

---

**Council Bill Number:** 112970

**Ordinance Number:** 119728

---

AN ORDINANCE relating to land use and zoning, adding a new Section, 23.49.041, to the Seattle Municipal Code to establish a Transfer of Development Credits (TDC) Program, amending codified maps to designate 9th Avenue as a Green Street; and amending Sections 23.49.008, 23.49.026, 23.49.058, 23.49.068, 23.49.076, 23.49.078, 23.49.134, 23.49.136, 23.76.026, and 23.86.030 of Title 23 of the Seattle Municipal Code.

**Status:** Passed

**Note:** APEX Program ordinance.

**Date filed with the City Clerk:** 1999/11/05 ([about the signature date](#))

**Date introduced/referred to committee:** 1999/10/18

**Committee:** Business, Economic and Community Development

**Sponsor:** DRAGO

**Committee Recommendation:** Pass

**Index Terms:** LAND-USE-CODE, HOUSING, DOWNTOWN, DENNY-REGRADE

**Electronic Copy:** [PDF scan of Ordinance No. 119728](#)

**Reference:** Amending: Ord 119370, 119238, 112519, 119484, 118409

---

**Text:**

AN ORDINANCE relating to land use and zoning, adding a new Section, 23.49.041, to the Seattle Municipal Code to establish a Transfer of Development Credits (TDC) Program, amending codified maps to designate 9th Avenue as a Green Street; and amending Sections 23.49.008, 23.49.026, 23.49.058, 23.49.068, 23.49.076, 23.49.078, 23.49.134, 23.49.136, 23.76.026, and 23.86.030 of Title 23 of the Seattle Municipal Code.

WHEREAS, following the adoption of the Growth Management Act, King County and its cities adopted, amended and ratified the Countywide Planning Policies, which among other things called for programs and regulations to protect and maintain the rural character of farm and forest lands, and to direct growth to cities and urban centers; and

WHEREAS, in September 1998, King County adopted Ordinance # 13274 establishing a pilot program to transfer development credits from unincorporated rural and resource lands to urban areas, both in cities and unincorporated King County; and

WHEREAS, the County has been encouraging cities to consider establishing receiving areas for the transfer program; and

WHEREAS, the King County Council approved in the 1999 Budget, \$ 1.5 million to start a transfer of development credits bank, and \$500,000 to fund amenities in receiving areas in cities; and

WHEREAS, the Denny Triangle Urban Center Village Plan recommends increasing pedestrian amenities, such as the Westlake Circle, and open space to attract residential development to help achieve the established growth targets of 3500 households, and increasing height limits for both residential and commercial development; and

WHEREAS, it is the City's highest priority to develop programs to implement adopted neighborhood plans; and

WHEREAS, through an interlocal agreement, King County will create a program to transfer rural credits to the Denny Triangle Urban Village and will fund a portion of the costs of pedestrian amenities in the Denny Triangle to support the transfer of development credits from rural King County; and

WHEREAS, the Strategic Planning Office prepared a draft proposal, conducted an economic and market feasibility analysis, and held a public workshop on June 17, 1999 to hear comments from the Denny Triangle neighborhood planning committee and the general public; and

WHEREAS, the City Council held a public hearing to consider public comments, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Findings. Having reviewed the Mayor's proposal, public comments and the impact analysis prepared by the Strategic Planning Office, the City Council finds as follows:

- A. The transfer of residential development credits from rural areas and resource lands in King County to the Denny Triangle Urban Center Village will promote the goals and objectives of the GMA, the Countywide Planning Policies, and the City of Seattle Comprehensive Plan.
- B. Because residential uses generally are exempt from floor area limits in the applicable zones, residential development capacity in the Denny Triangle Urban Center Village is effectively limited by height limits. Allowing floor area to be built above the normal height limit, without increasing the limit on floor area for commercial uses, will allow higher residential density.
- C. Higher residential density in the Denny Triangle Urban Center Village that would be allowed by exceptions to height limits will increase the need and demand for public amenities in the Denny Triangle Urban Center Village, including green streets and other usable open spaces available to pedestrians. In addition, the greater bulk and scale of buildings allowed by such exceptions will increase the need for such usable open spaces and pedestrian amenities.
- D. A Transfer of Development Credits (TDC) Program, as described in this ordinance, that both conditions the use of development credits on the provision of amenities and allows additional development capacity in return for those amenities will create an incentive to purchase development credits from rural King County, thereby promoting rural character in the rural area, limiting sprawl, protecting resource lands and concentrating population in an Urban Center, while mitigating in part the impacts of such increased urban development.
- E. Based upon the information currently available, the conversion ratio of 2000 square feet of floor area above the height limit for each King County sending site credit is reasonable, fair and equitable, taking into account the typical sizes of downtown residential units and all the terms of the TDC Program, including the additional floor area allowed for provision of amenities. The conversion ratio should be subject to adjustment based on future data regarding land values in rural King County, the value of additional residential floor area in the Denny Triangle Urban Village, and market conditions, in order to implement the purposes of the TDC Program.
- F. A contribution to the Denny Triangle Amenity Credit Fund of \$5.00 in return for each square foot of development above the normal height limit, to be used for specific amenities in the Denny Triangle Urban Center Village, is necessary to mitigate a portion of the direct impacts of development allowed by the TDC Program. Contributions in such amounts, taking into account the exemption from open space requirements for the additional residential floor area, are not expected to be sufficient to satisfy all of the additional needs for amenities created by the additional development. Nevertheless, in light of the expected additional funding from King County and the importance of providing incentives to implement the purposes of the plans described above, the specified amount per square foot should apply until such time as the Council may revise it based on further information and experience.
- G. The TDC Program will protect and promote the health, safety and welfare of the general public.

H. The TDC Program will enhance opportunities for residential and mixed use development in the Denny Triangle Urban Center Village, consistent with the Growth Management Act (RCW 37.70A), the Countywide Planning Policies, and the City's Comprehensive Plan.

I. The TDC Program will implement the Denny Triangle Urban Center Village Plan by increasing flexibility for mixed use projects, adding residential development capacity to meet growth targets, and encouraging the development of pedestrian amenities in the Denny Triangle.

Section 2. The initial clause and subsection A of Section 23.49.008 of the Seattle Municipal Code, which Section was last amended by Ordinance 119370, are further amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height ~~shall~~ apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

A. Maximum structure heights for downtown zones are forty-five feet (45'), fifty-five feet (55'), sixty-five feet (65'), seventy-five feet (75'), eighty-five feet (85'), one hundred feet (100'), one hundred twenty feet (120'), one hundred twenty-five feet (125'), one hundred fifty feet (150'), one hundred sixty feet (160'), two hundred forty feet (240'), three hundred feet (300') and four hundred fifty feet (450'), ~~shall be as designated on the Official Land Use Map, Chapter 23.32, except that:~~

1. The Council shall determine the maximum permitted height when a major retail store or performing arts theater bonus is approved in Downtown Retail Core zones pursuant to Section 23.49.096; provided, that such height shall not exceed one hundred fifty (150) feet.

2. Any property in the Pike Market Mixed zone that is subject to an urban renewal covenant may be built no higher than the height permitted by the covenant for the life of the covenant.

3. Any lot in the Denny Triangle Urban Village, as shown on Map 23.49.041 A, may gain up to an additional thirty percent (30%) in height if credit floor area is allowed pursuant to Section 23.49.041, City/County Transfer of Development Credits Program.

~~3. Structures in the Downtown Office Core 1 zone shall not exceed a height of four hundred fifty (450) feet.~~

~~4. ((Notwithstanding any contrary designation on the Official Land Use Map, the maximum height of structures in the Downtown Retail Core zones shall be eighty-five (85) feet, except as otherwise specified in subsection A1 of this section.~~

~~5. Notwithstanding any contrary designation on the Official Land Use Map, structures in the Downtown Office Core 2 zones that are designated for a permitted height of four hundred (400) feet may not exceed a maximum of three hundred (300) feet.))~~

Section 3. Subsection B of Section 23.49.026 of the Seattle Municipal Code, which Section was last amended by Ordinance 119238, is further amended as follows:

23.49.026 General requirements for residential uses.

B. Common Recreation Area. Common recreation area ~~shall be~~ is required in all new structures containing more than twenty (20) dwelling units. Required common recreation area shall meet the following standards:

1. An area equivalent to five (5) percent of the total gross floor area in residential use, excluding an amount of floor area equal to any credit floor area obtained as part of the TDC Program, SMC Section 23.49.041, shall be provided as common recreation area. The common recreation area shall be available to all residents and may be provided at or

above ground level.

