

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

AN ORDINANCE related to land use and zoning, amending Chapters 23.48, 23.49, 23.50, and 23.90 of the Seattle Municipal Code allowing additional height and density within a defined area of Industrial Commercial zones in the South Lake Union Urban Center; providing bonus floor area for affordable housing and child care in that area; allowing transfer of development rights to lots in that area from Landmarks and certain other properties; modifying exemptions from floor area limits for projects in the South Lake Union Urban Center; and making technical revisions.

WHEREAS, the City adopted South Lake Union Urban Center goals and policies into the Comprehensive Plan in December, 2006, supporting the growth of innovative industries in South Lake Union, incentives for housing and historic preservation, and a diversity of building styles; and

WHEREAS, the Council finds that a portion of the housing and childcare impacts resulting from additional height and density should be mitigated and accepts the findings of the jobs/housing and jobs/childcare nexus studies prepared for South Lake Union; and

WHEREAS, the Council finds that the amendments contained in this ordinance will protect and promote the health, safety and welfare of the general public; NOW, THEREFORE,

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

Section 1. Subsection B of Section 23.48.016 of the Seattle Municipal Code, which Section was last amended by Ordinance 122311, is amended as follows:

**23.48.016 Standards applicable to specific areas.**

\* \* \*

B. Floor Area Ratios. In SM/85 and SM/125 zones, the following floor area ratios (FARs) apply:

1. In SM/85 zones, a FAR of four and one half (4.5) is the maximum ((~~gross~~) chargeable floor area permitted. (~~for all nonresidential uses.~~))

1                   2. In SM/125 zones, a FAR of five (5) is the maximum (~~(gross)~~) chargeable floor  
2 area permitted (~~((for all nonresidential uses))~~) in structures greater than seventy-five (75) feet in  
3 height.

4                   3. (~~(Exemptions from FAR Calculations.)~~) The following areas are (~~((shall be))~~)  
5 exempt from FAR calculations:

- 6                   a. All gross floor area below grade;
- 7                   b. All gross floor area used for accessory parking located above grade; and
- 8                   c. All gross floor area in residential use..

9                   4. Up to three and one-half (3 1/2) percent of the gross floor area of a structure  
10 shall not be counted in gross floor area calculations as an allowance for mechanical equipment.  
11 The allowance shall be calculated on the gross floor area after all exempt space permitted under  
12 subsection(~~(s)~~) B3(~~(a and B3b)~~) has been deducted.

13                   5. Within the South Lake Union Urban Center, gross floor area occupied by  
14 mechanical equipment, up to a maximum of fifteen (15) percent, is exempt from FAR  
15 calculations. The allowance is calculated on the gross floor area of the structure after all exempt  
16 space permitted under subsections B3a and B3b has been deducted. Subsection B4 (~~((shall))~~) does  
17 not apply. Mechanical equipment located on the roof of a structure is not calculated as part of the  
18 total gross floor area of a structure.

19                   6. To the extent provided in Section 23.50.053, the transfer of TDR from a lot  
20 reduces the limits on chargeable floor area set forth in this Section. On a lot in an SM/125 zone  
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1 from which TDR is transferred, the FAR limits in this Section, as so reduced, applies regardless  
2 of the height of any structure.

3 Section 2. Subsection A of Section 23.49.020 of the Seattle Municipal Code, which  
4 Section was enacted by Ordinance 122054, is amended as follows:

5 **23.49.020. Demonstration of LEED Silver rating.**

6 A. Applicability. This section applies whenever a commitment to earn a LEED Silver  
7 rating or substantially equivalent standard is a condition of a permit ~~((pursuant to SMC Section~~  
8 ~~23.49.011 or 23.49.015))~~.

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10 \* \* \*

11 Section 3. Section 23.50.020 of the Seattle Municipal Code, which Section was last  
12 amended by Ordinance 121359, is amended as follows:

13 **23.50.020. All Industrial zones -- Structure height exceptions and additional restrictions.**

14 A. Rooftop Features. Where a height limit ~~((s are otherwise applicable))~~ applies to a  
15 structure, ~~((and))~~ except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the  
16 ~~((following conditions))~~ provisions in this subsection A apply to rooftop features:

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18 1. Smokestacks ~~((;))~~, chimneys and flagpoles and religious symbols for religious  
19 institutions are exempt from height limits ~~((controls))~~, except as regulated in Chapter 23.64,  
20 Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or  
21 rear lot line.  
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1                   2. Open railings, planters, skylights, clerestories, greenhouses, parapets and  
2 firewalls may extend four (4) feet above the applicable (~~maximum~~) height limit with unlimited  
3 rooftop coverage.

4                   3. Solar collectors may extend up to seven (7) feet above the  
5 applicable (~~maximum~~) height limit, with unlimited rooftop coverage.

6                   4. The following rooftop features may extend up to fifteen (15) feet above the  
7 (~~maximum~~) applicable height limit, as long as the combined total coverage of all features listed  
8 in this subsection A4 does not exceed twenty (20) percent of the roof area, or twenty-five (25)  
9 percent of the roof area if the total includes screened mechanical equipment: a. Solar collectors;  
10 b. Stair and elevator penthouses; c. Mechanical equipment; and d. Minor communication utilities  
11 and accessory communication devices, except that height is regulated according to the provisions  
12 of Section 23.57.015.

13                   5. Within the South Lake Union (~~Hub Urban Village~~) Urban Center, at the  
14 applicant's option, the combined total coverage of all features listed in subsection A4 above may  
15 be increased to sixty-five (65) percent of the roof area, provided that all of the following are  
16 satisfied:

17                   a. All mechanical equipment is screened; and

18                   b. No rooftop features are located closer than ten (10) feet to the roof  
19 edge.

20                   B. Forty-five (45) Foot Height Limit Areas-Additional Height Restrictions for Certain  
21 Structures.

1                   ~~((1. Within those industrial areas designated as having))~~ In zones with a forty-five  
2 (45) foot height limit, ~~((forty-five (45) foot structure height is permitted only when a structure~~  
3 ~~contains at least one (1) story at least fifteen (15) feet in height.~~

4                   ~~2. S))~~ structures with no story at least fifteen (15) feet in height ~~((shall be))~~ are  
5 limited to a maximum height of forty (40) feet.

