible with the Preservation District character
- Support neighborhood revitalization and amenities
- Clarify, correct, and standardize guidance on rooftop features

# 2022 ROOFTOP CODE REFORMS

---

- Defined new rooftop penthouse uses in Pioneer Square: lodging, and eating & drinking establishments
- Allowed penthouses to be placed on historic buildings less than 60 feet in height, and on smaller lots
- Allowed retrofit of newer buildings (built since 2008) with rooftop recreational amenity spaces

# AMENDMENTS PROPOSED

---

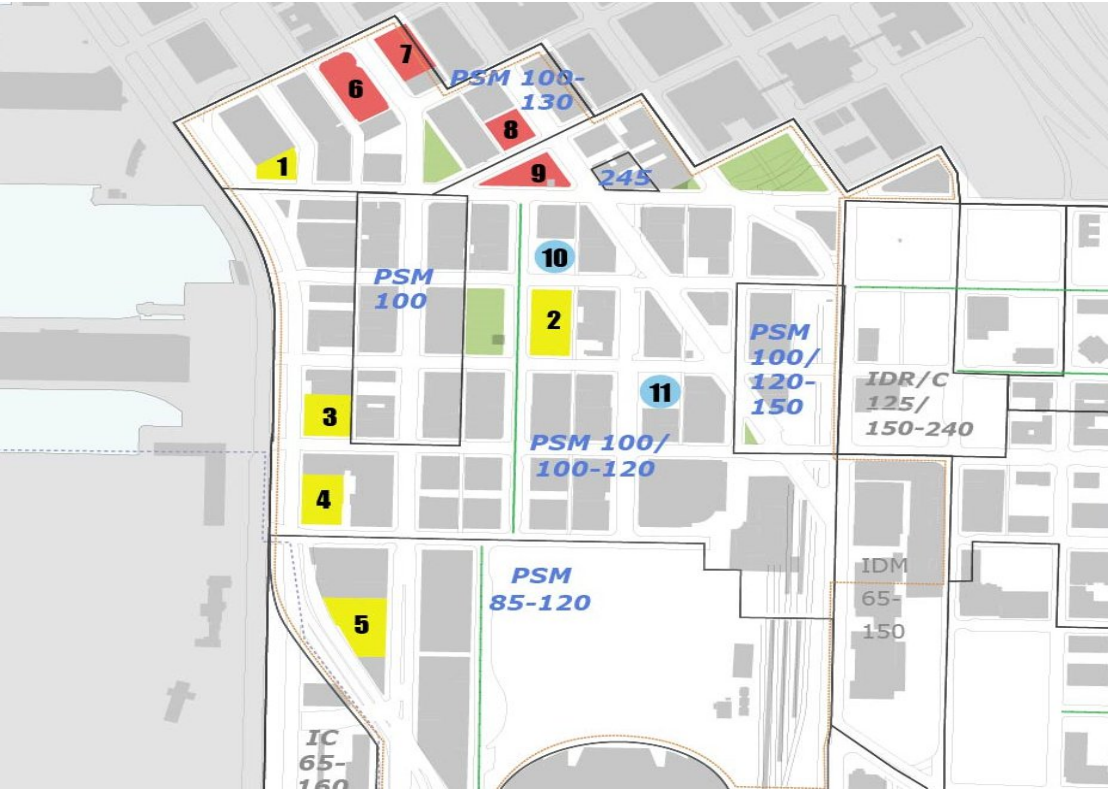
- Standardizing rooftop uses and height limits
  - Increase heights for rooftop uses by 3 feet, to 15 feet max. above the roof, on historic buildings. Subject to recommendation by the District Board.
  - 15 feet height limit for rooftop features is typical of most other Downtown zones
- New rooftop uses on non-historic sites
  - Allow common recreation spaces + eating and drinking establishments in buildings built since 2008. To allow consistent uses for all building types.
  - Increase coverage limits by 5% to be 50% of roof area, to match limits for the other rooftop features in Pioneer Square




# NEW ROOFTOP USES IN NON-HISTORIC SITES

---

- Allows the rooftop use to have recreational features for tenants, and a commercial eating and drinking establishment use
- One amendment is to allow the rooftop commercial use
- Minor roof coverage increase for this use, from 45% to 50%
- Still need to provide amenities for tenants, and meet green requirements

# MAP OF AFFECTED NON-HISTORIC PROPERTIES



-  New buildings since 2008
-  Non-historic buildings (garages)
-  Vacant properties

Zoning:  
Pioneer Square  
Mixed (PSM)

# QUESTIONS?

---

Gordon Clowers  
Senior Urban Planner  
Seattle Department of Construction and Inspections  
[Gordon.Clowers@Seattle.gov](mailto:Gordon.Clowers@Seattle.gov)



Legislation Text

---

**File #:** Inf 2284, **Version:** 1

---

Draft Resolution on endorsing transportation strategies focused on improving the movement of people and goods in Seattle's industrial and maritime areas.

**CITY OF SEATTLE**

**RESOLUTION \_\_\_\_\_**

..title

A DRAFT RESOLUTION on endorsing transportation strategies focused on improving the movement of people and goods in Seattle’s industrial and maritime areas.