2. A maximum of fifty (50) percent of the common recreation area may be enclosed.
3. The minimum horizontal dimension for required common recreation areas shall be fifteen (15) feet, and no required common recreation area shall be less than two hundred twenty-five (225) square feet.
4. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Rules and Regulations for Barrier Free Design, shall not be counted as common recreation area.
5. In PSM zones, the Director of the Department of Neighborhoods, on recommendation of the Pioneer Square Preservation Board, may waive the requirement for common recreation area, pursuant to the criteria of Section 23.66.155, Waiver of common recreation area requirements.
6. In IDM and IDR zones, the Director of the Department of Neighborhoods, on recommendation of the International District Special Review District Board, may waive the requirement for common recreation area, pursuant to the criteria of Section 23.66.155, Waiver of common recreation area requirements.
7. For lots abutting designated green streets ~~parks~~ or located anywhere within the Denny Triangle Urban Village, as shown on Map 23.49.041 A, up to fifty (50) percent of the common recreation area requirement may be met through participation in the development of the green street ~~park~~.
8. For projects as described in 8a and 8b below that participate in the TDC Program pursuant to SMC 23.49.041, the total amount of required common recreation area shall not exceed:

- a. Fifty percent (50%) of the lot area, for development with only residential use; or
- b. Thirty-five percent (35%) of the lot area, for mixed-use development with at least twenty (20) residential units and eighty- five thousand (85,000) square feet of nonresidential floor area, excluding area used for parking.

Section 4. A new Section, 23.49.041, is hereby added to the Seattle Municipal Code as follows:

23.49.041 City/County Transfer of Development Credits (TDC) Program.

A. Use of Credits Conditioned Upon City-County Agreement. No credit floor area shall be allowed under this section unless, at the time of the master use permit decision for the project proposing to use such credit floor area, an agreement is in effect between the City and King County, duly authorized by City ordinance, for the implementation of the TDC Program.

B. Credit floor area.

1. For purposes of this section:

- a. "Credit floor area" means gross floor area allowed on a receiving lot, above the height limit otherwise applicable in the zone, as a result of the use of rural development credits and amenity credits under this section.
- b. "Rural development credits" are allowances of floor area on a receiving lot, measured in gross square feet, that result from transfer of development potential from rural, unincorporated King County to the Denny Triangle Urban Village pursuant to King County Code Chapter 21A.55 or successor provisions and pursuant to the provisions of this section.
- c. "Amenity credits" are allowances of floor area, measured in gross square feet, on a lot receiving development credits, which allowances are granted on condition that the owner or developer provide certain amenities, or contributions to development of amenities, in the Denny Triangle Urban Village as provided in this section.

2. Upon certification by King County that all conditions to transfer under King County ordinances and rules have been satisfied, rural development credits may be transferred directly from eligible sending sites or from the King County Transfer of Development Credit (TDC) Bank to property in DOC2 and DMC zones within the Denny Triangle Urban Village, as shown on Map 23.49.041 A, subject to compliance with all the conditions of this section.

[Map 23.49.041A](#)

3. Rural development credits and amenity credits are used in combination to obtain credit floor area according to the terms of this section and any implementing rules promulgated by the Director.

4. For a project that obtains credit floor area the Director may permit structure height to be increased by up to thirty percent (30%) of the height limit of the zone.

5. Except as may be otherwise provided in a rule promulgated by the Director under this Section, the conversion ratio for rural development credits is two thousand (2,000) gross square feet of floor area on the receiving lot for each unit of available sending site credit, as determined by King County. The conversion ratio may be modified according to a rule promulgated by the Director, as he or she shall determine to be consistent with the goals of providing sufficient incentive for use of the TDC Program and of preserving the maximum amount of land in rural King County as is feasible in relation to the amount of development of credit floor area in the Denny Triangle Urban Village. Any adjusted conversion ratio shall not be less than 1,000 gross square feet of floor area for each unit of sending site credit, nor greater than 3,000 gross square feet of floor area for each unit of sending site credit. In making any modification the Director shall take into account the following factors:

- a. the value of credit floor area for receiving sites in the Denny Triangle Urban Village;
- b. land value for potential sending sites in rural, unincorporated King County; and
- c. market conditions for rural development credits and, to the extent that the Director may find them relevant, market conditions for other types of credits or transferable development rights.

6. In order to obtain amenity credits, a project applicant may either enter into a voluntary agreement to provide amenities in the Denny Triangle Urban Village, or enter into a voluntary agreement to contribute financially to the development of such amenities, as provided in this subsection.

