
Council Bill Number: 117235

Ordinance Number: 123776

AN ORDINANCE relating to land use and zoning; amending Sections 22.900G.010, 22.900G.015, 23.41.012, 23.47A.012, 23.73.009, 23.73.010, and 23.84A.038, and adding new Sections 23.73.005, 23.73.012, 23.73.014, 23.73.016, 23.73.018, and 23.73.024 to the Seattle Municipal Code, and amending the fee schedules for the Department of Neighborhoods and Office of Housing, in order to designate a Conservation Core area within the Pike/Pine Conservation Overlay District and to establish and administer a transfer of development potential program for the Conservation Overlay District to better preserve and enhance the character of the Pike/Pine neighborhood.

Status: Passed as amended

Note: Originally referred to Seattle Public Utilities and Neighborhoods Committee on 7/18/11.

Vote: 8-0 (Excused: Rasmussen)

Date filed with the City Clerk: 2011/12/19

Date of Mayor's signature: 2011/12/14 ([about the signature date](#))

Date introduced/referred to committee: 2011/07/18

Committee: Built Environment

Sponsor: CLARK; RASMUSSEN

Committee Recommendation: Pass as amended

Date of Committee Recommendation: 2011/11/16

Committee Vote: 5 (Clark, Bagshaw, Burgess, Conlin, Rasmussen) - 0

Index Terms: RELIGIOUS-INSTITUTIONS, HOMELESS, LAND-USE-REGULATIONS, ZONING, PUBLIC-REGULATIONS, CAMPS

Fiscal Note: [Fiscal Note to Council Bill No. 117235](#)

Electronic Copy: [PDF scan of Ordinance No. 123776](#)

Reference: Related: [C.F. 311196](#)

Text:

AN ORDINANCE relating to land use and zoning; amending Sections 22.900G.010, 22.900G.015, 23.41.012, 23.47A.012, 23.73.009, 23.73.010, and 23.84A.038, and adding new Sections 23.73.005, 23.73.012, 23.73.014, 23.73.016, 23.73.018, and 23.73.024 to the Seattle Municipal Code, and amending the fee schedules for the Department of Neighborhoods and Office of Housing, in order to designate a Conservation Core area within the Pike/Pine Conservation Overlay District and to establish and administer a transfer of development potential program for the Conservation Overlay District to better preserve and enhance the character of the Pike/Pine neighborhood.

WHEREAS, in response to the 1991 Pike/Pine Planning Study sponsored and conducted by a coalition of Pike/Pine neighborhood and civic groups, business and property owners, and residents, the Pike/Pine Overlay District was established to preserve and enhance the area's mixed-use character; and

WHEREAS, in March 1999, the City Council adopted Ordinance 119413 amending the City's Comprehensive Plan to include key goals and policies from the 1998 Pike/Pine Urban Center Village Plan, which reaffirmed the neighborhood's commitment to mixed-use development, while identifying additional priorities including: (1) sustaining the character of Pike/Pine through implementation of urban design recommendations and policy changes, and (2) considering a "conservation district" for the neighborhood; and

WHEREAS, in July 2009, the City Council adopted Ordinance 123020, renaming the overlay district the Pike/Pine Conservation Overlay District, expanding its boundaries, and adding provisions that: limit the scale of new projects, encourage new projects to retain existing structures as part of a development site, provide spaces for small businesses at street level, accommodate facilities serving the arts, and further the preservation and enhancement of the unique character of the Pike/Pine neighborhood; and

WHEREAS, in September, 2010, the City Council adopted Ordinance 123392, which revised the Neighborhood Design Guidelines for the Pike/Pine Urban Center Village to better reflect conservation goals and update the text and illustrations to clarify community priorities; and

WHEREAS, establishing a transfer of development potential (TDP) program will further the conservation goals of the Pike/Pine neighborhood; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new subsection F of Section 22.900G.010 of the Seattle Municipal Code, which section was last amended by Ordinance 123453, is added to read as follows:

22.900G.010 Fees for Department of Neighborhoods review((--))

The following fees shall be collected by the Director of the Department of Neighborhoods and deposited in the General Fund.

* * *

F. Requests for reviewing character structure TDP sending sites in the Pike/Pine Conservation Overlay District. The Department of Neighborhoods' hourly review fee for determining whether a character structure may, if requested by a property owner, be added to the list of character structures in the Department of Planning Development Director's Rule promulgated according to Section 23.73.005, is \$250 per hour.

Section 2. Subsection A of Section 22.900G.015 of the Seattle Municipal Code, which section was enacted by Ordinance 123589, is amended as follows:

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

A. An applicant for a land use permit who seeks to obtain extra floor area pursuant to Sections 23.48.011, 23.49.012, 23.49.014, 23.49.015, 23.49.181, 23.50.052, 23.50.053, 23.58A.014, ~~((--))~~ 23.58A.024, or 23.73.0024 shall pay a fee in the amount of \$550 to the Office of Housing for review of the application.