6                   C. Structures existing prior to October 8, 1987 ~~((which))~~ that exceed the height limit of  
7 the zone may add the rooftop features listed as conditioned in subsection A of this section above.  
8 The existing roof elevation of the structure shall be considered the ~~((maximum))~~ height limit for  
9 the purpose of adding rooftop features.

10                   Section 4. Section 23.50.026 of the Seattle Municipal Code (SMC), which Section was  
11 last amended by Ordinance 121359, is amended as follows:

12                   **23.50.026. Structure height in IC zones.**

13                   A. Except~~((for the provisions of Section 23.50.020, and except ))~~ as may be otherwise  
14 provided in this title, ~~for any overlay district, and except that monorail transit facilities may~~  
15 ~~exceed the height limit of the zone according to the provisions of Section 23.80.004 or Section~~  
16 ~~15.54.020, †))~~ the maximum structure height for all uses ((shall be)) is thirty (30) feet, forty-five  
17 (45) feet, sixty-five (65) feet, eighty-five (85) feet or one hundred twenty-five (125) feet, as  
18 designated on the Official Land Use Map, Chapter 23.32. Only areas in the Stadium Transition  
19 Area Overlay District abutting the PSM 85/120 zone may be designated for a height limit of one  
20 hundred twenty-five (125) feet. Maximum structure height may be increased or reduced as  
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1 provided in this section or Section 23.50.020. An overlay district may increase or reduce the  
2 maximum structure height.

3 B. Water-dependent uses within the Shoreline District shall only be subject to the height  
4 limits of the applicable shoreline environment, Chapter 23.60.

5 C. Within the area shown on Exhibit 23.50.026 A, areas zoned IC/45 (~~shall be~~) are  
6 subject to the following height regulations (See Exhibit 23.50.026 A):

7 1. ~~((A forty-five (45) foot structure height is permitted only when a structure~~  
8 ~~contains at least one (1) story at least fifteen (15) feet in height.~~

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10 2.) Except as provided in subsection ~~((3e))~~ 2c below, structures with no story at  
11 least fifteen (15) feet in height ~~are~~(shall be) limited to a maximum height of forty (40) feet.

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13 ~~((3))~~ 2. A sixty-five (65) foot structure height is permitted as a special exception  
14 provided that:

15 a. Provision is made for view corridors(s) looking from Elliott Avenue  
16 towards Puget Sound;

17 (1) The location of the view corridor(s) shall be determined by the  
18 Director upon consideration of such factors as existing view corridors, the location of street  
19 rights-of-way, and the configuration of the lot,

20 (2) The view corridor(s) shall have a width not less than thirty-five  
21 (35) percent of the width of the lot,

22 (3) The minimum width of each required view corridor shall be  
23 thirty (30) feet measured at Elliott Avenue West,  
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1 (4) Measurement, modification or waiver of the view corridor(s)  
2 shall be according to the Seattle Shoreline Master Program measurement regulations, Chapter  
3 23.60. Where a waiver under these provisions is granted, the sixty-five (65) foot structure height  
4 shall still be permitted,

5 (5) Parking for motor vehicles shall not be located in the view  
6 corridor unless the area of the lot where the parking would be located is four (4) or more feet  
7 below the level of Elliott Avenue West;  
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9 b. Development shall be located so as to maximize opportunities for views  
10 of Puget Sound for residents and the general public; and

11 c. The structure contains at least two (2) stories at least fifteen (15) feet in  
12 height; with the exception that no story in an accessory parking structure is required to be at least  
13 fifteen (15) feet in height.  
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15 D. Within the South Lake Union (~~Hub~~) Urban Center (~~Village, t~~):

16 1. The maximum structure height in IC zones with sixty-five (65) foot and eighty-  
17 five (85) foot height limits may be increased to eighty-five (85) feet and one-hundred and five  
18 (105) feet, respectively, provided that:

19 ~~(1-)~~ a. A minimum of two (2) (~~floors~~) stories in the structure have a  
20 floor to floor height of at least fourteen (14) feet; and

21 ~~(2-)~~ b. The additional height is used to accommodate mechanical  
22 equipment; and  
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1                   ~~((3-))~~c. The additional height permitted does not allow more than six (6)  
2 floors in IC zones with a sixty-five (65) foot height limit, or more than seven (7) floors in IC  
3 zones with an eighty-five (85) foot height limit.

4                   2. The maximum structure height of structures receiving bonus floor area under  
5 the provisions of section 23.50.051 is one hundred and sixty (160) feet.

6                   Section 5. Subsection A of Section 23.50.027 of the Seattle Municipal Code, which  
7 Section was last amended by Ordinance 121281, is amended as follows:

8 **23.50.027. Maximum size of nonindustrial use.**

9                   A. Applicability.

10                   1. Except as provided in subsections B, C, D and E of this section  
11 below, the maximum size of use limits on gross floor area specified in  
12 Chart A or, for lots located in the Duwamish Manufacturing/Industrial  
13 Center, Chart B of this section shall apply to uses on a lot. The  
14 maximum size of use limits apply to both principal and accessory uses  
15 on a lot. The limits shall be applied separately to the categories of  
16 uses listed in the respective charts of this section. The total gross  
17 floor area occupied by uses limited under the respective charts of  
18 this section shall not exceed an area equal to the area of the lot in  
19 an IG1 zone, or two and one-half (2.5) times the area of the lot in an  
20 IG2, IB or IC zone, or three (3) times the lot area in IC zones with  
21 sixty-five (65) foot or eighty-five (85) foot height limits in the  
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1 South Lake Union Planning Area, as identified in Exhibit 23.50A.

2 2. The maximum size of use limits (~~((shall))~~) does not apply to the area identified in  
3 Exhibit 23.50.027A provided that no single retail establishment shall exceed fifty thousand  
4 (50,000) square feet in size..

5 3. There is no limit on the size of uses in projects that receive bonus floor area  
6 under section 23.50.051.

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9 Section 6. Section 23.50.028 of the Seattle Municipal Code (SMC), which Section was  
10 lasted amended by Ordinance 121828, is amended as follows:

11 **23.50.028. Floor area ratio.**

12 The floor area ratio (FAR), as provided below, (~~((shall))~~) determines the permitted (~~((gross~~  
13 ~~square footage))~~) chargeable floor area on a lot (~~((permitted))~~).

