

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(~~(;)~~) 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:

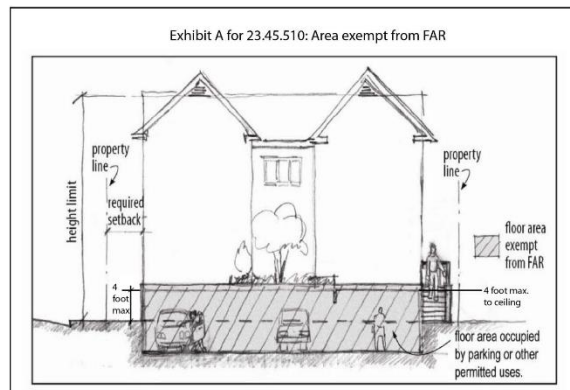
a. Apartments in LR zones;

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**



7
8 5. For rowhouse and townhouse developments and apartments, floor area within a
9 story, or portion of a story, that is partially above grade if all of the following conditions are met:

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

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

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

16 and

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

19 6. Enclosed common amenity area in HR zones.

1 7. As an allowance for mechanical equipment, in any structure more than 85 feet
2 in height, 3.5 percent of the gross floor area that is not otherwise exempt under this subsection
3 23.45.510.D.

4 8. In HR zones, ground floor commercial uses meeting the requirements of
5 Section 23.45.532, if the street level of the structure containing the commercial uses has a
6 minimum floor-to-floor height of 13 feet and a minimum depth of 15 feet.

7 9. The floor area of required bicycle parking for small efficiency dwelling units or
8 congregate residence sleeping rooms, if the bicycle parking is located within the structure
9 containing the small efficiency dwelling units or congregate residence sleeping rooms. Floor area
10 of bicycle parking that is provided beyond the required bicycle parking is not exempt from FAR
11 limits.

12 10. Common walls separating individual rowhouse and townhouse dwelling units.

13 11. In the Northgate Urban Center, up to 15,000 square feet of floor area in
14 residential use in a structure built prior to 1990 that is located on a split-zoned lot of at least
15 40,000 square feet in size.

16 12. In MR and HR zones, all gross floor area in child care centers.

17 13. In (~~permanent supportive~~) low-income housing, all gross floor area for
18 accessory human service uses.

19 * * *

20 Section 13. Section 23.45.512 of the Seattle Municipal Code, last amended by Ordinance
21 126682, is amended as follows:

22 **23.45.512 Density limits and family-size unit requirements—LR zones**

23 A. Density limits

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**

* * *

Table A for 23.47A.004 Uses in Commercial zones					
Uses	Permitted and prohibited uses by zone ¹				
	NC1	NC2	NC3	C1	C2
* * *					
J. RESIDENTIAL USES¹⁴					
J.1. Residential uses not listed below	P	P	P	P	CU ¹⁵
J.2. Caretaker's quarters	P	P	P	P	P
J.3. Congregate residence	X/P ¹⁶	X/P ¹⁶	P/X ¹⁷	P/X ¹⁷	P/X ¹⁷
J.4. ((Permanent supportive)) <u>Low-income housing</u>	P	P	P	P	P
* * *					
KEY					
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					
¹ 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).

² 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.

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

⁴ Subject to subsection 23.47A.004.H.

⁵ Permitted at Seattle Center.

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

⁷ 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.

⁸ 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.

⁹ 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.

¹⁰ 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.

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

¹² Subject to subsection 23.47A.004.G.

¹³ Permitted pursuant to subsection 23.47A.004.D.7.

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

¹⁵ 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.

¹⁶ 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.

¹⁷ 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.

¹⁸ Permitted at Seattle Center; see Section 23.47A.011.

¹⁹ 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.

²⁰ 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.

²¹ Permitted outright, except prohibited in the SAOD.

²² See Chapter 23.57, Communications regulations, for regulation of communication utilities.

²³ 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.

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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 ~~2) Is located on a lot zoned NC1 or NC3 that was owned by the~~
2 ~~Seattle Housing Authority as of January 1, 2009; or~~

3 ~~f. Within a structure containing permanent supportive housing.)~~

4 3. Additions to, or on-site accessory structures for, existing single-family
5 structures are permitted outright.

6 4. Where residential uses at street level are limited to 20 percent of the street-
7 level, street-facing facade, such limits do not apply to residential structures separated from the
8 street lot line by an existing structure meeting the standards of this Section 23.47A.005 and
9 Section 23.47A.008, or by an existing structure legally nonconforming to those standards.

10 D. In pedestrian-designated zones the locations of uses are regulated as follows:

11 1. Along designated principal pedestrian streets, one or more of the following uses
12 are required along 80 percent of the street-level, street-facing facade in accordance with the
13 standards provided in subsection 23.47A.008.C.

14 a. Arts facilities;

15 b. Community gardens;

16 c. Eating and drinking establishments;

17 d. Entertainment uses, except for adult cabarets, adult motion picture
18 theaters, and adult panorams;

19 e. Food processing and craft work;

20 f. Institutions, except hospitals or major institutions;

21 g. Lodging uses;

22 h. Medical services;

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 5. Bicycle commuter shower facilities required by subsection 23.54.015.K.8.

2 6. The floor area of required bicycle parking for small efficiency dwelling units or
3 6. The floor area of required bicycle parking for small efficiency dwelling units or
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20 6. The floor area of required bicycle parking for small efficiency dwelling units or
21 6. The floor area of required bicycle parking for small efficiency dwelling units or
22 6. The floor area of required bicycle parking for small efficiency dwelling units or
congregate residence sleeping rooms, if the bicycle parking is located within the structure
containing the small efficiency dwelling units or congregate residence sleeping rooms. Floor area
of bicycle parking that is provided beyond the required bicycle parking is not exempt from FAR
limits.

