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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to land use and zoning amending Sections 23.49.008, 23.49.011, 23.76.004, and 23.76.006 of the Seattle Municipal Code; to allow voluntary setbacks and extra height in the Downtown Office Core 2 zone to increase separations between existing residential towers and new towers.

..body

WHEREAS, in April 2017, the City Council passed Ordinance 125291, which increased height and density in some neighborhoods in the Downtown and South Lake Union Urban Centers to implement Mandatory Housing Affordability requirements; and

WHEREAS, Section 46 of Ordinance 125291 established the Council’s intent to consider a bill authorizing the Director of the Seattle Department of Construction and Inspections to increase height or density limits for new development in DOC2 zones that “voluntarily provides a greater separation than would otherwise be required from existing residential towers on the same block;” and

WHEREAS, increased separation from existing residential towers can increase penetration of light and air to residences and reduce conflicts between uses in adjacent towers; NOW

THEREFORE

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.49.008 of the Seattle Municipal Code, last amended by Ordinance 125291, 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 ***

6 F. In the DOC2 zone, as a Type I decision, the Director may increase the maximum
7 height for residential uses to 640 feet provided that:

8 1. The development is located on a block with an existing tower that exceeds 160
9 feet in height and has at least 50% of gross floor area in residential use; and

10 2. The development abuts the lot with the existing tower or is immediately across
11 an alley from the existing tower; and

12 3. The average residential gross floor area per story above a height of 85 feet is
13 not more than 11,200 square feet; and

14 4. All portions of the development above a height of 85 feet are set back from the
15 lot line closest to lot with the existing tower by:

16 a. at least 15 feet, if the lot on which the development is located is
17 separated from the lot with the existing tower by an alley; or

18 b. at least 30 feet, if the lot on which the development is located abuts the
19 lot with the existing tower.

20 5. For the purposes of this subsection 23.49.008.F, a tower is “existing” if it
21 meets the requirements of 23.49.058.D.7.

22 Section 2. Section 23.49.011 of the Seattle Municipal Code, last amended by Ordinance
23 125291, is amended as follows:

1 **23.49.011 Floor area ratio**

2 A. General standards

3 1. The base and maximum floor area ratio (FAR) for each zone is provided in

4 Table A for 23.49.011.

Table A for 23.49.011 Base and maximum floor area ratios (FARs)		
Zone designation	Base FAR	Maximum FAR
Downtown Office Core 1 (DOC1)	6	21
Downtown Office Core 2 (DOC2)	5	15
Downtown Retail Core (DRC)	3	6
Downtown Mixed Commercial (DMC)	4 in DMC 75 4.5 in DMC 95 5 in DMC 145, DMC 170, DMC 240/290-440, and DMC 340/290-440 3 in DMC 85/65- 150	5 in DMC 75 5.5 in DMC 95 6 in DMC 170, except 9 for hotels 8 in DMC 145 and DMC 240/290-440 11 in DMC 340/290-440 5 in DMC 85/65-150
Downtown Mixed Residential/Residential (DMR/R)	1 in DMR/R 95/65 1 in DMR/R 145/65 1 in DMR/R 280/65	1.5 in DMR/R 95/65 2.5 in DMR/R 145/65 2.5 in DMR/R 280/65
Downtown Mixed Residential/Commercial (DMR/C)	1 in DMR/C 95/75 1 in DMR/C 145/75 2 in DMR/C 280/125 2.5 in DMR/C 65/65-85 2.5 in DMR/C 65/65-150	4.5 in DMR/C 95/75 4.5 in DMR/C 145/75 5.5 in DMR/C 280/125 4 in DMR/C 65/65-85 4 in DMR/C 65/65-150
Pioneer Square Mixed (PSM)	NA ⁽¹⁾	NA ⁽¹⁾
International District Mixed (IDM)	3, except 6 for hotels ⁽²⁾ , in IDM 75-85 and IDM 75/85-150 3 in IDM 150/85- 150	3, except 6 for hotels ⁽²⁾ , in IDM 75- 85 and IDM 75/85-150 6 in IDM 150/85-150
International District Residential (IDR)	1	2 if 50 percent or more of the total gross floor area

		on the lot is in residential use
International District Residential/Commercial (IDR/C)	3, except 6 for hotels ⁽²⁾	3, except 6 for hotels ⁽²⁾
Downtown Harborfront 1 (DH1)	NA	NA
Downtown Harborfront 2 (DH2)	2.5	Development standards regulate maximum FAR
Pike Market Mixed (PMM)	7	7

Footnotes to Table A for 23.49.011

⁽¹⁾NA = Not Applicable, except in subsection 23.49.180.E.