* * *

Section 3. Subsection E of Section 23.41.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123392, is amended as follows:

23.41.012 Development standard departures

* * *

E. Departures for retaining character structures on lots in the Pike/Pine Conservation Overlay District. Departures from the conditions in subsections ~~((23.73.010.C.2))~~ 23.73.010.B.2.b and ~~((23.73.010.F.2))~~ 23.73.014.B.2 when retaining a character structure as part of a new project may be granted if the following conditions are met:

1. The retained portion of the character structure is sufficient to give the appearance of a free-standing structure; or

2. The newly-constructed portion of the project, through vertical or horizontal modulation or other design treatments, generally provides for better integration of the physical appearance and arrangement of interior spaces between the character structure and the new project than would occur through the strict application of subsection ((~~23.73.010.C.1~~)) 23.73.010.B.2.b or 23.73.014.B.2; or

3. Additional flexibility is necessary to maintain a character structure on a small development lot that is 8,000 square feet or less in size; and

4. The ground story of the character structure can accommodate the elements of the proposed new structure, such as a mezzanine or additional story, while maintaining the original character of the character structure by: retaining sufficient portions of the ground floor that are visible from the street at the original floor to ceiling height, through appropriate placement and design of the new structure, or through other design means that are consistent with the Pike/Pine Urban Center Design Guidelines.

Section 4. Subsection A of Section 23.47A.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123649, is amended as follows:

23.47A.012 Structure Height

A. The height limit for structures in NC zones or C zones is 30 feet, 40 feet, 65 feet, 85 feet, 125 feet, or 160 feet, as designated on the Official Land Use Map, Chapter 23.32. Structures may not exceed the applicable height limit, except as otherwise provided for in this Section 23.47A.012. Within the South Lake Union Urban Center, any modifications or exceptions to maximum structure height are allowed solely according to the provisions of the Seattle Mixed Zone, subsections 23.48.010.B.1, 23.48.010.B.2, 23.48.010.B.3, 23.48.010.E and 23.48.010.F, and not according to the provisions of this Section 23.47A.012. An overlay district may increase or reduce the maximum structure height.

1. In zones with a 30 foot or 40 foot mapped height limit:

a. ((~~the~~)) The height of a structure may exceed the otherwise applicable limit by up to 4 feet, subject to subsection 23.47A.012.A.1.c, provided the following conditions are met:

1) Either:

a) A floor-to-floor height of 13 feet or more is provided for nonresidential uses at street level; or

b) A residential use is located on a street-level, street-facing facade, and the first floor of the structure at or above grade is at least 4 feet above sidewalk grade; and

2) The additional height allowed for the structure will not allow an additional story beyond the number that could be built under the otherwise applicable height limit.

b. The height of a structure may exceed the otherwise applicable limit by up to 7 feet, subject to subsection 23.47A.012.A.1.c, provided all of the following conditions are met:

1) Residential and multipurpose retail sales uses are located in the same structure;

2) The total gross floor area of at least one multi-purpose retail sales use exceeds 12,000 square feet;

3) A floor-to-floor height of 16 feet or more is provided for the multi-purpose retail sales use at street level;

4) The additional height allowed for the structure shall not allow an additional story beyond the number that could be built under the otherwise applicable height limit if a ((~~16 foot~~)) floor-to-floor height of 16 feet were not provided at street level; and

5) The structure is not allowed additional height under subsection 23.47A.012.A.1.a.

c. The Director shall reduce or deny the additional structure height (~~((permitted))~~ allowed by this subsection 23.47A.012.A.1 if the additional height would significantly block views from neighboring residential structures of any of the following: Mount Rainier, the Olympic and Cascade Mountains, the downtown skyline, Green Lake, Puget Sound, Lake Washington, Lake Union, (~~((and))~~ or the Ship Canal.

2. For any lot within the designated areas shown on Map A for 23.47A.012, the height limit in NC zones or C zones designated with a 40-foot height limit on the Official Land Use Map may be increased to 65 feet and may contain floor area as permitted for a 65 foot zone, (~~((pursuant))~~ according to 23.47A.013, provided that all portions of the structure above 40 feet contain only residential uses, and provided that no additional height is allowed under subsection 23.47A.012.A.1.

Map A for 23.47A.012



3. Within the South Lake Union Urban Center, maximum structure height shall be determined (~~((pursuant))~~ according to the provisions of the Seattle Mixed Zone, Section 23.48.010.

4. Within the Station Area Overlay District within the University District Northwest Urban Center Village, maximum structure height may be increased to 125 feet when all of the following are met:

a. The lot is within two blocks of a planned or existing light rail station;

b. The proposed use of the lot is functionally related to other office development, permitted prior to 1971, to have over 500,000 square feet of gross floor area to be occupied by a single entity;

c. A transportation management plan for the life of the use includes incentives for light rail and other transit use by the employees of the office use;

d. The development shall provide street level amenities for pedestrians and shall be designed to promote pedestrian interest, safety, and comfort through features such as landscaping, lighting and transparent facades, as determined by the Director; and

e. This subsection 23.47A.012.A.4 can be used only once (~~((per))~~ for each (~~((functionally related))~~ development that is functionally related).