14 A. General Industrial 1 Floor Area Ratio. The (~~((total))~~) maximum FAR (~~((shall be))~~) is two  
15 and one-half (2.5).

16 B. General Industrial 2 and Industrial Buffer, Floor Area Ratio. The maximum FAR for  
17 all General Industrial 2 (IG2) and industrial Buffer (IB) uses (~~((shall be))~~) is two and one half  
18 (2.5).

19 C. Industrial Commercial, Floor Area Ratio. Except for the area shown in Exhibit  
20 23.50.028 A the maximum FAR for all Industrial Commercial (IC) uses (~~((shall be))~~) is two and  
21 one-half (2.5). (See Exhibit 23.50.028 A)

1 D. Industrial Commercial/South Lake Union, Floor Area Ratio. Within the South Lake  
2 Union Urban Center, ~~((area shown on Exhibit 23.50.028 A and described as the South Lake~~  
3 ~~Union Planning Area,))~~ the maximum FAR in Industrial Commercial zones ~~((shall be as follows:~~  
4 1. ~~In areas with a thirty (30) foot or forty five (45) foot height limit, the FAR shall~~  
5 ~~be two and one half (2.5); and~~  
6 2. ~~In areas with a sixty five (65) foot or eighty five (85) foot height limit, the~~  
7 ~~FAR shall be))~~ is three (3), except as provided in Section 23.50.051.

9 E. All Industrial Zones, Exemptions from FAR Calculations. The following areas ~~((shall~~  
10 ~~be))~~ are exempt from FAR calculations:

- 11 1. All gross floor area below grade;
- 12 2. All gross floor area used for accessory parking, except as provided in  
13 subsection F;
- 14 3. All gross floor area located on the rooftop of a structure used for mechanical  
15 equipment, stair and elevator penthouses and communication equipment and antennas ~~((located~~  
16 ~~on the rooftop of structures));~~
- 17 4. All gross floor area uses for covered rooftop recreational space of a building  
18 existing as of December 31, 1998, when complying with the provisions of Section 23.50.012 D;
- 19 5. ~~((All gross floor area of a monorail station, including all floor area open to the~~  
20 ~~general public during normal hours of station operation (but excluding retail or service~~  
21 ~~establishments to which public access is limited to customers or clients, even where such~~  
22 ~~establishments are primarily intended to serve monorail riders); and))~~

1                    ~~((6))~~5. Within the South Lake Union (~~(Hub))~~ Urban (~~(Village))~~ Center:~~((7))~~

2                    a. ~~((g))~~Gross floor area occupied by mechanical equipment, up to a  
3 maximum of fifteen (15) percent of the floor area on the lot~~((, is exempt from FAR~~  
4 ~~calculations))~~. The allowance is calculated on the gross floor area of the structure after all other  
5 exempt space permitted under this subsection E is deducted. ~~Mechanical equipment located on~~  
6 ~~the roof of a structure is not calculated as part of the total gross floor area of a structure.~~

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8                    b. The following uses when located at street level:

9                    i. General sales and service uses;

10                    ii. Eating and drinking establishments;

11                    iii. Entertainment uses; and

12                    iv. Public libraries.

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14                    F. Within the South Lake Union Urban Center, gross floor area used for accessory  
15 parking within stories that are completely above finished grade is not exempt. A vested or  
16 existing project may, at the project proponent's choice, use the exemptions in subsection B5b,  
17 provided that they count floor area used for accessory parking as gross floor area pursuant to this  
18 subsection.

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20                    G. Anything in Section 23.76.026 notwithstanding, the applicant for a Master Use Permit  
21 for a project in the South Lake Union urban Center to which the Land Use Code in effect prior to  
22 the effective date of the ordinance enacting this subsection G may, by written election, use the  
23 exemptions in Subsection B5b of this section, provided that Subsection F of this section also  
24 shall apply.

1 Section 7. A new Section 23.50.051 of the Seattle Municipal Code (SMC) is adopted to  
2 read as follows:

3 **23.50.051. Additional floor area in certain IC-zoned areas in the South Lake Union Urban**  
4 **Center.**

5 A. This Section applies only to IC zones in the area shown on Exhibit 23.50.051 A. In IC  
6 zones in that area floor area in addition to the FAR in Section 23.50.028 may be permitted for  
7 projects that satisfy all the conditions in this section. For the purposes of this section, the  
8 applicable FAR limit in subsection 23.50.028 D is called the “base FAR,” and additional floor  
9 area up to two (2) additional FAR is called “bonus floor area.” As a condition to any floor area  
10 above the base FAR must conform to all the provisions of subsections A through M of this  
11 section. For floor area that exceeds 5 FAR up to 7 FAR, a project must conform to provisions of  
12 subsections N and O of this section.  
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15 B. The maximum chargeable floor area permitted on a lot pursuant to this section is  
16 seven (7) FAR.  
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18 C. No floor area above the base FAR shall be granted to any proposed development that  
19 would result in a significant alteration to any designated feature of a Landmark structure, unless  
20 a Certificate of Approval for the alteration is granted by the Landmarks Preservation Board.  
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Exhibit 23.50.051 A

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	Area where additional floor area is permitted according to the provisions of Section 23.50.051 of the Seattle Municipal Code		Parcel Boundary	
	Class 2 Pedestrian Street in SM Zone		Class 2 Pedestrian Street for lots receiving additional floor area under 23.50.051	
			Zone Boundary	

1 D. LEED requirement. The applicant shall make a commitment to the Director shall  
2 determine that the proposed development will earn a LEED Silver rating or meet a substantially  
3 equivalent standard, and shall demonstrate comp[liance with that commitment, all in accordance  
4 with the provisions of Section 23.49.020.

5 E. An upper level setback consistent with SMC Section 23.48.012 B is provided along  
6 Thomas Street and Harrison Street for any portion of the structure greater than forty-five (45)  
7 feet in height.  
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9 F. Each structure satisfies the general facade requirements of Section 23.48.014 of the  
10 Seattle Municipal Code.

11 G. Each structure satisfies the transparency and blank facade requirements of Section  
12 23.48.018 of the Seattle Municipal Code.  
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14 H. Each structure satisfies the solid waste and recyclable materials storage space  
15 requirements of Section 23.48.030 of the Seattle Municipal Code.