⁽²⁾In the IDM 75-85 and IDM 75/85-150 zones, hotel use may be combined with up to 3 FAR of other chargeable floor area, up to a total of 6 FAR.

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

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

Table B for 23.49.011	
First increment of FAR above the base FAR achieved acquisition of regional development credits	
Zone	FAR
All DOC1 zones	1.0
All DOC2 zones	0.75
DMC 340/290-440	0.50
DMC 145, DMC 170, DMC 240/290-440	0.25

10

1 b. In DOC1, DOC2, DH2, and DMC zones outside of South Downtown,
2 additional chargeable floor area above the first increment of FAR that exceeds the base FAR
3 may be obtained only by qualifying for floor area bonuses pursuant to Section 23.49.012 or
4 Section 23.49.013, or by the transfer of TDR pursuant to Section 23.49.014, or both, except as
5 otherwise expressly provided in this subsection 23.49.011.A.2. If the requirements of subsection
6 23.49.011.A.2.a do not apply, the first increment of floor area that exceeds the base FAR shall be
7 zero.

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

15 d. Except as otherwise provided in this subsection 23.49.011.A.2.d or
16 subsections 23.49.011.A.2.f or 23.49.011.A.2.h, and except in South Downtown, not less than
17 five percent of all floor area above the base FAR to be gained on any lot, excluding any floor
18 area gained under subsections 23.49.011.A.2.a, 23.49.011.A.2.j, and 23.49.011.A.2.k, shall be
19 gained through the transfer of Landmark TDR, to the extent that Landmark TDR are available.
20 Landmark TDR shall be considered "available" only to the extent that, at the time of the Master
21 Use Permit application to gain the additional floor area, The City of Seattle is offering Landmark
22 TDR for sale, at a price per square foot no greater than the total bonus contribution under Section
23 23.49.012 for a project using the cash option for both housing and child care facilities. An

1 applicant may satisfy the minimum Landmark TDR requirement in this Section 23.49.011 by
2 purchases from private parties, by transfer from an eligible sending lot owned by the applicant,
3 by purchase from the City, or by any combination of the foregoing. This subsection
4 23.49.011.A.2.d does not apply to any lot in a DMR zone.

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

11 1) The base FAR, as determined under this Section 23.49.011 and
12 Section 23.49.032 if applicable, plus

13 2) Any chargeable floor area gained on the lot pursuant to
14 subsections 23.49.011.A.2.a, 23.49.011.A.2.g, 23.49.011.A.2.h, 23.49.011.A.2.j, and

15 23.49.011.A.2.k. Except in South Downtown, at least half of the remaining 25 percent shall be
16 gained by using TDR from a sending lot with a major performing arts facility, to the extent
17 available, and the balance of the 25 percent shall be gained through bonuses under Section
18 23.49.013 or through TDR other than housing TDR, or both, consistent with this Chapter 23.49.

19 TDR from a sending lot with a major performing arts facility shall be considered "available" only
20 to the extent that, at the time of the Master Use Permit application to gain the additional floor
21 area, The City of Seattle is offering such TDR for sale, at a price per square foot not exceeding
22 the prevailing market price for TDR other than housing TDR, as determined by the Director.

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

3 1) Use any types of TDR eligible under this Chapter 23.49 in any
4 proportions; or

5 2) Use bonuses under Section 23.49.012 or 23.49.013, or both,
6 subject to the limits for particular types of bonus under Section 23.49.013; or

7 3) Combine such TDR and bonuses in any proportions.

8 g. On any lot in a DMC 145 or DMC 240/290-440 zone, in addition to the
9 provisions of subsection 23.49.011.A.2.e, an applicant may gain chargeable floor area above the
10 first increment of FAR above the base FAR through use of DMC housing TDR, or any
11 combination of DMC housing TDR with floor area gained through other TDR and bonuses as
12 prescribed in subsection 23.49.011.A.2.e.