5. On a lot containing a peat settlement-prone environmentally critical area, the height of a structure may exceed the otherwise applicable height limit and the other height allowances provided by this (~~((section))~~ Section 23.47A.012 by up to 3 feet. In addition, 3 more feet of height may be allowed for any wall of a structure on a sloped lot, provided that on the uphill (~~((side(s))~~ sides of the structure, the maximum elevation of the structure height shall be no greater than the height allowed by the first sentence of this subsection 23.47A.012.A.5. The Director may apply the allowances in this subsection 23.47A.012.A.5 only if the following conditions are met:

a. The Director finds that locating a story of parking underground is infeasible due to physical site conditions such as a high water table;

b. The Director finds that the additional height allowed for the structure is necessary to accommodate parking located partially below grade that extends no more than 6 feet above existing or finished grade and no more than 3 feet above the highest existing or finished grade along the structure footprint, whichever is lower, as measured to the finished floor level above; and

c. Other than the additional story of parking allowed (~~((pursuant))~~ according to this subsection 23.47A.012.A.5, the additional height allowed for the structure by subsection 23.47A.012.A.5 shall not allow an additional story beyond the number of stories that could be built under the otherwise applicable height limit.

6. In zones that are located within the Pike/Pine Conservation Overlay District with a (~~((65-foot))~~) mapped height limit of 65 feet, or with a mapped height limit of 40 (~~((foot mapped height limit))~~) feet with provisions allowing for additional height up to 65 feet (~~((pursuant))~~ according to subsection 23.47A.012.A.2, ~~((that are located within the Pike/Pine Conservation Overlay District,))~~ the provisions of Section (~~((23.73.010))~~) 23.73.014 apply.

* * *

Section 5. A new Section 23.73.005 is added to the Seattle Municipal Code, to read as follows:

23.73.005 Adoption of rules to implement Pike/Pine Conservation Overlay District Regulations

A. The Director shall promulgate a rule, which shall be periodically updated to reflect changed conditions, listing the character structures that meet the following criteria:

1. The structure retains a high degree of architectural integrity;
2. The structure represents the Pike/Pine neighborhood's building typology, which is characterized by use of exterior materials and design elements such as masonry (especially brick) and timber structures; multi-use loft spaces; very high, fully glazed storefront windows; and decorative details such as cornices, emblems and embossed building names;
3. The structure is compatible with the architectural scale, rhythm, and patterns of nearby structures in the Pike/Pine neighborhood.

B. A character structure may be added to the list described in subsection 23.73.005.A by the Director in consultation with the Director of the Department of Neighborhoods.

Section 6. Subsections A and C of Section 23.73.009 of the Seattle Municipal Code, which section was enacted by Ordinance 123020, are amended as follows:

23.73.009 Floor Area Ratio

A. The floor area ratio (FAR) limits of the underlying zones for residential use apply to all structures and lots within the boundaries of the Pike/Pine Conservation Overlay District, except as provided in this Section 23.73.009 and in Section 23.73.024 for projects using transfer of development potential.

* * *

C. In addition to the floor area exempt under the provisions of the underlying zone, the following floor area is exempt from the calculation of gross floor area subject to an FAR limit and from the limit on nonresidential use in 23.73.009.B:

1. (~~((Non-residential))~~) Nonresidential use located in a character structure, provided that the non-residential use does not displace an existing residential use.
2. New (~~((non-residential))~~) nonresidential floor area added to a character structure, provided that the added floor area does not exceed the equivalent of 0.5 FAR, as calculated on the lot occupied by the character structure at the time it was built.
3. Street-level commercial uses complying with the standards of 23.47A.008 and 23.73.008.B.
4. Floor area used for the creation, display, performance or screening of art for members of the general public and floor

area used by an arts facility.

5. All floor area in residential use in a development that meets the provisions of 23.73.010.~~((C))~~ B.2, provided that development of the lot does not require the removal of a character structure ~~((identified on Table A for 23.73.010))~~ listed in a rule promulgated by the Director according to Section 23.73.005.

6. In areas where the underlying zoning is NC3P~~((+))~~ 65, all floor area ~~((in residential use))~~ on a lot that is 8,000 square feet or less in area and has been either vacant or in parking use since February 27, 1995.

Section 7. Section 23.73.010 of the Seattle Municipal Code, which section was last amended by Ordinance 123392, is amended as follows:

23.73.010 ~~((Development standards))~~ Floor size limits outside the Conservation Core

A. Floor size limit. The following provisions apply to lots located outside the boundaries of the Conservation Core identified on Map A for 23.73.010.

1. On lots greater than 15,000 square feet in size, the maximum gross floor area of any single story above 35 feet in height is 15,000 square feet. The floor size limit ~~((shall))~~ does not apply to non-residential uses in a structure developed on a lot ~~((pursuant))~~ according to subsection 23.73.009.B.2.

2. On a lot with more than one structure that exceeds 35 feet in height, the floor size limit applies to the portions of each structure above 35 feet in height.

3. On a lot where ~~((or))~~ more than one portion of the same structure exceeds 35 feet in height, the floor size limit ~~((shall apply))~~ applies to each portion of the structure above 35 feet in height. ~~((A minimum separation of 40 feet is required at all points between separate portions of a structure above 35 feet in height on the same lot, except that separation between a new structure and an existing structure located on the same lot is not required. Where))~~ If the separation between portions of a structure above 35 feet in height is less than 40 feet, the floor area of each story in the separated portions of the structure shall be combined to determine the floor area subject to the floor size limit.