16 I. Each structure satisfies the parking and loading location, access and curbcuts  
17 requirements of Section 23.48.034 of the Seattle Municipal Code.  
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19 J. Each structure satisfies the screening and landscaping requirements of Section  
20 23.47A.016 of the Seattle Municipal Code.

21 K. Bonus floor area may be obtained only by qualifying for floor area bonuses pursuant  
22 to Section 23.50.052 or by the transfer of development rights pursuant to Section 23.50.053, or  
23 by qualifying for a combination of floor area bonuses and transfer of development rights. For  
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1 the purposes of this section, floor area obtained by qualifying for floor area bonuses or by the  
2 transfer of development rights shall be called “bonus floor area.”

3 L. The Master Use Permit application to establish any bonus floor area under this section  
4 shall include a calculation of the amount of bonus floor area and shall identify the manner in  
5 which the conditions to such bonus floor area will be satisfied. A minimum of seventy-five (75)  
6 percent of bonus floor area shall be gained through bonuses under Section 23.50.052. The  
7 remaining twenty-five (25) percent of bonus floor area may be gained either through TDR  
8 consistent with Section 23.50.053 or bonuses under Section 23.50.052, provided that the  
9 requirement in Subsection O is met.  
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11 M. If Landmark TDR is available, not less than five (5) percent of bonus floor area on a  
12 lot shall be gained through the transfer of Landmark TDR. Landmark TDR shall be considered  
13 “available” if, at the time of the Master Use Permit application to gain the additional floor area,  
14 the City of Seattle is offering Landmark TDR for sale at a price per square foot no greater than  
15 the total bonus contribution under Section 23.50.052 for a project using the cash option for both  
16 housing and childcare facilities. If Landmark TDR is not available, an applicant has the option  
17 of satisfying the requirement in this section by purchases of Landmark TDR from private parties,  
18 by transfer of Landmark TDR from an eligible sending lot owned by the applicant, by purchase  
19 of Landmark TDR from the City, or by any combination of the foregoing.  
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22 N. Transportation Management Program. The Master Use Permit application shall  
23 include a Transportation Management Program (TMP) consistent with requirements for TMPs in  
24 Director's Rule 14-2002. The TMP shall only be approved by the Director if, after consulting  
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1 with Seattle Department of Transportation, the Director determines that no more than forty (40)  
2 percent of trips to and from the project will be made using single-occupant vehicles (SOV).

3 1. For purposes of measuring attainment of single-occupant vehicle (SOV) goals  
4 contained in the TMP, the number of SOV trips shall be calculated for the p.m. hour in which an  
5 applicant expects the largest number of vehicle trips to be made by employees at the site (the  
6 p.m. peak hour of the generator).

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8 2. Compliance with this section does not affect the responsibility of any employer  
9 to comply with Seattle's Commute Trip Reduction (CTR) Ordinance.

10 O. Energy Management Plan. The Master Use Permit application shall include a letter  
11 from Seattle City Light stating that there is sufficient electrical capacity to serve the project as  
12 designed. The Director, after consulting with the Director of Seattle City Light, may condition  
13 the approval of the Master Use Permit on the development and implementation of an energy  
14 management plan containing specific energy conservation or alternative energy generation  
15 methods or on-site electrical systems that can ensure that the existing electrical system can  
16 accommodate the projected loads from the project.  
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19 Section 8. A new Section 23.50.052 of the Seattle Municipal Code is adopted to read as  
20 follows:

21 **23.50.052 Bonus floor area for housing and child care.**

22 A. General Provisions

23  
24 1. This Section applies only to projects seeking bonus floor area pursuant to  
25 Section 23.50.051. The purpose of this section is to encourage development in addition to that  
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1 authorized by basic zoning regulations ("bonus development"), provided that portions of certain  
2 adverse impacts from the bonus development are mitigated. Two (2) impacts from such  
3 development are an increased need for low-income housing in the South Lake Union Urban  
4 Center to house the families of workers having lower-paid jobs, and an increased need for child  
5 care for workers in the South Lake Union Urban Center.

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7 2. The mitigation may be provided by building the requisite low-income housing  
8 or child care facilities (the "performance option"), by making a contribution to be used by the  
9 City to build or provide the housing and child care facilities (the "payment option"), or by a  
10 combination of the performance and payment options.

11  
12 3. For the purposes of this section, chargeable floor area above the base floor area  
13 that is earned under the provisions of this section, is called "bonus floor area"

14 B. Housing and Child Care Bonus. For each square foot of bonus floor area, the applicant  
15 shall provide or make payments for both housing and child care in amounts determined as  
16 follows:

17 1. Housing.

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19 a. For each square foot of bonus floor area, 0.15575807 square feet of  
20 housing affordable to and serving households with incomes at 80% of county median income, or  
21 an alternative voluntary cash contribution for such housing. The Housing Director may adjust  
22 the cash contribution alternative, no more frequently than annually, approximately in proportion  
23 to the change in the Consumer Price Index, All Urban Consumers, Seattle-Tacoma metropolitan  
24 area, All Items (1982 - 84 = 100), as determined by the U.S. Department of Labor, Bureau of  
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1 Labor Statistics, or successor index, or any other cost index that such Director may deem  
2 appropriate. The base year for the first such adjustment shall be 2007. Any such adjustment to  
3 the cash contribution amounts may be implemented through a rule-making process.