7. Child care centers.

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

* * *

Section 22. The title of Section 23.48.100 of the Seattle Municipal Code, which section
was enacted by Ordinance 126384, is amended as follows:

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

Section 23. Section 23.48.232 of the Seattle Municipal Code, last amended by Ordinance
125291, is amended as follows:

23.48.232 Lot area limits in SM-SLU/R 65/95

* * *

F. Non-residential use exception. A non-residential structure may be permitted where a
residential or mixed-use structure would otherwise be required, subject to the following:

1. The ~~((proposal))~~ project is comprised of two or more lots within a SM-SLU/R
65/95 zone; and

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:

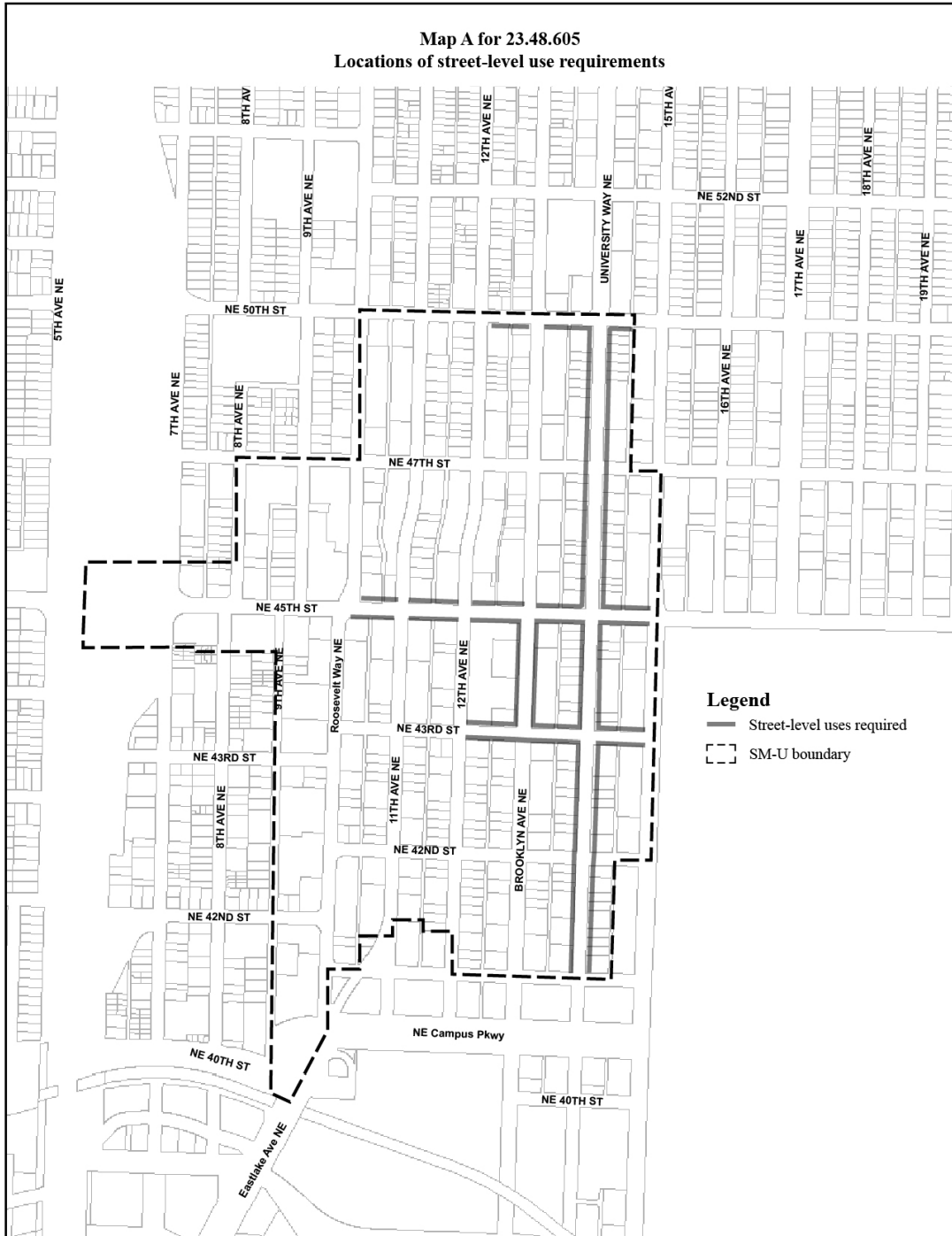
- 4 a. General sales and service uses;
- 5 b. Eating and drinking establishments;
- 6 c. Entertainment uses;
- 7 d. Public libraries;
- 8 e. Public parks;
- 9 f. Arts facilities;
- 10 g. Religious facilities;
- 11 h. Human services uses;
- 12 i. Child care centers;
- 13 j. Light rail transit stations;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

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Map A for 23.48.605

Locations of street-level use requirements



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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 2. In ~~((DMC, DMR, IDM and IDR zones in))~~ South Downtown zones, ~~((a~~
2 ~~development that qualifies for the exemption in subsection 23.58C.025.C))~~ low-income housing
3 may achieve extra residential floor area without meeting the requirements of subsection
4 23.49.023.B.1.

5 * * *

6 Section 33. Section 23.49.037 of the Seattle Municipal Code, enacted by Ordinance
7 126384, is amended as follows:

8 **23.49.037 Alternative ~~((development))~~ standards for ~~((low-income housing))~~ development of**
9 **affordable units on property owned or controlled by a religious organization**

10 In lieu of meeting development standards ~~((contained))~~ in subsections 23.49.008.A (height) and
11 23.49.011.A.1 (floor area), a proposed development that meets the ~~((affordability and eligibility))~~
12 requirements of Section 23.42.055 may elect to meet the alternative development standards in
13 this Section 23.49.037.