~~((3))~~ 4. If new structures on the same or abutting lots have internal connections above the first story, the connected structures are considered to be a single structure for the purpose of calculating the floor area subject to the floor size limit. ~~((Internal connections above 35 feet in height between new portions of a structure on the same lot and between separate structures on abutting lots are not permitted,))~~ unless the structure ~~((on the abutting lot))~~ to which the connection is made is a character structure.

~~((4))~~ 5. For a project that retains ~~((the whole of a))~~ an entire character structure on the lot, any floor area above 35 feet in height within the character structure, whether connected to a new structure or not, is not included in the calculation of the floor area subject to the limit on floor size.

Map A for 23.73.010: Pike/Pine Conservation Core



B. Exceptions to floor size limit.

1. For a structure with a minimum of 50 percent of the total gross floor area in residential use, the Director may permit, as a Type I decision, an increase in the floor size limit of up to 15 percent on lots with an area of 30,000 square feet or less, not counting any area occupied by a character structure, to allow additional development flexibility to promote neighborhood conservation objectives and design that minimizes the overall appearance of the project's bulk. ~~((, provided that no))~~ No increase in floor size is permitted for a project that will result in the demolition of a character structure. ~~((On a lot with an area of 30,000 square feet or less, not counting any area occupied by a character structure, the limit on floor size above 35 feet in height may be increased by 15 percent--))~~ In order for a structure to qualify for an

increase in floor size area ~~((if))~~ one or more of the following conditions ~~((apply))~~ must exist:

~~((1))~~ a. Conditions in the vicinity of the lot minimize the impact of additional development bulk on the existing character of the area. Such conditions include locations on the edges of the Pike/Pine Conservation Overlay District where development on large lots already exists, or where irregularities in the street grid have created small blocks or a single lot surrounded on all sides by streets; or

~~((2))~~ b. The proposed new project includes features that offset the perceived scale of development, such as a landscaped courtyard that is visible from the sidewalk and located primarily at street level on a street that is not a principal pedestrian street; or

~~((3))~~ c. The increase in floor size is for a mixed-use project that includes uses contributing to the area's recognized character as an arts district, including performing arts space and artist live/work space, ~~((which))~~ that typically have design requirements ~~((,))~~ such as ~~((non-standard))~~ nonstandard floor-to-ceiling heights ~~((,))~~ that reduce the total amount of usable floor area in a structure; or

~~((4))~~ d. The additional floor area will facilitate development of housing that is affordable to and occupied by "income-eligible households," as defined in Section 23.58A.004, for a minimum of 50 percent of the total gross floor area of the project and is subject to covenants ensuring that the housing remains available to these households for a minimum of 50 years.

~~((C))~~ 2. Retaining character structures on a lot. A 25 percent increase in the floor size limit ~~((above 35 feet in height))~~ is permitted for projects that incorporate a character structure on the same lot, either as a whole structure or as a portion of a structure, ~~((pursuant))~~ according to the following provisions.

~~((1))~~ a. No increase in floor size is permitted under the provisions of this subsection 23.73.010.B.2 for a project that will result in the demolition of a designated Seattle ~~((Landmark))~~ landmark, or of a character structure ~~((identified on Table A for 23.73.010))~~ listed in a rule promulgated by the Director according to Section 23.73.005.

~~((2))~~ b. One character structure must be retained for each new structure or portion of a structure that is subject to the floor size limit in order for the new structure or portion of a structure to qualify for the 25 percent increase in floor size.

c. For a project that incorporates portions of a character structure, the following conditions shall be met:

~~((a))~~ 1) All street-facing facades of the character structure are retained;

~~((b))~~ 2) All portions of the new structure above the height of the street-facing facades of the character structure are set back a minimum of 15 feet from all street property lines that abut the character structure; and

~~((c))~~ 3) The original floor-to-ceiling height of the ground story is maintained.

~~((3))~~ d. Any floor area in a new portion of the structure above 35 feet in height that is within the area of the original footprint of the character structure and is separated from the street along all street frontages by the original facades of the character structure is not included in the calculation of the floor area subject to the floor size limit.

~~((4))~~ e. A project that is granted an increase in floor size under the provisions of this subsection 23.73.010.~~((C))~~ B.2 shall maintain the character structure, or portions of the character structure, both interior and exterior, in good condition and repair and in a manner that preserves unique features and characteristics for the life of the project. Any increase in floor size permitted ~~((pursuant))~~ according to this ~~((Section))~~ subsection 23.73.010.~~((C))~~ B.2 shall not be combined with any increase in floor size permitted ~~((pursuant))~~ according to Section 23.73.010.B.1.

3. A 25 percent increase in the floor size limit is permitted on the receiving site of a project that adds floor area through the use of TDP as permitted by Section 23.73.024, provided that the amount of floor area added through the use of TDP

is equivalent to at least 0.25 FAR, as calculated for the receiving site.