..body

WHEREAS, maritime and industrial sectors are critical parts of the local and regional economy;

and

WHEREAS, Seattle contains two regionally designated Manufacturing Industrial Centers (MICs), a designation that prioritizes long term use for industry and serves a critical function to the regional and statewide economy, and is subject to regional policy protections in the Puget Sound Regional Council’s Vision 2050 plan, and is eligible for allocation of federal and State transportation funding; and

WHEREAS, industrial and maritime uses in the Manufacturing Industrial Centers provide quality jobs, two-thirds of which are accessible without four-year college degrees; and

WHEREAS, a high proportion of jobs on industrial lands in fields including maritime, transportation and logistics, construction, utilities, and services remain unionized with high quality benefits; and

WHEREAS, there is a high potential for equitable access to quality jobs in industrial and maritime sectors by women and Black, Indigenous, and People of Color (BIPOC) workers when coupled with job training and access programs provided by the City and other public agencies and private entities; and

WHEREAS, expansion of Sound Transit light rail will add or expand up to five stations in or directly adjacent to industrially zoned lands; and



1 WHEREAS, industrial activities in Seattle and throughout the United States are trending towards  
2 activity patterns that are more research, design and technology oriented than in previous  
3 generations; and

4 WHEREAS, it is a benefit to the regional and national economy when supply chains are stable  
5 and a variety of goods supporting everyday life are manufactured in the United States and  
6 efforts are underway at all levels of government to onshore more manufacturing  
7 activities; and

8 WHEREAS, an Industrial and Maritime Strategy Advisory Council convened between  
9 December 17, 2019 and May 21, 2021, and issued a report based on an 80 percent  
10 consensus that recommended 11 strategies to strengthen and support our industrial  
11 maritime sectors; and

12 WHEREAS, the Industrial and Maritime Strategy Advisory Council report included  
13 transportation strategies that form the basis of this proposed legislation; NOW,  
14 THEREFORE,

15 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE**  
16 **MAYOR CONCURRING, THAT:**

17 Section 1. The City Council encourages the Seattle Department of Transportation, the  
18 Office of City Planning, and the City's regional transportation partners to work collaboratively  
19 with the Port of Seattle, Seattle Freight Advisory Board, industrial trade unions, and other  
20 stakeholders in the industrial areas of the City to:

21 A. Improve the movement of people and goods and make transit and freight networks  
22 work for industrial and maritime users with better service and facilities;



**SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Dept. Contact:</b>	<b>CBO Contact:</b>
Legislative	Lish Whitson/206-615-1674	N/A

*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

**1. BILL SUMMARY**

**Legislation Title:** A RESOLUTION endorsing transportation strategies focused on improving the movement of people and goods in Seattle’s industrial and maritime areas.

**Summary and Background of the Legislation:** This resolution encourages City departments to work with maritime and industrial stakeholders on transportation improvements to facilitate the movement of people and goods, including improving last mile connections and advocating for a tunnel alignment for the Ballard Light Rail Extension.

**2. CAPITAL IMPROVEMENT PROGRAM**

**Does this legislation create, fund, or amend a CIP Project?**      \_\_\_ Yes X No

**3. SUMMARY OF FINANCIAL IMPLICATIONS**

**Does this legislation amend the Adopted Budget?**      \_\_\_ Yes X No

**Does the legislation have other financial impacts to The City of Seattle that are not reflected in the above, including direct or indirect, short-term or long-term costs?**

The Resolution calls on City staff to work with outside organizations on issues related to transportation. Much of that work occurs today, but some increased staff time may be needed to implement the Resolution.

**Are there financial costs or other impacts of *not* implementing the legislation?**

The maritime, manufacturing, and logistics industries have a significant impact on the City’s and regional economy. If the activities recommended as part of this Resolution are not implemented, there is the possibility that traffic congestion in the MICs increases with impacts to the City’s and regional economy, and the attractiveness of the MICs to continue to foster a vibrant industrial ecosystem could be injured.

**4. OTHER IMPLICATIONS**

**a. Does this legislation affect any departments besides the originating department?**

Yes, the Resolution would ask the Seattle Department of Transportation and the Office of Planning and Community Development to work with partners in the Maritime and Industrial communities to implement the resolution.

**b. Is a public hearing required for this legislation?**

No

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

No

**d. Does this legislation affect a piece of property?**

No

**e. Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities? What is the Language Access plan for any communications to the public?**

The City's industrial and maritime areas include many businesses that provide living-wage and higher paying jobs to people who do not have college degrees. Maintaining and improving the freight network can help to keep those businesses in Seattle.

However, these industrial areas, in particular the industrial area near South Park, are home to lower-income, BIPOC residents who are impacted by freight traffic and related transportation safety issues in their neighborhoods. To the extent that freight improvements are made that consider all modes of transportation, including walking and bicycling, this resolution can help those communities to lessen the impact of the surrounding industrial areas.

**f. Climate Change Implications**

**1. Emissions: Is this legislation likely to increase or decrease carbon emissions in a material way?**

Not directly. Other activities, such as electrification of freight fleets and ships would have a larger impact on carbon emissions. This resolution is primarily about maintaining the current transportation network.

**2. Resiliency: Will the action(s) proposed by this legislation increase or decrease Seattle's resiliency (or ability to adapt) to climate change in a material way? If so, explain. If it is likely to decrease resiliency in a material way, describe what will or could be done to mitigate the effects.**

No

**g. If this legislation includes a new initiative or a major programmatic expansion: What are the specific long-term and measurable goal(s) of the program? How will this legislation help achieve the program's desired goal(s)?**

Not applicable.

**Summary Attachments (if any):** None



SEATTLE CITY COUNCIL  
CENTRAL STAFF

# Industrial Maritime Transportation Resolution

---

LISH WHITSON, LEGISLATIVE ANALYST

LAND USE COMMITTEE  
JUNE 27, 2023

# Industrial Maritime Transportation Strategy

---

Resolution asks Seattle Department of Transportation and Office of Planning and Community Development should work with maritime and industrial stakeholders to:

- Improve the movement of people and goods and make transit and freight networks work for industrial and maritime users with better service and facilities;
- Improve last mile connections for active transportation, transit, and freight, including large truck access to shoreline and railroad uses; and
- Advocate for a tunnel alignment for Ballard and Interbay light rail extension.

# Questions?