14 A. Maximum height. The applicable maximum height limit for residential uses in
15 development permitted pursuant to Section 23.42.055 in Downtown zones is increased by the
16 following amounts:

- 17 1. For zones with a mapped maximum height limit of 85 feet or less, 20 feet.
- 18 2. For zones with a mapped maximum height limit greater than 85 feet, 40 feet.

19 B. Floor area. The applicable maximum FAR limit for residential uses in development
20 permitted pursuant to Section 23.42.055 in Downtown zones is increased by the following
21 amounts:

- 22 1. For zones with a mapped maximum height limit of 85 feet or less, 1.5 FAR.
- 23 2. For zones with a mapped maximum height limit greater than 85 feet, 3.0 FAR.

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;

1 3. Public facilities serving the Downtown population, including schools, parks,
2 community centers, human service facilities, and clinics;

3 4. Transportation facilities promoting pedestrian circulation and transit use,
4 including through-block pedestrian connections, transit stations, and bus layover facilities;

5 5. ~~((A significant amount of affordable housing serving households with a range
6 of income levels that exceed))~~ Dwelling units exceeding the requirements under Chapters 23.58B
7 and 23.58C;

8 6. Public view protection within an area;

9 7. Arts and cultural facilities, including a museum or museum expansion space; or

10 8. Green stormwater infrastructure beyond the requirements of ~~((the Stormwater
11 Code-))~~ Chapters 22.800 through 22.808(~~(9)~~)).

12 * * *

13 Section 35. Section 23.49.058 of the Seattle Municipal Code, last amended by Ordinance
14 125291, is amended as follows:

15 **23.49.058 Downtown Office Core 1 (~~((DOC1))~~), Downtown Office Core 2 (~~((DOC2))~~), and
16 **Downtown Mixed Commercial (~~((DMC))~~) upper-level development standards****

17 * * *

18 C. Tower floor area limits and tower width limits for portions of structures in residential
19 use. The requirements of this subsection 23.49.058.C apply only to structures that include
20 portions in residential use above a height of 160 feet, and do not apply in the DMC 170 zone.

21 1. Maximum limits on average residential gross floor area per story and maximum
22 residential floor area per story of towers are prescribed in Table B for 23.49.058.

Table B for 23.49.058

Average residential gross floor area per story and maximum residential gross floor area per story of a tower ¹			
(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
¹ 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.

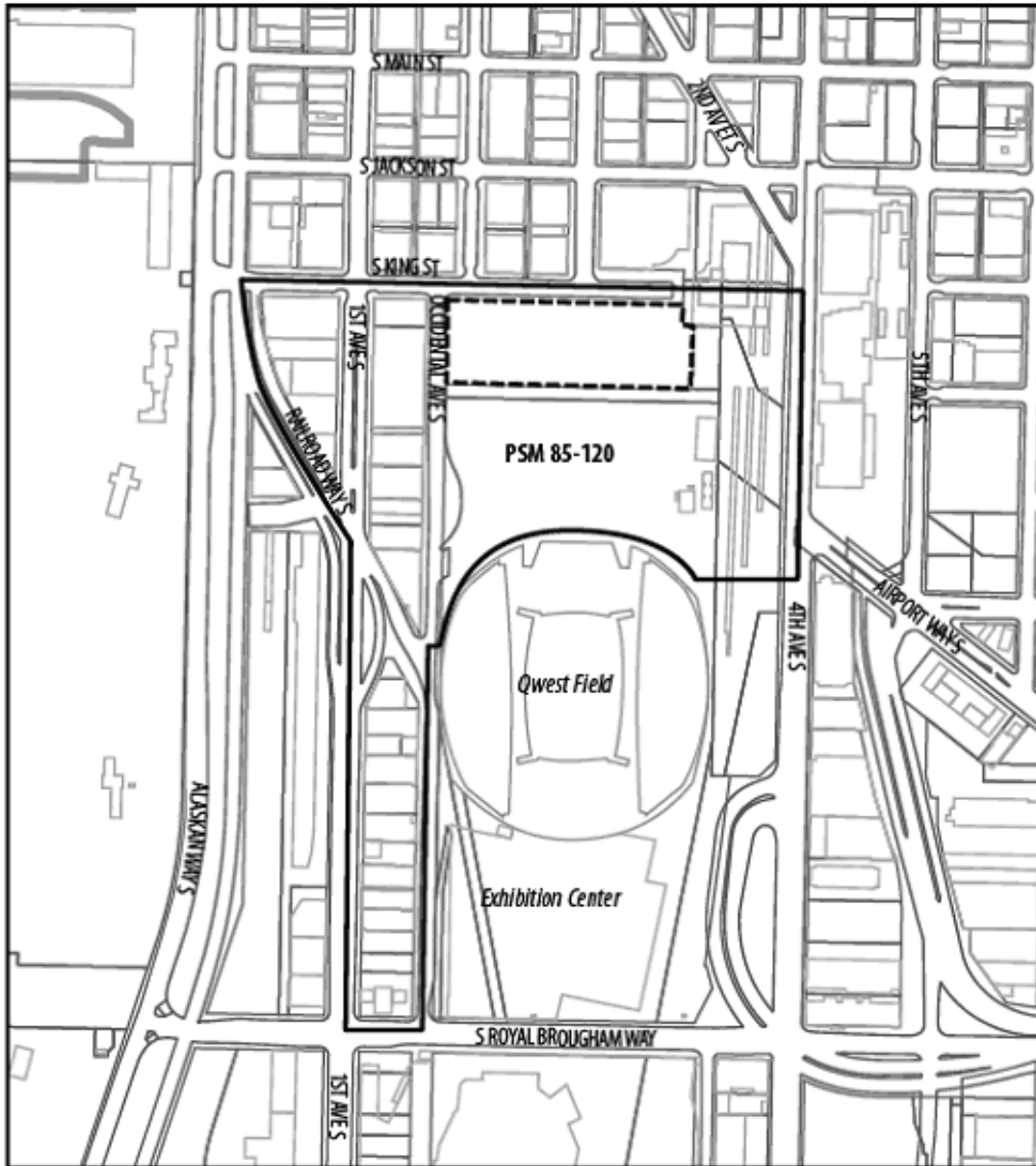
12 ~~((b. For purposes of this subsection 23.49.164.D.7, housing is affordable if
13 it receives public funding and/or an allocation of federal low income housing tax credits, and is
14 subject to a regulatory agreement, covenant, or other legal instrument recorded on the property
15 title and enforceable 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.))~~