~~((Table A for 23.73.010 Identified Character Structures)~~

Address	Historic Name	Common Name
1519 12th Avenue	Overland Pacific Building	Police Department East Precinct

300 E. Pine Street	Butterworth Mortuary	Butterworth Mortuary
1501 Broadway	Broadway State Bank	Tully's
1205 E. Pine Street	McAlpin-Schreiner Company	Foley Sign Company
1021 E. Pine Street	Colyear Motor Sales Company	REI/Velo Bike
901-911 E. Pike Street	Tyson Oldsmobile Company	Frame Central
1217-1221 E. Pike Street	S. L. Savidge	Elysian Brewery
915-919 E. Pike Street	Graham Motor Cars	Shambhala Center of Seattle
1525 11th Avenue	Bocker Building	REI/Value Village
1400 12th Avenue	Bekins Moving and Storage	Trace Lofts
1201-1205 E. Pike Street	Standard Brands	1205 E. Pike Building
1519-1521 Broadway	Eldridge Tire Company	Broadway Cafe
1120-1124 E. Pike Street	Packard Seattle	Utrecht Art Supplies
953 E. Union Street	Otto's Radiator Service	The Finer Details
301-309 E. Pine Street	Melrose Building	Melrose Building
311-321 E. Pine Street	Timken Roller Bearing	Le Frock
721-725 E. Pine Street	Flick and Rash	Bill's Off Broadway
1600 Broadway	Boone and Company Pontiac	AEI Music
1511 Boylston Avenue	Glencoe Apartments	Glencoe Apartments
1633 Melrose Avenue	Sherwood Apartments	Sherwood Apartments
1631 Belmont Avenue	Conrad Apartments	Conrad Apartments
401 E. Pine Street	Carr Brothers Auto Repair	General Petroleum Museum
1520 Melrose Avenue	Melrose Apartments	Melrose Apartments
1351 Olive Way	Unknown	Fillipi's Old Books and Records
1611 Boylston Avenue	Universal Repair Shop	Universal Repair Shop
1001 E. Pike Street	Unknown	Arensberg/La Puerta
1134 Broadway	Unknown	Vacant
1400 Broadway	Johnson & Hamilton Mortuary	Gilda's Club of Seattle
1426 Broadway	Unknown	Rutherford's Auto-Rebuild
1158 Broadway	Unknown	Complete Automotive
1414 Broadway	Western Auto Wrecking	Aker's
1612 Broadway	Unknown	AEI Music
400 E. Pine Street	Hirsch Cycle Co.	Lighting Design Lab and 4 others
501 E. Pine Street	Unknown	Bell Oechio 7 and 3 others
610 E. Pine Street	Unknown	Capitol Loans and 4 others
619 E. Pine Street	Paige Building	R Place
801-805 E. Pine Street	Masonic Temple	Egyptian Theater and SCCC
911-919 E. Pine Street	Odd Fellows Temple	Odd Fellows Temple
909 E. Pine Street	Unknown	In 2 Services
1101 E. Pine Street	S-E Co.	2nd Base and 1 other
1315-1323 E. Pine Street	Chester Apartments	Capital Grocery and 2 others
1100-1106 E. Union Street	Unknown	Union Art Co-op
1015-1021 E. Pike Street	Lorraine Court Apartments	Wildrose and 2 others
300 E. Pike Street	Gallagher's Fine Cars	Six Arms
1415-1423 10th Avenue	Unkown	Cresecent Down works and 4 others
1101-1103 E. Pike Street	Liebeck Garage	Aria and 7 others
1011-1013 E. Pike Street	Unknown	Chrissa's Window Bar and 1

		other
1319 E. Madison Street	Talbot Building	Callahan's Auto Rebuild
Footnote for Table A for 23.73.010:		
[†] ((Source)) The source of Table A for 23.73.010((:)) is the ((The)) Department of Neighborhoods November 2002 Historic Resources Survey, structures categorized as "Yes - Inventory" or "Yes - Hold".))		

~~((D. Maximum structure width.~~

- ~~1. For each block face abutting Pike, East Pike, Pine, or East Pine Streets, the maximum width of all portions of a structure measured along the street property line is 1/2 the total width of all lots on the block face.~~
- ~~2. The limit on width shall not apply to the following:~~
 - ~~a. Portions of a new structure separated from the street property line by another lot or another structure located on the same lot, provided that abutting structures are not connected internally, either above or below grade, unless the abutting structure is a character structure;~~
 - ~~b. Development on lots on blocks abutting Crawford Place, because of the narrow block width; and~~
 - ~~c. Portions of a new structure separated from the street property line by a character structure, or the remaining portions of a character structure included in a project pursuant to the provisions of 23.73.010.C.~~

~~E. Height Exception for Mixed Use Structures. In zones with a 65 foot height limit, the Director may permit the height of a mixed use structure to exceed the height limit of the zone by up to 4 feet, only if the residential use and either the nonresidential use or the live-work units are located in the same structure and subject to the following:~~

- ~~1. The nonresidential use or live-work unit located at street level requires a floor to ceiling height that exceeds 13 feet floor to ceiling to support business operations; and~~
- ~~2. The additional height will not permit an additional story to be built beyond what could be built under a 65 foot height limit if a floor to ceiling height of more than 13 feet were not needed to support street-level nonresidential uses.~~
- ~~3. The transparency requirements for street-facing facades in 23.47A.008.A.2 shall apply to the portion of the street-facing facade between 2 feet and 12 feet above the sidewalk. Only clear or lightly tinted glass shall be considered transparent.~~