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

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

20 j. On a lot entirely in a DOC1 zone, additional chargeable floor area equal
21 to 1.0 FAR may be permitted above the increment achieved through a commitment as prescribed
22 in subsection 23.49.011.A.2.a, or above the base FAR after expiration of that subsection

1 23.49.011.A.2.a, on a lot that includes one or more qualifying Landmarks, subject to the
2 following conditions:

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

8 2) A notice shall be recorded with the King County Recorder's
9 Office, in form satisfactory to the Director, regarding the bonus allowed and the effect thereof
10 under the terms of this Chapter 23.49. For purposes of this Section 23.49.011, a "qualifying
11 Landmark" is a structure that:

12 a) Has a gross floor area above grade of at least 5,000
13 square feet;

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

17 c) Is subject, in whole or in part, to a designating ordinance
18 pursuant to Chapter 25.12, or was designated pursuant to Ordinance 102229; and

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

1 floor area allowed under this subsection 23.49.011.A.2.j remains on the lot, each qualifying
2 Landmark for which such bonus was granted shall remain designated as a Landmark under
3 Chapter 25.12 and the owner shall maintain the exterior and interior of each qualifying
4 Landmark in good condition and repair and in a manner that preserves the features and
5 characteristics that are subject to designation or controls by ordinance, and that maintains
6 compliance with all applicable requirements of federal, state and local laws, ordinances,
7 regulations, and restrictions.

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

14 1) A "qualifying small structure" is one that satisfies all of the
15 following standards:

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

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

20 c) The structure was not constructed or substantially
21 structurally modified since July 13, 1982; and

22 d) The structure is not occupied by parking above the
23 ground floor.

1 c) Programmed use of the Landmark structure by other
2 activities during periods when the structure is not in use for live performances; and

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

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

8 d. A lot that uses the additional base FAR on the site as allowed by this
9 subsection 23.49.011.A.3 is not allowed to gain chargeable floor area under subsection
10 23.49.011.A.2.j.

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

15 4. In the DOC2 zone, as a Type I decision, the Director may increase the
16 maximum FAR by an additional .33 FAR provided that:

17 a. The development is located on a block with an existing tower that
18 exceeds 160 feet in height and has at least 50% of gross floor area in residential use; and

19 b. The development abuts the lot with the existing tower or is immediately
20 across an alley from the existing tower; and

21 c. All portions of the development above a height of 85 feet are set back
22 from the lot line closest to the lot with the existing tower by:

**Table A for 23.76.004
 LAND USE DECISION FRAMEWORK¹**

**Director's and Hearing Examiner's Decisions Requiring Master Use Permits
 TYPE I**

Director's Decision

(Administrative review through land use interpretation as allowed by Section 23.88.020²)

*	Application of development standards for decisions not otherwise designated Type II, III, IV, or V
*	Uses permitted outright
*	Temporary uses, four weeks or less
*	Renewals of temporary uses, except for temporary uses and facilities for light rail transit facility construction and transitional encampments
*	Intermittent uses
*	Interim use parking authorized under subsection 23.42.040.G
*	Uses on vacant or underused lots pursuant to Section 23.42.038
*	Transitional encampment interim use
*	Certain street uses
*	Lot boundary adjustments
*	Modifications of features bonused under Title 24
*	Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation
*	Temporary uses for relocation of police and fire stations
*	Exemptions from right-of-way improvement requirements
*	Special accommodation
*	Reasonable accommodation
*	Minor amendment to a Major Phased Development permit
*	Determination of whether an amendment to a property use and development agreement is major or minor
*	Streamlined design review decisions pursuant to Section 23.41.018; if no development standard departures are requested, and design review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested
*	Shoreline special use approvals that are not part of a shoreline substantial development permit
*	Adjustments to major institution boundaries pursuant to subsection 23.69.023.B
*	Determination that a project is consistent with a planned action ordinance
*	Decision to approve, condition, or deny, based on SEPA policies, a permit for a project determined to be consistent with a planned action ordinance
*	<u>Decision to increase the maximum height for residential uses in the DOC2 zone according to subsection 23.49.008.F</u>

Table A for 23.76.004 LAND USE DECISION FRAMEWORK¹	
*	<u>Decision to increase the maximum allowable FAR in the DOC2 zone according to subsection 23.49.011.A.4</u>
*	Other Type I decisions that are identified as such in the Land Use Code
TYPE II Director's Decision (Appealable to Hearing Examiner or Shorelines Hearing Board ³)	
*	Temporary uses, more than four weeks, except for temporary relocation of police and fire stations
*	Variances
*	Administrative conditional uses
*	Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit ³
*	Short subdivisions
*	Special exceptions
*	Design review decisions, except for streamlined design review pursuant to Section 23.41.018 if no development standard departures are requested, and except for design review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested
*	Light rail transit facilities
*	The following environmental determinations: 1. Determination of non-significance (EIS not required) 2. Determination of final EIS adequacy 3. Determinations of significance based solely on historic and cultural preservation 4. A decision to condition or deny a permit for a project based on SEPA policies, except for a project determined to be consistent with a planned action ordinance
*	Major Phased Developments
*	Downtown Planned Community Developments
*	Determination of public benefit for combined lot development
*	Other Type II decisions that are identified as such in the Land Use Code
TYPE III Hearing Examiner's Decision (No Administrative Appeal)	
*	Subdivisions (preliminary plats)
COUNCIL LAND USE DECISIONS TYPE IV (Quasi-Judicial)	
*	Amendments to the Official Land Use Map (rezones), except area-wide amendments and correction of errors