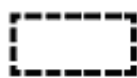
20 Section 37. Section 23.49.180 of the Seattle Municipal Code, last amended by Ordinance
21 125558, is amended as follows:

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

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

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

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

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

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

21 ~~c. The Director of Housing may require, as a condition of any bonus floor~~
22 ~~area, that the owner of the lot upon which the affordable housing is located agree not to seek or~~
23 ~~accept any subsidies, other than as described in subsection 23.49.181.E.5.b, related to housing.~~

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 * * *

Table B for 23.54.015	
Required parking for residential uses	
Use	Minimum parking required
I. General residential uses	
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 ⁴	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 ^{1,4}	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 ^{2,4}	1 space for each dwelling unit
II. Residential use requirements for specific areas	

L.	All residential uses within urban centers or within the Station Area Overlay District ¹	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 ^{1,3}	No minimum requirement
N.	Multifamily residential uses within the University of Washington parking impact area shown on Map A for 23.54.015 ¹	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 ¹	1.5 spaces for each dwelling unit

~~((III. Multifamily residential use requirements with rent and income criteria~~

P.	For each dwelling unit rent and income restricted at or below 80 percent of the median income ^{1,4}	No minimum requirement))
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Footnotes to Table B for 23.54.015

¹ 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.~~)

² 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.

³ 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 Fauntleroy Ferry Terminal.

⁴ (~~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 ¹**

Use	Bike parking requirements		
	Long-term	Short-term	
* * *			
D. RESIDENTIAL USES ³			
D.1	Congregate residences ⁴	1 per sleeping room	1 per 20 sleeping rooms. 2 spaces minimum
D.2	((Multi-family)) Multifamily structures other than townhouse and rowhouse developments ^{4, 5}	1 per dwelling unit	1 per 20 dwelling units
D.3	Single-family residences	None	None
D.4	Townhouse and rowhouse developments ⁵	1 per dwelling unit	None
((D.5	Permanent supportive housing	None	None))

* * *

Footnotes to Table D for 23.54.015

¹ Required bicycle parking includes long-term and short-term amounts shown in this Table D for 23.54.015.

² 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.

³ 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.

⁴ 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.

⁵ ~~((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).~~

⁶ 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.

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

6 ~~2) The housing is or would be, independent of the requirements for~~
7 ~~the bonus residential floor area and Chapter 5.73, subject to any restrictions on the income of~~
8 ~~occupants, rents or sale prices.~~

9 ~~b. For the purpose of this subsection 23.58A.014.B.9, the qualification for~~
10 ~~and use of property tax exemptions pursuant to Chapter 5.73, or any other program implemented~~
11 ~~pursuant to chapter 84.14 RCW, does not constitute a subsidy and any related conditions~~
12 ~~regarding incomes, rent or sale prices do not constitute restrictions.~~

13 ~~c. As an exception to subsection 23.58A.014.B.9.a, the Director of Housing may~~
14 ~~allow the building or buildings in which the affordable housing is located to be financed in part~~
15 ~~with subsidies based on the determination that:~~

16 ~~1) the total amount of affordable housing is at least 300 net residential~~
17 ~~square feet greater than the amount otherwise required through the performance option under this~~
18 ~~Section 23.58A.014;~~

19 ~~2) the public benefit of the affordable housing, as measured through an~~
20 ~~economic analysis, exceeds the amount of the payment in lieu that would otherwise be paid by at~~
21 ~~least the value of any subsidies; and~~

22 ~~3) the subsidies being allowed would not be sufficient to leverage private~~
23 ~~funds for production of the affordable housing, under restrictions as required for the performance~~

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 reason, the Director shall select a substitute cost of living index. In no case shall the ((~~interest~~
2 ~~factor~~)) inflation adjustment be less than zero.

3 3. Deposit and use of payments. Cash payments in lieu of affordable housing shall
4 be deposited in a special account established solely to support the development of housing for
5 income-eligible households as defined in this Chapter 23.58A. Earnings on balances in the
6 special account shall accrue to that account. The Director of Housing shall use cash payments
7 and any earnings thereon to support the development of housing for income-eligible households
8 in any manner now or hereafter permitted by RCW 36.70A.540. Uses of funds may include the
9 City's costs to administer housing for income-eligible households, not to exceed ten percent of
10 the payments into the special account. Housing for income-eligible households funded wholly or
11 in part with cash payments shall be located within the Seattle city limits.

12 * * *

13 Section 44. Section 23.58A.024 of the Seattle Municipal Code, last amended by
14 Ordinance 124919, is amended as follows:

15 **23.58A.024 Bonus non-residential floor area for affordable housing and child care**

16 A. Scope; general rule. This Section 23.58A.024 applies to bonus non-residential floor
17 area for affordable housing and child care allowed on lots for which applicable sections of this
18 Title 23 expressly refer to this Chapter 23.58A. To obtain bonus non-residential floor area for
19 affordable housing and child care, the applicant may use the performance option, the payment
20 option, or a combination of these options, in accordance with this Section 23.58A.024 and
21 subject to the provisions of the zone.