~~F. Height exception for lots that include a character structure. In zones with a mapped height limit of 65 feet, or with a 40 foot mapped height limit with provisions allowing for additional height up to 65 feet pursuant to subsection 23.47A.012.A, the Director may permit the height of a structure to exceed the height limit of the zone by 10 feet, subject to the following:~~

- ~~1. The lot includes a character structure, or significant portion of a character structure;~~
- ~~2. For a project that incorporates a character structure, the following conditions shall be met:~~
 - ~~a. All street facing facades of the character structure are retained;~~
 - ~~b. All portions of the new structure above the height of the street facing facades of the character structure are set back a~~

~~minimum of 15 feet from all street property lines that abut the character structure; and~~

~~e. The original floor to ceiling height of the ground story is maintained.~~

~~3. The additional floor area above the height of 65 feet is occupied solely by residential use; and~~

~~The project will not result in the demolition of a designated landmark or of a character structure that is identified on Table A for 23.73.010, except as allowed to include a portion of a character structure in the new development pursuant to subsection 23.73.010.C.~~

~~G. Residential Amenity Space.~~

~~1. Residential Amenity space 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.~~

~~2. Residential Amenity space is not required for new construction, when affordable housing that meets the following criteria is provided by a nonprofit organization:~~

~~a. 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~~

~~b. Applicants demonstrate compliance with these income criteria for the life of the building.~~

~~3. Existing residential uses that meet the residential amenity requirements of Section 23.47A.024, Residential amenity standards, may eliminate residential amenity space, provided they comply with the requirements of Section 23.73.010G.2.~~

~~H. Location of parking. Parking provided as accessory parking for any permitted use may be located on the lot, or built into or under the structure, or located on a lot other than the lot on which the use is located, except that parking is not permitted on a lot other than the lot on which the use is located if providing the parking would result in the partial or total demolition of a character structure.))~~

Section 8. A new Section 23.73.012 of the Seattle Municipal Code is enacted as follows:

23.73.012 Structure width and depth limits

A. The structure width and depth limits in this Section 23.73.012 apply to lots that contained a character structure on the effective date of the ordinance introduced as Council Bill 117235.

B. Structure width limit outside the Conservation Core. Outside the Conservation Core identified on Map A for 23.73.010, for all portions of a structure that abut Pike, East Pike, Pine, or East Pine Streets, structure width shall be limited to 50 percent of the total width of all lots on the block face, measured along the street lot line on block faces that exceed 170 feet in width, except that the structure width limit calculation does not include the following:

1. Portions of a character structure, whether connected to a new structure or not;

2. Portions of a new structure that are separated from the street property line by another lot;

3. Portions of a new structure that are separated from the street property line by an adjacent structure located on the same lot that is not a character structure, provided that the adjacent structures are not internally connected above or below grade;

4. Portions of a new structure that are separated from the street property line by a character structure or by the remaining

portions of a character structure included in a project as allowed by subsection 23.73.010.B.2.

C. Structure width limit inside the Conservation Core. Inside the Conservation Core identified on Map A for 23.73.010, the structure width limit on block faces that exceed 170 feet in width is 128 feet, measured along the street lot line, except that the structure width limit calculation does not include the following:

1. Portions of a character structure, whether connected to a new structure or not; and
2. Portions of a new structure that are separated from the street property line by a character structure or by the remaining portions of a character structure included in a project as allowed by subsection 23.73.010.B.2, provided that the new structure does not result in the total demolition of any character structure on the lot.

D. Structure depth limit inside the Conservation Core. Inside the Conservation Core identified on Map A for 23.73.010, structure depth shall be limited to 128 feet, measured as the combined depth of all structures located on the lot, except that portions of a character structure on the lot, whether connected to a new structure or not, are not included in calculating structure depth.

Section 9. A new Section 23.73.014 of the Seattle Municipal Code is enacted as follows:

23.73.014 Height exceptions

A. Height Exception for Mixed Use Structures. In zones with a mapped height limit of 65 feet, the Director may permit the height of a mixed-use structure to exceed the height limit of the zone by up to 4 feet, only if the residential use and either the nonresidential use or the live-work units are located in the same structure and comply with the following:

1. The nonresidential use or live-work unit located at street level requires a floor-to-ceiling height that exceeds 13 feet to support business operations; and
2. The additional height will not permit an additional story to be built beyond what could be built under a 65-foot height limit if a floor-to-ceiling height of more than 13 feet is not needed to support street-level nonresidential uses.
3. The transparency requirements for street-facing facades in 23.47A.008.A.2 shall apply to the portion of the street-facing facade between 2 feet and 12 feet above the sidewalk. Only clear or lightly-tinted glass shall be considered transparent.