Table A for 23.76.004 LAND USE DECISION FRAMEWORK¹	
*	Public projects that require Council approval
*	Major Institution master plans, including major amendments, renewal of a master plan’s development plan component, and master plans prepared pursuant to subsection 23.69.023.C after an acquisition, merger, or consolidation of major institutions
*	Major amendments to property use and development agreements
*	Council conditional uses
*	Other decisions listed in subsection 23.76.036.A
TYPE V (Legislative)	
*	Land Use Code text amendments
*	Area-wide amendments to the Official Land Use Map
*	Corrections of errors on the Official Land Use Map due to cartographic and clerical mistakes
*	Concept approvals for the location or expansion of City facilities requiring Council land use approval
*	Major Institution designations and revocations of Major Institution designations
*	Waivers or modifications of development standards for City facilities
*	Adoption of or amendments to Planned Action Ordinances
*	Other decisions listed in subsection 23.76.036.C
<p>Footnotes for Table A for 23.76.004:</p> <p>¹ Sections 23.76.006 and 23.76.036 establish the types of land use decisions in each category. This Table A for 23.76.004 is intended to provide only a general description of land use decision types.</p> <p>² Type I decisions may be subject to administrative review through a land use interpretation pursuant to Section 23.88.020.</p> <p>³ Shoreline decisions, except shoreline special use approvals that are not part of a shoreline substantial development permit, are appealable to the Shorelines Hearings Board along with all related environmental appeals.</p>	

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Section 4. Subsection 23.76.006.B of the Seattle Municipal Code, which section was last amended by Ordinance 125291, is amended as follows:

23.76.006 Master Use Permits required

* * *

1 B. The following decisions are Type I:

2 1. Determination that a proposal complies with development standards;

3 2. Establishment or change of use for uses permitted outright, interim use parking
4 under subsection 23.42.040.G, uses allowed under Section 23.42.038, temporary relocation of
5 police and fire stations for 24 months or less, transitional encampment interim use, temporary
6 uses for four weeks or less not otherwise permitted in the zone, and renewals of temporary uses
7 for up to six months, except temporary uses and facilities for light rail transit facility construction
8 and transitional encampments;

9 3. The following street use approvals:

10 a. Curb cut for access to parking whether associated with a development
11 proposal or not;

12 b. Concept approval of street improvements associated with a
13 development proposal, such as additional on-street parking, street landscaping, curbs and gutters,
14 street drainage, sidewalks, and paving;

15 c. Structural building overhangs associated with a development proposal;

16 d. Areaways associated with a development proposal;

17 4. Lot boundary adjustments;

18 5. Modification of the following features bonused under Title 24:

19 a. Plazas;

20 b. Shopping plazas;

21 c. Arcades;

22 d. Shopping arcades; and

23 e. Voluntary building setbacks;

1 6. Determinations of Significance (determination that an Environmental Impact
2 Statement is required) for Master Use Permits and for building, demolition, grading, and other
3 construction permits (supplemental procedures for environmental review are established in
4 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of
5 Significance based solely on historic and cultural preservation;

6 7. Discretionary exceptions for certain business signs authorized by subsection
7 23.55.042.D;

8 8. Waiver or modification of required right-of-way improvements;

9 9. Special accommodation pursuant to Section 23.44.015;

10 10. Reasonable accommodation;

11 11. Minor amendment to Major Phased Development Permit;

12 12. Determination of public benefit for combined lot development;

13 13. Streamlined design review decisions pursuant to Section 23.41.018 if no
14 development standard departures are requested pursuant to Section 23.41.012, and design review
15 decisions in an MPC zone if no development standard departures are requested pursuant to
16 Section 23.41.012;

17 14. Shoreline special use approvals that are not part of a shoreline substantial
18 development permit;

19 15. Determination that a project is consistent with a planned action ordinance,
20 except as provided in subsection 23.76.006.C;

21 16. Decision to approve, condition, or deny, based on SEPA policies, a permit for
22 a project determined to be consistent with a planned action ordinance;