4                   b. For purposes of this subsection, a housing unit serves households with  
5 incomes at 80% of median income only if all of the following are satisfied for a period of fifty  
6 (50) years beginning upon the issuance of a final certificate of occupancy for the housing unit by  
7 the Department of Planning and Development:

8                                   (1) For rental units:

9   i. The housing unit is used as rental housing solely for  
10 households with incomes, at the time of each household's initial occupancy, not exceeding that  
11 income level; and  
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13   ii. The monthly rent charged for the housing unit, together  
14 with a reasonable allowance for any basic utilities that are not included in the rent, does not  
15 exceed one-twelfth (1/12) of thirty (30) percent of that income level as adjusted for the estimated  
16 size of household corresponding to the size of unit, in such manner as the Housing Director shall  
17 determine;  
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19   iii. There are no charges for occupancy other than rent; and

20   iv. The housing unit and the structure in which it is located  
21 are maintained in decent and habitable condition, including adequate basic appliances, for such  
22 fifty (50) year period.  
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24                                   (2) For homeownership units:  
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1 i. The housing unit is used as homeownership housing  
2 solely for households with incomes at the time of each household's initial occupancy, not  
3 exceeding that level;

4 ii. The sales price is restricted so that estimated monthly  
5 housing costs, according to a method prescribed or approved by the Housing Director, including  
6 mortgage payment, taxes, insurance, and condominium dues, together with a reasonable  
7 allowance for any basic utilities not included, do not exceed 40% of household monthly income  
8 at the income limit, as adjusted for the estimated size of household corresponding to the size of  
9 unit, in such manner as the Housing Director shall determine;

10 iii. The housing unit is subject to recorded instruments  
11 satisfactory to the Housing Director providing for sales prices on any resale consistent with  
12 affordability on the same basis, for such fifty (50) year period.

13 c. If housing provided under the performance option is not yet constructed,  
14 or is not ready for occupancy, at the time when a cash contribution would be due pursuant to  
15 subsection C of this Section if the applicant had elected the cash option, the applicant may  
16 commit to complete such housing on terms acceptable to the Housing Director, which terms shall  
17 require that within three (3) years of the issuance of the first building permit for the project using  
18 the bonus floor area, the applicant shall obtain a final certificate of occupancy for such housing.  
19 Any applicant seeking to qualify for bonus floor area based on such housing shall provide to the  
20 City, prior to the date when a contribution would be due for the cash option under subsection C  
21 of this section, an irrevocable bank letter of credit or other sufficient security approved by the  
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1 Housing Director, and a related voluntary agreement, so that at the end of the three (3) year  
2 period, if the housing does not qualify or is not provided in a sufficient amount to satisfy the  
3 terms of this section, the City shall receive (i) a cash contribution for housing in the amount  
4 determined pursuant to this section after credit for any qualifying housing then provided, plus (ii)  
5 an amount equal to interest on such contribution, at the rate equal to the prime rate quoted from  
6 time to time by Bank of America, or its successor, plus three (3) percent per annum, from the  
7 date of issuance of the first building permit for the project using the bonus. If and when the City  
8 becomes entitled to realize on any such security, the Housing Director shall take appropriate  
9 steps to do so, and the amounts realized, net of any costs to the City, shall be used in the same  
10 manner as cash contributions for housing made under this section. In the case of any project  
11 proposing to use bonus floor area for which no building permit is required, references to the  
12 building permit in this subsection shall mean the master use permit allowing establishment or  
13 expansion of the use for which bonus floor area is sought.  
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16 d. Nothing in this chapter shall be construed to confer on any owner or  
17 developer of housing, any party to an agreement, or any assignee, any development rights or  
18 property interests. Because the availability and terms of allowance of bonus floor area depend  
19 upon the regulations in effect at the relevant time for the project proposing to use such bonus  
20 floor area, pursuant to SMC Section 23.76.026, any approvals or agreements by the Housing  
21 Director regarding the eligibility of actual or proposed housing as to satisfy conditions of a  
22 bonus, and any approval of a linkage agreement and/or assignment, do not grant any vested  
23 rights, nor guarantee that any bonus floor area will be permitted based on such housing.  
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1 e. The Housing Director shall review the design and proposed  
2 management plan for any housing proposed under the performance option to determine whether  
3 it will comply with the terms of this section.

4 f. The Housing Director is authorized to accept a voluntary agreement for  
5 the provision of housing and related agreements and instruments consistent with this section.

6 g. It shall be a continuing permit condition, whether or not expressly  
7 stated, for each project obtaining bonus floor area based on the provision of housing under this  
8 subsection, that the housing units shall continue to satisfy the requirements of this subsection  
9 throughout the required fifty (50) year period and that such compliance shall be documented  
10 annually to the satisfaction of the Housing Director, and the owner of any project using such  
11 bonus floor area shall be in violation of this title if any such housing unit does not satisfy such  
12 requirements, or if satisfactory documentation is not provided to the Housing Director, at any  
13 time during such period. The Housing Director may provide by rule for circumstances in which  
14 housing units maybe replaced if lost due to casualty or other causes, and for terms and conditions  
15 upon which a cash contribution may be made in lieu of continuing to provide housing units  
16 under the terms of this subsection.  
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20 h. Housing units provided to qualify for a bonus, or produced with  
21 voluntary contributions made under this section, should include a range of unit sizes, including  
22 units suitable for families with children. The Housing Director is authorized to prescribe by rule  
23 minimum requirements for the range of unit sizes, by numbers of bedrooms, in housing provided  
24 to qualify for a bonus. The Housing Director shall take into account, in any such rule, estimated  
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1 distributions of household sizes among households with incomes up to 80% of county median  
2 income.

3 2. Child Care.

4 a. For each square foot of bonus floor area allowed under this section, in  
5 addition to providing housing or an alternative cash contribution pursuant to subsection B1, the  
6 applicant shall provide fully improved child care facility space sufficient for 0.000127 of a child  
7 care slot, or a cash contribution to the City of Three Dollars and Twenty-five Cents (\$3.25), to be  
8 administered by the Human Services Department. The Director of the Human Services  
9 Department may adjust the alternative cash contribution, no more frequently than annually,  
10 approximately in proportion to the change in the Consumer Price Index, All Urban Consumers,  
11 Seattle-Tacoma metropolitan area, All Items (1982-84=100), as determined by the U.S.  
12 Department of Labor, Bureau of Labor Statistics, or successor index, or any other cost index that  
13 such Director may deem appropriate. The base year for the first such adjustment is 2007. The  
14 minimum interior space in the child care facility for each child care slot shall comply with all  
15 applicable state and local regulations governing the operation of licensed childcare providers.  
16 Child care facility space shall be deemed provided only if the applicant causes the space to be  
17 newly constructed or newly placed in child care use after the submission of a permit application  
18 for the project intended to use the bonus floor area, except as provided in subsection B2b(6). If  
19 any contribution or subsidy in any form is made by any public entity to the acquisition,  
20 development, financing or improvement of any child care facility, then any portion of the space  
21 in such facility determined by the Director of the Human Services Department to be attributable  
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1 to such contribution or subsidy shall not be considered as provided by any applicant other than  
2 that public entity.