22 B. Performance option for housing

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 1) the total amount of affordable housing is at least 300 net
2 residential square feet greater than the amount otherwise required through the performance
3 option under this Section ~~23.58A.024~~;

4 2) the public benefit of the affordable housing, as measured
5 through an economic analysis, exceeds the amount of the payment in lieu that would otherwise
6 be paid by at least the value of any subsidies; and

7 3) the subsidies being allowed would not be sufficient to leverage
8 private funds for production of the affordable housing, under restrictions as required for the
9 performance option, without additional City subsidy in an amount greater than the payment in
10 lieu amount that would otherwise be paid.)) 9. Affordable housing; no other restrictions.

11 Affordable housing units provided according to this Section 23.58A.024 and restricted units
12 provided for any other reason, including but not limited to a property tax exemption or loans and
13 grants, must be different units.

14 10. ~~((Fees shall be paid by the applicant and owner of affordable housing to the~~
15 ~~Seattle Department of Construction and Inspections and the Office of Housing as specified under~~
16 ~~Section 22.900G.015.)) The applicant for a project that includes bonus floor area according to~~
17 ~~this Section 23.58A.024 shall pay housing review fees according to Section 22.900G.015.~~

18 * * *

19 D. Payment option

20 1. Amount of payments. The amount of the in lieu payment made at the time
21 specified in subsection 23.58A.024.D.2 shall be based on the payment amount ~~((that is))~~ in effect
22 ~~((when))~~ on the vesting ~~((of a))~~ date for the Master Use Permit ~~((occurs))~~ under Section

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 households in any manner now or hereafter permitted by RCW 36.70A.540. Uses of funds may
2 include the City’s costs to administer the housing for income-eligible households, not to exceed
3 ((10)) ten percent of the payments into the special accounts. Housing for income-eligible
4 households funded wholly or in part with cash payments shall be located within the Seattle city
5 limits.

6 b. The Director of Human Services ((~~Director~~)) shall use cash payments in
7 lieu of child care and any earnings thereon to support the development or expansion of child care
8 facilities within 0.5 mile of the development using the bonus nonresidential floor area, or in
9 another location, consistent with an applicable voluntary agreement, where the child care facility
10 addresses the additional need created by that development. Child care facilities supported with
11 cash payments may be publicly or privately owned, and if privately owned shall be committed to
12 long-term use as child care under such agreements or instruments as the Director of Human
13 Services ((~~Director~~)) deems appropriate. The Director of Human Services ((~~Director~~)) shall
14 require that child care facilities supported with cash payments and their operators satisfy
15 applicable licensing requirements, and may require compliance with other provisions applicable
16 to child care facilities provided under the performance option, with such modifications as the
17 Director of Human Services ((~~Director~~)) deems appropriate.

18 * * *

19 Section 45. Section 23.58A.042 of the Seattle Municipal Code, last amended by
20 Ordinance 125432, is amended as follows:

21 **23.58A.042 Transferable development potential (TDP) and rights (TDR)**

22 * * *

23 B. General standards for sending lots

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.

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* * *

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	(\$15.00) <u>\$20.25</u>
DH2/85	Not applicable
DMC 75	(\$8.25) <u>\$11.14</u>

DMC 95	(((\$8.00)) <u>\$10.80</u>
DMC 85/75-170	(((\$8.00)) <u>\$10.80</u>
DMC 145	(((\$10.00)) <u>\$13.50</u>
DMC 170	(((\$8.00)) <u>\$10.80</u>
DMC 240/290-440	(((\$10.00)) <u>\$13.50</u>
DMC 340/290-440	(((\$12.50)) <u>\$16.88</u>
DOC1 U/450-U	(((\$14.75)) <u>\$19.92</u>
DOC2 500/300-550	(((\$14.25)) <u>\$19.24</u>
DRC 85-170	(((\$13.50)) <u>\$18.23</u>
DMR/C 75/75-95	(((\$8.00)) <u>\$10.80</u>
DMR/C 75/75-170	(((\$8.00)) <u>\$10.80</u>
DMR/C 95/75	(((\$17.50)) <u>\$23.63</u>
DMR/C 145/75	(((\$17.50)) <u>\$23.63</u>
DMR/C 280/125	(((\$14.25)) <u>\$19.24</u>
DMR/R 95/65	(((\$14.00)) <u>\$18.90</u>
DMR/R 145/65	(((\$16.00)) <u>\$21.60</u>
DMR/R 280/65	(((\$16.00)) <u>\$21.60</u>
IDM 65-150	Not applicable
IDM 75-85	Not applicable
IDM 85/85-170	(((\$8.00)) <u>\$10.80</u>
IDM 165/85-170	(((\$20.75)) <u>\$28.02</u>