B. Height exception for lots that include a character structure. In zones with a 65-foot mapped height limit, or with a 40-foot mapped height limit with provisions allowing for additional height up to 65 feet according to subsection 23.47A.012.A, the Director may permit the height of a structure to exceed the height limit of the zone by 10 feet, subject to the following:

1. The lot includes a character structure.
2. If a project incorporates a character structure on the lot, the project meets the following conditions:
 - a. All street-facing facades of the character structure shall be retained;
 - b. All portions of the new structure above the height of the street-facing facades of the character structure shall be set back a minimum of 15 feet from all street property lines that abut the character structure; and
 - c. The original floor-to-ceiling height of the ground story shall be maintained.
3. The additional floor area above the 65-foot height limit is occupied solely by residential use;
4. The project will not result in the demolition of a character structure listed in a rule promulgated by the Director

according to Section 23.73.005 or of a designated landmark, except to the extent allowed in subsection 23.73.014.B.2; and

5. One character structure must be retained for each new structure or portion of a structure that is subject to the floor size limit in subsection 23.73.010.A in order for the new structure or portion of a structure to qualify for the 10 foot increase in height.

C. Height exception for character structure TDP receiving sites. A height exception for character structure TDP receiving sites is allowed according to subsection 23.73.024.B.

D. If a project uses more than one of the height exceptions permitted by this Section 23.73.014, the maximum height shall be the height permitted by the exception allowing the greatest height increase.

E. Additional height for rooftop features. For structures using the height exceptions specified in this Section 23.73.014, additional height is permitted above the maximum height allowed by the exception to accommodate rooftop features as permitted under subsection 23.47A.012.D.

Section 10. A new Section 23.73.018 of the Seattle Municipal Code is enacted 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.

C. Existing residential uses that meet the amenity area requirements of Section 23.47A.024 may eliminate amenity area, provided they comply with subsections 23.73.016.B.1 and B.2.

Section 11. A new Section 23.73.018 of the Seattle Municipal Code is enacted as follows:

23.73.018 Location of Parking

Parking provided as accessory parking for any permitted use may be located on the lot, or built into or under the structure, or located on a lot other than the lot on which the use is located except that parking is not permitted on a lot other than the lot where the use is located if providing the parking would result in the partial or total demolition of a character structure.

Section 12. A new Section 23.73.024 of the Seattle Municipal Code is enacted as follows:

23.73.024 Transfer of development potential

A. General Standards for the transfer of development potential (TDP) within the Pike/Pine Conservation Overlay District.

1. For a lot located in an NC3P 65 zone within the Pike/Pine Conservation Overlay District shown on Map A for 23.73.004, excluding the area within the Conservation Core shown on Map A for 23.73.010, an applicant may use transferable development potential to obtain one or both of the following:

a. Additional residential and live-work unit floor area above the maximum FAR limit for a mixed use structure in subsection 23.47A.013; or

b. A height exception to allow an additional 10 feet above the 65-foot height limit.

2. Development potential may not be transferred from one lot to another except as allowed by this Chapter 23.73.

3. Development potential may be transferred from eligible sending lots meeting the conditions of subsection 23.73.024.C to locations outside the Pike/Pine Conservation Overlay District if TDP transfer to specifically-identified areas or lots is authorized by City ordinance.

B. Standards for character structure TDP receiving sites. A lot must meet the following conditions in order to be eligible to achieve extra residential floor area through TDP:

1. Character structure TDP receiving sites shall be located outside the Conservation Core identified on Map A for Section 23.73.010.

2. Development of the receiving site shall not result in the demolition or significant alteration of a character structure or a designated landmark. For purposes of this Section 23.73.024, significant alteration of a character structure means:

a. For character structures that are not designated landmarks:

1) Alteration of the exterior facades of the character structure, except alterations that restore the facades to their original condition;

2) Alteration of the floor-to-ceiling height of the street level story, except alterations that restore the floor-to-ceiling height to its original condition; or

3) The addition of stories to the character structure, unless the proposed addition is no taller than the maximum height to which the character structure was originally built.

b. For character structures that are designated landmarks, if the Landmarks Preservation Board grants a Certificate of Approval for an alteration, the alteration is not considered significant.

3. An additional 10 feet in height above the height limit of the zone is permitted on TDP receiving sites.

4. All floor area above the FAR limit and above 65 feet in height shall be achieved through the use of TDP.

4. Floor area gained through the use of TDP shall be for residential and live-work unit use only.

5. For a structure that achieves an increase in height through the use of TDP, the minimum street level floor- to-ceiling height shall be 13 feet.

6. TDP required before construction. No permit after the first building permit, and in any event no permit for construction activity other than excavating or shoring, and no permit for occupying existing floor area by any use based on TDP; will be issued for development that includes TDP until the applicant has demonstrated possession of TDP to the Director's satisfaction.

C. Standards for Sending Sites.

1. TDP sending sites shall be located in an NC3P zone within the Pike/Pine Conservation Overlay District, excluding NC3P zones with an MIO-105 overlay, and shall contain one of the following structures; provided that character structures on the proposed TDP sending site have not been demolished, or significantly altered as defined in subsection

23.73.024.B.2, since the effective date of this ordinance:

- a. One or more structures designated wholly or in part as a landmark under Chapter 25.12 or its predecessor ordinance;
or
- c. Any character structure.

2. Maximum transferable floor area.

- a. The maximum amount of floor area that may be transferred from an eligible sending site with a character structure that is not a designated landmark is the product of the eligible lot area of the sending site, times the maximum FAR for structures containing both residential and nonresidential uses as prescribed in Section 23.47A.013, minus the sum of any chargeable gross floor area on the sending site under the zoning in effect at the time a complete application transferring TDP is accepted and any TDP previously transferred from the sending site.
- b. The maximum amount of floor area that may be transferred from an eligible sending site with a designated landmark is the amount calculated in subsection 23.73.024.C.2.a multiplied by two.
- c. For purposes of this subsection 23.73.024.C.2, the eligible lot area is the total area of the sending site at the date that the character structure was built.