3 b. Child care space shall be provided on the same lot as the project using  
4 the bonus floor area or on another lot in the South Lake Union Urban Center and shall be  
5 contained in a child care facility satisfying the following standards:

6 (1) The child care facility and accessory exterior space must be  
7 approved for licensing by the State of Washington Department of Social and Health Services and  
8 any other applicable state or local governmental agencies responsible for the regulation of  
9 licensed childcare providers.  
10

11 (2) At least twenty (20) percent of the number of child care slots  
12 for which space is provided as a condition of bonus floor area must be reserved for, and  
13 affordable to, families with annual incomes at or below the U.S. Department of Housing and  
14 Urban Development Low Income Standard for Section 8 Housing based on family size (or, if  
15 such standard shall no longer be published, a standard established by the Human Services  
16 Director based generally on eighty (80) percent of the median family income of the Metropolitan  
17 Statistical Area, or division thereof, that includes Seattle, adjusted for family size). Child care  
18 slots shall be deemed to meet these conditions if they serve, and are limited to, (a) children  
19 receiving child care subsidy from the City of Seattle, King County or State Department of Social  
20 and Health Services, and/or (b) children whose families have annual incomes no higher than the  
21 above standard who are charged according to a sliding fee scale such that the fees paid by any  
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1 family do not exceed the amount it would be charged, exclusive of subsidy, if the family were  
2 enrolled in the City of Seattle Child Care Subsidy Program.

3 (3) Child care space provided to satisfy bonus conditions shall be  
4 dedicated to child care use, consistent with the terms of this section, for twenty (20) years. The  
5 dedication shall be established by a recorded covenant, running with the land, and enforceable by  
6 the City, signed by the owner of the lot where the child care facility is located and by the owner  
7 of the lot where the bonus floor area is used, if different from the lot of the child care facility.  
8 The child care facility shall be maintained in operation, with adequate staffing, at least eleven  
9 (11) hours per day, five (5) days per week, fifty (50) weeks per year.

10  
11 (4) Exterior space for which a bonus is or has been allowed under  
12 any other section of this title or under former Title 24 shall not be eligible to satisfy the  
13 conditions of this section.

14  
15 (5) Unless the applicant is the owner of the child care space and is  
16 a duly licensed and experienced child care provider approved by the Director of the Human  
17 Services Department, the applicant shall provide to the Director a signed agreement, acceptable  
18 to such Director, with a duly licensed child care provider, under which the child care provider  
19 agrees to operate the child care facility consistent with the terms of this section and of the  
20 recorded covenant, and to provide reports and documentation to the City to demonstrate such  
21 compliance.  
22

23 (6) One (1) child care facility may fulfill the conditions for a bonus  
24 for more than one (1) project if it includes sufficient space, and provides sufficient slots  
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1 affordable to limited income families, to satisfy the conditions for each such project without any  
2 space or child care slot being counted toward the conditions for more than one (1) project. If the  
3 child care facility is located on the same lot as one of the projects using the bonus, then the  
4 owner of that lot shall be responsible for maintaining compliance with all the requirements  
5 applicable to the child care facility; otherwise responsibility for such requirements shall be  
6 allocated by agreement in such manner as the Director of the Human Services Department may  
7 approve. If a child care facility developed to qualify for bonus floor area by one applicant  
8 includes space exceeding the amount necessary for the bonus floor area used by that applicant,  
9 then to the extent that the voluntary agreement accepted by the Director of the Human Services  
10 Department from that applicant so provides, such excess space may be deemed provided by the  
11 applicant for a later project pursuant to a new voluntary agreement signed by both such  
12 applicants and by any other owner of the child care facility, and a modification of the recorded  
13 covenant, each in form and substance acceptable to such Director.  
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15

16 c. The Director of the Human Services Department shall review the design  
17 and proposed management plan for any child care facility proposed to qualify for bonus floor  
18 area to determine whether it will comply with the terms of this section. The allowance of bonus  
19 floor area is conditioned upon approval of the design and proposed management plan by the  
20 Director. The child care facility shall be constructed consistent with the design approved by such  
21 Director and shall be operated for the minimum twenty (20) year term consistent with the  
22 management plan approved by such Director, in each case with only such modifications as shall  
23 be approved by such Director. If the proposed management plan includes provisions for payment  
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1 of rent or occupancy costs by the provider, the management plan must include a detailed  
2 operating budget, staffing ratios, and other information requested by the Director to assess  
3 whether the child care facility may be economically feasible and able to deliver quality services.

4                   d. The Director of the Human Services Department is authorized to accept  
5 a voluntary agreement for the provision of a child care facility to satisfy bonus conditions and  
6 related agreements and instruments consistent with this section. The voluntary agreement may  
7 provide, in case a child care facility is not maintained in continuous operation consistent with  
8 this subsection B2 at any time within the minimum twenty (20) year period, for the City's right to  
9 receive payment of a prorated amount of the alternative cash contribution that then would be  
10 applicable to a new project seeking bonus floor area. Such Director may require security or  
11 evidence of adequate financial responsibility, or both, as a condition to acceptance of an  
12 agreement under this subsection.  
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15                   C. Cash Option Payments.

16                   1. Cash payments under voluntary agreements for bonuses shall be made prior to  
17 issuance of any building permit after the first building permit for a project, and in any event  
18 before any permit for any construction activity other than excavation and shoring is issued, or if  
19 the bonus is for use of existing floor area, the cash payment shall be made prior to issuance of  
20 any permit or modification allowing for use of such space as bonus floor area. Such payments  
21 shall be deposited in special accounts established solely to fund capital expenditures for low-  
22 income housing or child care facilities in the South Lake Union Urban Center.  
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1                   2. Such payments shall be deposited in special accounts established solely to fund  
2 expenditures for new child care facilities and housing as set forth in this section, including the  
3 City's costs to administer projects not to exceed 10% of the contributions.