IDR 45/125-270	(\$8.00) <u>\$10.80</u>
IDR 170	(\$8.00) <u>\$10.80</u>
IDR/C 125/150-270	(\$20.75) <u>\$28.02</u>
PMM-85	Not applicable
All PSM zones	Not applicable
SM-NG 145	(\$13.25) <u>\$16.04</u>
SM-NG 240	(\$20.00) <u>\$24.21</u>
SM-SLU 100/65-145	(\$8.00) <u>\$10.80</u>
SM-SLU 85/65-160	Not applicable
SM-SLU 85-280	(\$8.00) <u>\$10.80</u>
SM-SLU 175/85-280	(\$11.25) <u>\$15.19</u>
SM-SLU 240/125-440	(\$10.00) <u>\$13.50</u>
SM-SLU/R 65/95	(\$8.25) <u>\$11.14</u>
SM-SLU 100/95	(\$8.00) <u>\$10.80</u>
SM-SLU 145	(\$9.25) <u>\$12.49</u>
SM-U 85	(\$7.00) <u>\$9.45</u>
SM-U/R 75-240	(\$20.00) <u>\$27.01</u>
SM-U 75-240	(\$20.00) <u>\$27.01</u>
SM-U 95-320	(\$20.00) <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	(\$10.00) <u>\$13.50</u>	(\$10.00) <u>\$13.50</u>	(\$10.00) <u>\$13.50</u>
Zones with an (M) suffix	(\$5.00) <u>\$6.75</u>	(\$7.00) <u>\$9.45</u>	(\$8.00) <u>\$10.80</u>
Zones with an (M1) suffix	(\$8.00) <u>\$10.80</u>	(\$11.25) <u>\$15.19</u>	(\$12.75) <u>\$17.22</u>
Zones with an (M2) suffix	(\$9.00) <u>\$12.15</u>	(\$12.50) <u>\$16.88</u>	(\$14.50) <u>\$19.58</u>
Other zones where provisions refer to Chapter 23.58B	(\$5.00) <u>\$6.75</u>	(\$7.00) <u>\$9.45</u>	(\$8.00) <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 ~~((e-))~~ 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 ((1)) 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 (~~to~~) 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 (~~to~~) 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((;)) ₁ 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	(((\$12.75)) <u>\$16.85</u>
DH2/85	Not applicable
DMC 75	(((\$12.75)) <u>\$16.85</u>
DMC 85/75-170	(((\$20.75)) <u>\$27.42</u>
DMC 95	(((\$12.75)) <u>\$16.85</u>
DMC 145	(((\$13.00)) <u>\$15.95</u>
DMC 170	(((\$5.50)) <u>\$7.27</u>
DMC 240/290-440	(((\$8.25)) <u>\$10.90</u>
DMC 340/290-440	(((\$8.25)) <u>\$10.90</u>
DMR/C 75/75-95	(((\$20.75)) <u>\$27.42</u>
DMR/C 75/75-170	(((\$20.75)) <u>\$27.42</u>
DMR/C 95/75	(((\$12.75)) <u>\$16.85</u>
DMR/C 145/75	(((\$11.75)) <u>\$13.53</u>
DMR/C 280/125	(((\$13.00)) <u>\$15.95</u>
DMR/R 95/65	(((\$12.75)) <u>\$16.85</u>
DMR/R 145/65	(((\$11.75)) <u>\$13.53</u>

DMR/R 280/65	(\$13.00) <u>\$15.95</u>
DOC1 U/450-U	(\$12.00) <u>\$15.86</u>
DOC2 500/300-550	(\$10.25) <u>\$13.55</u>
DRC 85-170	(\$10.00) <u>\$13.22</u>
IDM-65-150	Not applicable
IDM-75-85	Not applicable
IDM 85/85-170	(\$20.75) <u>\$27.42</u>
IDM 165/85-170	(\$20.75) <u>\$27.42</u>
All IDR and IDR/C zones	(\$20.75) <u>\$27.42</u>
PMM-85	Not applicable
All PSM zones	Not applicable
SM-NG 145	(\$13.25) <u>\$16.04</u>
SM-NG 240	(\$20.00) <u>\$24.21</u>
SM-SLU 85/65-160	Not applicable
SM-SLU 85-280	(\$10.00) <u>\$13.22</u>
SM-SLU 100/95	(\$7.50) <u>\$9.91</u>
SM-SLU 100/65-145	(\$7.75) <u>\$10.24</u>
SM-SLU 145	(\$7.75) <u>\$10.24</u>
SM-SLU 175/85-280	(\$10.00) <u>\$13.22</u>
SM-SLU 240/125-440	(\$10.00) <u>\$13.22</u>
SM-SLU/R 65/95	(\$12.75) <u>\$16.85</u>

SM-U 85	(\$13.25) <u>\$17.51</u>
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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	(\$7.00) <u>\$9.25</u>	(\$13.25) <u>\$17.25</u>	(\$20.75) <u>\$27.42</u>
Zones with an (M1) suffix	(\$11.25) <u>\$14.87</u>	(\$20.00) <u>\$26.43</u>	(\$29.75) <u>\$39.31</u>
Zones with an (M2) suffix	(\$12.50) <u>\$16.52</u>	(\$22.25) <u>\$29.40</u>	(\$32.75) <u>\$43.28</u>

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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 b. If the sum of the combined fractions of units calculated according to
2 this subsection 23.58C.050.A.4 equals two or more and includes a fraction of a unit, the
3 applicant shall:

4 1) Round up to the nearest whole unit; or

5 2) Round down to the nearest whole unit and pay a cash

6 contribution for the fraction of a unit not otherwise provided, calculated according to subsection
7 23.58C.050.A.3.b; and

8 c. The construction of the structure(s) containing the units that meet the
9 requirements according to subsection 23.58C.050.C shall be completed at the same time or at an
10 earlier time than completion of construction of other structures in the development containing
11 units.

12 * * *

13 B. Duration. The obligation, as to a structure that includes MHA-R units to whose
14 development this Chapter 23.58C applies according to subsection 23.58C.025.B, to provide units
15 that meet the requirements (~~(according to)~~) of subsection 23.58C.050.C in the amount required
16 according to subsection 23.58C.050.A, subject to any applicable modifications, shall last:

17 1. If rental MHA-R units are provided to comply with this Chapter 23.58C:

18 a. For a period of 75 years from the date of certificate of occupancy or, if a
19 certificate of occupancy is not required, from the date of the final building permit inspection, for
20 the development to which this Chapter 23.58C applies according to subsection 23.58C.025.B, or

21 b. Until such earlier time when:

22 1) The structure is demolished, or its use is changed, so as to
23 eliminate all of the units to whose development this Chapter 23.58C applies according to

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.

1 3. Eligible households. (~~Units provided through the performance option~~) MHA-

2 R units shall serve only:

3 a. At initial occupancy by a household:

4 1) For a rental MHA-R unit with net unit area of 400 square feet or
5 less, households with incomes no greater than 40 percent of median income;

6 2) For a rental MHA-R unit with net unit area of greater than 400
7 square feet, households with incomes no greater than 60 percent of median income;

8 3) For an ownership MHA-R unit, households with incomes no
9 greater than 80 percent of median income, and that meet a reasonable limit on assets. The
10 Director of Housing shall establish by rule the method to establish a reasonable limit on assets.