3. Rehabilitation and maintenance of character structures. Character structures located on a TDP sending site shall be rehabilitated and maintained to comply with applicable codes and shall have a minimum useful life of at least 50 years from the time the TDP transfer is approved by the Director. If the TDP is proposed to be transferred prior to completing rehabilitation work necessary to satisfy this subsection 23.73.024.C, the Director may require as a condition of the transfer that a security be deposited with the City in an amount determined by the Director to ensure that the work is completed.

4. Significant alteration, as defined in subsection 23.73.024.B.2, of the character structures on a TDP sending site is not permitted for at least 50 years from the time of the TDP transfer.

D. TDP Deeds and Agreements.

1. The fee owners of the TDP sending site shall execute a deed, and shall obtain the release of the TDP from all liens of record and the written consent of all holders of encumbrances on the sending lot other than easements and restrictions, unless the requirement for a release or consent is waived by the Director for good cause. The deed shall be recorded in the King County real property records. If TDP is conveyed to the owner of a TDP receiving site described in the deed, then unless otherwise expressly stated in the deed or any subsequent instrument conveying the lot or the TDP, the TDP shall pass with the receiving site whether or not a structure using the TDP shall have been permitted or built prior to any conveyance of the receiving site. Any subsequent conveyance of TDP previously conveyed to a receiving site shall require the written consent of all parties holding any interest in or lien on the receiving site from which the conveyance is made. If the TDP is transferred other than directly from the sending site to the receiving site using the TDP; then after the initial transfer all subsequent transfers shall also be by deed, duly executed, acknowledged, and recorded, each deed referring by King County recording number to the prior deed.

2. Any person may purchase TDP that is eligible for transfer by complying with this Section 23.73.024, whether or not the purchaser is a permit applicant to develop real property or the owner of potential receiving site. Any TDP purchaser, including any successor or assignee, may use TDP on a receiving site to the extent that using TDP is permitted under the Land Use Code provisions applicable at the time the project intended to use the TDP vests, according to Section 23.76.026. The Director may require, as a condition of processing any permit application using TDP, that the owner of the receiving site demonstrate that the TDP has been validly transferred of record to the receiving site, and that the receiving site owner has recorded in the real estate records a notice stating that a permit application using TDP has been filed and the TDP to be used on the receiving site is not available for retransfer.

3. As a condition to the effective transfer of TDP from a designated landmark, except from a City-owned sending site, the fee owner of the sending site shall execute and record an agreement running with the land, in form and content acceptable to, and accepted in writing by, the Director of Neighborhoods; providing for the rehabilitation and maintenance of the historically-significant or other relevant features of the structure or structures on the lot and acknowledging the restrictions on future development resulting from the transfer. The Director may require evidence that each lien holder has effectively subordinated the lien to the terms of the agreement, and that any holders of interests in the property have agreed to its terms. To the extent that a landmark structure on the sending site, the presence of which is a condition to eligibility to transfer TDP under the provisions of the zone, requires restoration or rehabilitation for the long-term preservation of the structure or its historically or architecturally-significant features, the Director of Neighborhoods may require as a condition to acceptance of the necessary agreement that the owner of the sending site apply for and obtain a certificate of approval from the Landmarks Preservation Board for the necessary work, or post security satisfactory to the Director of Neighborhoods for the completing the restoration or rehabilitation.

E. Reservation in Deed. Any TDP eligible for transfer may instead be reserved in the conveyance of title to an eligible sending site by the express terms of the deed or other instrument of conveyance reserving a specified amount of TDP, provided that an instrument acceptable to the Director is recorded binding the sending site to the terms and conditions for eligibility to send TDP under this Section 23.73.024. Any TDP so reserved shall be considered transferred from that site and later may be conveyed by deed without participation of the owner of the site.

F. Any agreement governing the use or development of the sending site shall provide that its covenants or conditions run with the land and shall be specifically enforceable by the City.

G. The eligibility of a sending site to transfer TDP and the amount transferable from a sending site, shall be determined as of the date of transfer from the sending site and shall not be affected by the date of any application, permit decision, or other action for any project seeking to use TDP.

Section 13. Section 23.84A.038 of the Seattle Municipal Code, which section was last amended by Ordinance 123649, is amended to add a definition, to be inserted in alphabetical order, as follows:

23.84A.038 "T"

"TDP" or "transferable development potential" means base residential floor area measured in square feet that may be transferred from one lot to another according to provisions of the zone where the lots are located.

Section 14. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 20__, and signed by me in open session in authentication of its passage this ____ day of _____, 20__.

President _____ of the City Council

Approved by me this ____ day of _____, 20__.

Michael McGinn, Mayor

Filed by me this ____ day of _____, 20__.

City Clerk

(Seal)

Dennis Meier; Rebecca Herzfeld DPD - Pike-Pine TDP ORD v16.docx 12/9/11 Version 17