4                   3. Housing that is funded with cash contributions shall be located in one of the  
5 following locations, listed in order of priority:

6                           a.. Within the South Lake Union Urban Center;

7                           b. Within one-half mile of a bus rapid transit stop or light rail station;

8                           c. Within an urban center or urban village west of I-5 and south of the  
9 Ship Canal.  
10

11                   4. The Housing Director may allow contributions of property in lieu of cash  
12 payments if the Director finds that the value of the property equals or exceeds cash payment that  
13 otherwise would be made, subject to acceptance of any real property by ordinance.  
14

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 housing needs resulting from increased density, beyond those needs that  
18 would otherwise exist, which the City and other governmental and charitable entities attempt to  
19 meet through various subsidy programs. Allowing bonus floor area under the performance option  
20 for housing that uses such subsidy programs therefore could undermine the intent of this section.  
21

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

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

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

13                   b. Independent of the requirements for the bonus, the housing is or would  
14 be subject to any restrictions on the use, occupancy or rents; or  
15

16                   c. The housing was required to be built by the City of Seattle as a  
17 requirement of the purchase and sale of property or for any other purpose.  
18

19                   4. Exceptions by Rule. The Housing Director of may provide, by rule  
20 promulgated after December 31, 2007, for terms and conditions on which exceptions to the  
21 restriction on subsidies in this subsection may be allowed. Such rule may provide that, as a  
22 condition to any exception, the Housing Director shall increase the amount of housing floor area  
23 per bonus square foot, as set forth in subsection B1 of this section, to an amount that allows  
24 credit for only the Director's estimate of the incremental effect, in meeting the City's housing  
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1 needs for the next fifty (50) years, of the net financial contribution that is being made by the  
2 applicant pursuant to the voluntary agreement and not funded or reimbursed, directly or  
3 indirectly, from any other source.

4 Section 9. A new Section 23.50.053 of the Seattle Municipal Code (SMC) is adopted to  
5 read as follows:

6 **23.50.053 Transfer of development rights within the South Lake Union Urban Center.**  
7

8 A. General Standards.

9 1. In order to achieve a portion of the bonus floor area that may be allowed  
10 pursuant to Section 23.50.051, an applicant may use transferable development rights from a lot  
11 with a Landmark structure located within the South Lake Union Urban Center, or from a lot on  
12 the same block as the lot using bonus floor area, to the extent permitted in Chart 23.50.053A,  
13 subject to the limits and conditions in this Chapter:  
14

15 **Chart 23.50.053 A**

Zones	Types of TDR	
	Within- block TDR	Landmark TDR
IC	S, R	S, R
SM with a mapped height limit lower than 85'	X	X
SM/R	X	X
SM-85	S	S
SM-125	S	S

22 S = Eligible sending lot, if in the South Lake Union Urban Center.

23 R = Eligible receiving lot, if in the area eligible for bonus floor area under Section 23.050.051..

24 X = Not permitted.  
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1                   2. TDR may be transferred as within-block TDR only from a lot to another lot on  
2 the same block that is eligible for bonus floor area under Section 23.50.051, to the extent  
3 permitted in Chart 23.50.053A, subject to limits and conditions in this chapter.

4                   3. A lot's eligibility to be either a sending or receiving lot is regulated by Chart  
5 23.50.053A.

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

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

14                   6. For purposes of this Section, the base FAR of any lot is the total maximum  
15 FAR allowable for chargeable floor area pursuant to the provisions of this Chapter, excluding  
16 Section 23.50.051, or pursuant to Chapter 23.48, as applicable to the sending lot, in each case not  
17 including any additional FAR that may be permitted pursuant to any exception, departure or  
18 waiver.  
19

20                   7. The Director may promulgate rules to implement his section.

21                   B. Standards for Sending Lots.

22                   1.           a. The maximum amount of floor area that may be transferred from a  
23 sending lot is the amount by which the product of the lot area times the base FAR of the sending  
24

1 lot exceeds the sum of any chargeable floor area existing plus any TDR previously transferred  
2 from the sending lot.

3                   b. For purposes of this subsection B1, the eligible lot area is the total area  
4 of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over  
5 one-quarter (1/4) of the total area of the footprints of all structures on the sending lot.  
6

7                   2. When TDR are transferred from a sending lot in a zone with a nonresidential  
8 FAR limit, the amount of chargeable floor area that may then be built on the sending lot shall be  
9 equal to the area of the lot multiplied by the base FAR, minus the total of:

10                   a. The existing chargeable floor area on the lot; plus

11                   b. The amount of chargeable floor area transferred from the lot.  
12

13                   3. Chargeable floor area allowed above the base FAR under any bonus provisions  
14 of this title or allowed under any exceptions or waivers of development standards, may not be  
15 transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the  
16 base FAR only to the extent, if any, that:

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

19                   b. Those TDR, together with the base FAR set in Section 23.48.016 B or  
20 in Section 23.50.028, exceed the chargeable floor area on the lot and any additional chargeable  
21 floor area for which any permit has been issued or for which any permit application is pending;  
22

23 and  
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1 c. The excess amount of TDR previously transferred to such lot would  
2 have been eligible for transfer from the original sending lot under the provisions of this section at  
3 the time of their original transfer from that lot.

4 6. Landmark structures on sending lots from which Landmark TDR are  
5 transferred shall be restored and maintained as required by the Landmarks Preservation Board.  
6

7 C. Limit on within-block TDR. Any receiving lot is limited to a gain of fifteen (15)  
8 percent of bonus floor area from TDR from sending lots that are eligible to send TDR solely  
9 because they are on the same block as the receiving lot.

10 D. Transfer of Development Rights Deeds and Agreements.

11 1. The fee owners of the sending lot shall execute a deed and shall obtain the  
12 release of the TDR from all liens of record and the written consent of all holders of  
13 encumbrances on the sending lot other than easements and restrictions, unless (in the case of  
14 TDR from a housing TDR site or Landmark housing TDR site) such release or consent is waived  
15 by the Housing Director of for good cause. The deed shall be recorded in the King County real  
16 property records. When TDR are conveyed to the owner of a receiving lot described in the deed,  
17 then unless otherwise expressly stated in the deed or any subsequent instrument conveying such  
18 lot or the TDR, the TDR shall pass with the receiving lot whether or not a structure using such  
19 TDR shall have been permitted or built prior to any conveyance of the receiving lot. Any  
20 subsequent conveyance of TDR previously conveyed to a receiving lot shall require the written  
21 consent of all parties holding any interest in or lien on the receiving lot from which the  
22 conveyance is made. If the TDR are transferred other than directly from the sending lot to the  
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1 receiving lot using the TDR, then after the initial transfer, all subsequent transfers also shall be  
2 by deed, duly executed, acknowledged and recorded, each referring by King County recording  
3 number to the prior deed.