11 b. At the time of annual certification according to subsection

12 23.58C.050.C.6.c:

13 1) For a rental MHA-R unit with net unit area of 400 square feet or
14 less, households with incomes no greater than 60 percent of median income;

15 2) For a rental MHA-R unit with net unit area of greater than 400
16 square feet, households with incomes no greater than 80 percent of median income.

17 4. Affirmative marketing. (~~Units provided through the performance option~~)

18 MHA-R units shall be affirmatively marketed to attract eligible households from all racial,
19 ethnic, and gender groups in the housing market area of the property, particularly to inform and
20 solicit applications from households who are otherwise unlikely to apply for housing in the
21 development. Proposed marketing efforts shall be submitted to the Office of Housing for review
22 and approval. Records documenting affirmative marketing efforts shall be maintained and
23 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 1) The owner of the development shall, at the time of such
2 conversion, either pay to the City a payment in lieu of continuing affordability or convert the
3 rental ~~((units provided through the performance option))~~ MHA-R units to ownership ~~((units~~
4 ~~provided through the performance option))~~ MHA-R units, as follows:

5 a) Where a payment in lieu of continuing affordability is
6 made, the amount of the payment shall be equal to the amount of the cash contribution according
7 to subsection 23.58C.040.A that would have been required ~~((at the time of issuance of the first~~
8 ~~building permit that includes the structural frame for the structure if the applicant had elected the~~
9 ~~payment option,))~~ based on the payment amount in effect on the vesting date for the Master Use
10 Permit under Section 23.76.026 or, if no Master Use Permit is required, on the filing date for the
11 valid and fully complete permit application adjusted ((for each calendar year following issuance
12 of that permit)) by an amount in proportion to ((the annual)) the increase, if any, in the Consumer

13 Price Index, All Urban Consumers, Seattle-Tacoma- Bellevue, WA, Shelter (1982-1984 = 100),
14 as determined by the U.S. Department of Labor, Bureau of Labor Statistics, or successor index,
15 from the most recent month for which data are available on or before the vesting date for the
16 Master Use Permit under Section 23.76.126 or, if a Master Use Permit is not required, the filing
17 date for the valid and fully complete permit application, to the most recent month for which data
18 are available at the time of payment, multiplied ((times)) by the percentage in Table C for
19 23.58C.050 that corresponds to the number of years that the rental ((units provided through the
20 performance option)) MHA-R units satisfied the requirements ~~((according to))~~ of this subsection
21 23.58C.050.C. The City shall use the payment to support ~~((continued))~~ long-term housing
22 affordability in The City of Seattle consistent with applicable statutory requirements.

Table C for 23.58C.050

Payment in lieu of affordability calculation percentages for conversion to ownership housing	
Number of years ((units provided through performance option) rental MHA-R units satisfied the requirements ((according to) of subsection 23.58C.050.C	Percentage
Less than 7.5	100%
Between 7.5 and 15	95%
Between 15 and 22.5	90%
Between 22.5 and 30	85%
Between 30 and 37.5	80%
Between 37.5 and 45	75%
Between 45 and 52.5	65%
Between 52.5 and 60	55%
Between 60 and 67.5	40%
Between 67.5 and 75	20%

1 b) Where rental ((~~units provided through the performance~~
2 ~~option~~)) MHA-R units are converted to ownership ((~~units provided through the performance~~
3 ~~option~~)) MHA-R units, the converted units shall meet the requirements of subsections
4 23.58C.050.C.1 through 23.58C.050.C.5 and subsection 23.58C.050.C.7.

5 2) If the units to whose development this Chapter 23.58C applies
6 according to subsection 23.58C.025.B are in multiple structures, conversion to ownership
7 housing of such units in an individual structure shall not be a basis for reducing the number of
8 rental ((~~units provided through the performance option~~)) MHA-R units in the other structures.

9 ((~~3~~)) 3. If a rental unit provided through the performance option is
10 converted to a condominium, the owner shall comply with the requirements ((~~according to~~) of
11 Section 22.903.030 and Section 22.903.035, the requirement of RCW ((~~Chapter 63.34.440(2))~~)
12 64.34.440(2) to offer to convey the unit to the tenant who leases the unit, and any other
13 applicable requirements.

14 j. Demolition or change of use

15 1) If the units to whose development this Chapter 23.58C applies
16 according to subsection 23.58C.025.B are in a single structure and the structure is demolished, or

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 A. During the ~~((City))~~ city of Seattle's relatively brief history, it has had little time in
2 which to develop areas of consistent historical or architectural character. It is recognized that the
3 Pioneer Square area of Seattle ~~((contains))~~ has many of these rare attributes and consequently is
4 an area of great historical and cultural significance. Further, the regional sports stadiums,
5 constructed in and near the Pioneer Square area, and the traffic and activities that they generate
6 have resulted in adverse impacts upon the social, cultural, historic, and ethnic values of the
7 Pioneer Square area. To preserve, protect, and enhance the historic character of the Pioneer
8 Square area and the buildings therein; to return unproductive structures to useful purposes; to
9 attract visitors to the City; to avoid a proliferation of vehicular parking and vehicular-oriented
10 uses; to provide regulations for existing on-street and off-street parking; to stabilize existing
11 housing, and encourage a variety of new and rehabilitated housing types for ~~((all income~~
12 ~~groups))~~ people of all incomes; to encourage the use of transportation modes other than the
13 private automobile; to protect existing commercial vehicle access; to improve visual and urban
14 relationships between existing and future buildings and structures, parking spaces and public
15 improvements within the area; and to encourage pedestrian uses, there is established as a special
16 review district, the Pioneer Square Preservation District. The boundaries of the District are
17 shown on Map A for 23.66.100 and on the Official Land Use Map.

18 * * *

19 C. Reasons for ~~((Designating))~~ designating the Pioneer Square Preservation District~~(((-))~~

20 1. Historic ~~((Significance))~~ significance. The Pioneer Square Preservation District
21 is unique because it is the site of the beginning of The City of Seattle. The area also retains much
22 of the original architecture and artifacts of its early history. The District has played a significant
23 role in the development of Seattle, the Puget Sound region and The State of Washington. It was

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~~((τ))~~**

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.

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* * *

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 ¹**

	((Affordable)) <u>Cumulative affordable housing production</u> ((conditions for)) <u>in the Yesler Terrace redevelopment area</u> ((cumulative)) <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"> • 187 replacement units 	1,400,000 square feet
(base)	<ul style="list-style-type: none"> • 80 60% ((of MI)) <u>AMI</u> units 	
	<ul style="list-style-type: none"> • A number of 80% ((of MI)) <u>AMI</u> units equal to 4.5 percent of ((all housing)) <u>total units</u> ((completed to date)) <u>, not including replacement units and 60% AMI units,</u> in the MPC-YT zone ((in accordance with 23.75.085.D, other than replacement units and 60% of MI units.)) 	
Tier 2	<ul style="list-style-type: none"> • 374 replacement units 	2,750,000 square feet
	<ul style="list-style-type: none"> • 160 60% ((of MI)) <u>AMI</u> units 	
	<ul style="list-style-type: none"> • A number of 80% ((of MI)) <u>AMI</u> units equal to 4.5 percent of ((all housing)) <u>total units</u> ((completed to date)) <u>, not including replacement units and 60% AMI units,</u> in the MPC-YT zone ((in accordance with 23.75.085.D, other than replacement units and 60% of MI units.)) 	
Tier 3	<ul style="list-style-type: none"> • 561 ((Replacement)) <u>replacement</u> units 	3,350,000 square feet
	<ul style="list-style-type: none"> • 290 60% ((of MI)) <u>AMI</u> units 	
	<ul style="list-style-type: none"> • A number of 80% ((of MI)) <u>AMI</u> units equal to 4.5 percent of ((all housing)) <u>total units</u> ((completed to date)) <u>, not including replacement units and 60% AMI units,</u> in the MPC-YT zone ((in accordance with 23.75.085.D)), other than replacement units and 60% of MI units.)) 	
Tier 4	Not applicable	3,950,000 square feet

Footnotes to Table A for 23.75.085

¹ 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 ~~((e))~~ 3) The number of units with adjusted affordability has been
2 minimized to the extent practical, and

3 ~~((d))~~ 4) One or more agreements are entered into between the
4 housing owner and the Director of Housing committing the housing owner(s) to new
5 affordability and occupancy requirements effective when replacement units and/or ~~((60 percent~~
6 ~~of MI))~~ 60% AMI units are vacated and available for occupancy by new tenants.

7 ~~((e-))~~ 3. Size. If provided in a development permitted under a single master use
8 permit that includes dwelling units other than affordable housing, the average net ~~((floor))~~ unit
9 area, measured according to subsection 23.86.007.B, of the ~~((affordable housing))~~ units provided
10 to satisfy requirements of this Section 23.75.085 shall be no smaller than the average net ~~((floor))~~
11 unit area ~~((per unit of))~~ of the total units in the development ~~((as a whole))~~.

12 ~~((d-))~~ 4. Location. Affordable housing must be located within the Yesler Terrace
13 redevelopment area. No more than 190 of the replacement units shall be located east of Boren
14 Avenue. A minimum of 50 replacement units shall be located in at least five of the eight blocks
15 west of Boren Avenue. When provided within a development permitted under a single master
16 use permit that includes dwelling units other than affordable housing, the affordable housing
17 shall generally be distributed throughout the development.

18 5. Reports. Periodically as may be required by the Director of Housing, but no
19 less than annually, the owner of the affordable housing shall submit to the Office of Housing a
20 written report demonstrating compliance with and housing outcomes of this Section 23.75.085.
21 The report shall include required information and supporting documentation, verified upon the
22 owner’s oath or affirmation and in a form prescribed by the Office of Housing. The Director of
23 Housing is authorized to assess a late fee of \$50 per day, which shall accrue until the report is

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.e.)~~ 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

~~((4))~~ 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”**

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* * *

~~("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(())~~ , 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 e. ~~That is subject to a regulatory agreement, covenant, or other legal~~
2 ~~instrument, the duration of which is at least 40 years, recorded on the property title and~~
3 ~~enforceable by The City of Seattle, Washington State Housing Finance Commission, State of~~
4 ~~Washington, King County, U.S. Department of Housing and Urban Development, or other~~
5 ~~similar entity as approved by the Director of Housing)).~~

6 ((22))19. "Nursing home" means a use licensed by the State of Washington as a
7 nursing home, which provides full-time convalescent and/or chronic care for individuals who, by
8 reason of chronic illness or infirmity, are unable to care for themselves, but that does not provide
9 care for the acutely ill or surgical or obstetrical services. This definition excludes hospitals or
10 sanitariums.

11 20. "Permanent supportive housing."

12 ((23))21. "Rowhouse development" means a multifamily residential use in which
13 all principal dwelling units on the lot meet the following conditions:

14 a. Each dwelling unit occupies the space from the ground to the roof of the
15 structure in which it is located;

16 b. No portion of a dwelling unit, except for an accessory dwelling unit or
17 shared parking garage, occupies space above or below another dwelling unit;

18 c. Each dwelling unit is attached along at least one common wall to at
19 least one other dwelling unit, with habitable interior space on both sides of the common wall, or
20 abuts another dwelling unit on a common lot line;

21 d. The front of each dwelling unit faces a street lot line;

22 e. Each dwelling unit provides pedestrian access directly to the street that
23 it faces; 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 * * *