4           2. Any person may purchase any TDR that are eligible for transfer by complying  
5 with the applicable provisions of this section, whether or not the purchaser is then an applicant  
6 for a permit to develop real property. Any purchaser of such TDR (including any successor or  
7 assignee) may use such TDR to obtain floor area above the applicable base on a receiving lot to  
8 the extent such use of TDR is permitted under the Land Use Code provisions in effect on the  
9 date of vesting, under applicable law, of such person's rights with respect to the issuance of  
10 permits for development of the project intended to use such TDR. The Director may require, as a  
11 condition of processing any permit application using TDR or for the release of any security  
12 posted in lieu of a deed for TDR to the receiving lot, that the owner of the receiving lot  
13 demonstrate that the TDR have been validly transferred of record to the receiving lot, and that  
14 such owner has recorded in the real estate records a notice of the filing of such permit  
15 application, stating that such TDR are not available for retransfer.

16           3. For transfers of Landmark TDR, the owner of the sending lot shall execute and  
17 record an agreement in form and content acceptable to the Landmarks Preservation Board  
18 providing for the restoration and maintenance of the historically significant features of the  
19 structure or structures on the lot.

20           4. A deed conveying TDR may require or permit the return of the TDR to the  
21 sending lot under specified conditions, but notwithstanding any such provisions:  
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1 a. The transfer of TDR to a receiving lot shall remain effective so long as  
2 any portion of any structure for which a permit was issued based upon such transfer remains on  
3 the receiving lot; and

4 b. The City shall not be required to recognize any return of TDR unless it  
5 is demonstrated that all parties in the chain of title have executed, acknowledged and recorded  
6 instruments conveying any interest in the TDR back to the sending lot and any lien holders have  
7 released any liens thereon.  
8

9 5. Any agreement governing the use or development of the sending lot shall  
10 provide that its covenants or conditions shall run with the land and shall be specifically  
11 enforceable by The City of Seattle.  
12

13 E. Time of Determination of TDR Eligible for Transfer. The eligibility of a sending lot to  
14 transfer TDR, and the amount transferable from a sending lot, shall be determined as of the date  
15 of transfer from the sending lot and shall not be affected by the date of any application, permit  
16 decision or other action for any project seeking to use such TDR.  
17

18 F. Use of Previously Transferred TDR by New Projects. Any project using TDR  
19 according to applicable limits on types and amounts of TDR in Sections 23.50.051 and  
20 23.50.053 may use TDR that were transferred from the sending lot consistent with the provisions  
21 of this title in effect at the time of such transfer.  
22

23 Section 10. Section 23.90.018 of the Seattle Municipal Code, which section was last  
24 amended by Ordinance 122407 is amended as follows:  
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1 **23.90.018 Civil enforcement proceedings and penalties.**

2           A. In addition to any other remedy authorized by law or equity, any person violating or  
3 failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty  
4 of up to One Hundred Fifty Dollars (\$150.00) per day for each violation from the date the  
5 violation begins for the first ten (10) days of noncompliance; and up to Five Hundred Dollars  
6 (\$500) per day for each violation for each day beyond ten (10) days of noncompliance until  
7 compliance is achieved, except as provided in subsection B of this section. In cases where the  
8 Director has issued a notice of violation, the violation will be deemed to begin for purposes of  
9 determining the number of days of violation on the date compliance is required by the notice of  
10 violation.  
11 violation.

12           B. Specific Violations.

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

16           2. Violations of the requirements of Section 23.44.041C are subject to a civil  
17 penalty of Five Thousand Dollars (\$5,000), which shall be in addition to any penalty imposed  
18 under subsection A of this section.  
19

20           3. Violation of Section 23.49.011, ~~((or))~~ 23.49.015 or 23.50.051 with respect to  
21 failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy  
22 alternative standards under ~~((either))~~ any such Section are subject to penalty in amounts  
23 determined under Section 23.49.020, and not to any other penalty.  
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1 C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal  
2 Court except as otherwise required by law or court rule. The Director shall request in writing  
3 that the City Attorney take enforcement action. The City Attorney shall, with the assistance of  
4 the Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this  
5 chapter, the City has the burden of proving by a preponderance of the evidence that a violation  
6 exists or existed. The issuance of the notice of violation or of an order following a review by  
7 the Director is not itself evidence that a violation exists.  
8

9 D. Except in cases of violations of Section 23.49.011, ~~((or))~~ 23.49.015, or 23.50.051 with  
10 respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings or  
11 satisfy alternative standards, the violator may show as full or partial mitigation of liability:  
12

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

15 2. That correction of the violation was commenced promptly, but that full  
16 compliance within the time specified was prevented by inability to obtain necessary materials or  
17 labor, inability to gain access to the subject structure, or other condition or circumstance beyond  
18 the control of the defendant.  
19

20 Section 11. Subsection B of Section 23.90.020 of the Seattle Municipal Code, which  
21 section was last amended by Ordinance 122407 is amended as follows:

22 **23.90.020. Alternative criminal penalty.**

23 \* \* \*

1 B. A criminal penalty, not to exceed Five Thousand Dollars (\$5,000) per occurrence, may  
2 be imposed:

3 1. For violations of Section 23.90.002 D;

4 2. For any other violation of this Code for which corrective action is not possible,  
5 other than violations with respect to commitments to earn LEED Silver ratings or satisfy  
6 alternative standards under SMC 23.49.011, ~~((or))~~23.49.015, or 23.50.051; and  
7

8 3. For any ~~((willful))~~willful, intentional, or bad faith failure or refusal to comply  
9 with the standards or requirements of this Code.

10  
11 Section 12. This ordinance shall take effect and be in force thirty (30) days from and  
12 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)  
13 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

14 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2007, and signed by me in  
15 open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2007.  
16

17  
18  
19 \_\_\_\_\_  
20 President \_\_\_\_\_ of the City Council

21 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2007.  
22

23  
24 \_\_\_\_\_  
25 Gregory J. Nickels, Mayor  
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Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2007.

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

(Seal)