- a. Amenities for which amenity credits may be obtained include and are limited to the following: provision of public open space, improvements to existing public open space; development of designated green streets or contribution to the Amenity Credit Fund.
- b. The Director shall review the location and design of any amenity proposed to be provided for purposes of this section and determine whether the amenity mitigates project impacts, is consistent with applicable policies and design criteria, provides a public benefit and is adequate in quantity and quality.
- c. Amenities for which amenity credits are obtained may be on a site other than the project site, provided that the amenity site is within the Denny Triangle Urban Village, is within one-quarter (1/4) mile of the project site, and is available to the public without charge. Contributions to the Denny Triangle Amenity Credit Fund will be applied to acquisition or development of open space or green street(s) in the Denny Triangle Urban Village (and within one-quarter (1/4) mile of the project site). Notwithstanding the foregoing, amenities may be provided within the Denny Triangle Urban Village farther than one-quarter (1/4) mile from the project site, either directly by the applicant or through the use of a contribution by the applicant, when the applicant and the Director agree that the amenity in that location would be an appropriate mitigation for the project impacts.
- d. If no amenity credits are provided directly by a project applicant, the cash contribution to the Amenity Credit Fund shall be equal to \$5.00 for each square foot of credit floor area to be used by the project (including both amenity credits and rural development credits).

e. If the applicant elects to make a contribution to the Denny Triangle Amenity Credit Fund in lieu of providing an amenity, that election shall constitute the applicant's agreement that the use of those funds for acquisition or development of any amenities meeting the requirements of this section in the Denny Triangle Urban Village is authorized and will mitigate the direct impacts of the additional residential floor area and height allowed pursuant to this section.

7. No credit floor area will be granted for any project that causes the destruction of any controlled feature of a Landmark structure.

#### C. Program Requirements.

1. Except as expressly provided in this subsection C, 50% of the credit floor area on any lot must come from rural development credits and 50% of the credit floor area obtained must come from amenity credits.
2. In order to accommodate practical difficulties in meeting the exact percentages in subsection C1 above, for example as a result of the unavailability of fractional sending site credits under King County rules, the Director may allow up to 60 % of credit floor area for a project to come from either rural development credits or from amenity credits.
3. The minimum credit floor area that may be obtained on any lot pursuant to the TDC Program is eight thousand (8,000) square feet.
4. The credit floor area obtained may be contained within a single purpose residential structure or mixed use development (residential and nonresidential uses in the same or different structures on the same lot).
5. The Director may require, as a condition to issuance of any permit using development credits, the execution and recording of appropriate instruments by which the rural development credits are attached to the receiving lot and by which conditions and restrictions applicable in connection with the use of the rural development credits and amenity credits are documented.

#### D. Use of credit floor area.

1. For mixed use development, the credit floor area may be occupied by residential or nonresidential uses, or any combination thereof, subject to the provisions of this subsection D.
2. If a project includes credit floor area for nonresidential uses, then it must also include a net amount of additional floor area dedicated to residential use, on the same lot and below the otherwise applicable height limit, equivalent to or greater than the amount of such nonresidential credit floor area.
3. Credit floor area does not increase the total amount of non- exempt gross floor area allowed on the receiving lot. Therefore, the floor area of nonresidential use, together with any floor area of residential use that is not exempt from FAR calculations, may not exceed the maximum FAR for the zone in which the lot is located, taking into account all bonuses, transfers of development rights, and exclusions applicable under provisions of the Land Use Code other than this section.

E. King County Certification and Security. No permit will be issued for development that includes credit floor area until (1) the applicant's possession of necessary rural development credits is certified by King County, and (2) either security is provided for the provision of amenities or an optional cash contribution is made, sufficient to generate the amount of amenity credits necessary under the terms of this section and any rules promulgated by the Director to implement this section.

F. Relation to Bonus and TDR Programs. The TDC Program may be combined with the transferable development rights (TDR) and bonus programs, subject to the applicable provisions for the relevant zone(s) and the following limits:

1. To the extent that bonus floor area is granted on any lot for any public benefit feature or cash contribution, that public benefit feature or cash contribution shall not generate amenity credits.
2. Credit floor area may be used to gain bonus floor area if the design and use of such credit floor area satisfies the applicable requirements of this Chapter and the Public Benefit Features Rule.

G. Vesting. Vesting of any right to use credit floor area is subject to the provisions of Chapter 23.76.026, Vesting of Development Rights.

Section 5. The introductory paragraph and subsection A of Section 23.49.058 of the Seattle Municipal Code, which Section was last amended by Ordinance 112519, are further amended as follows (these amendments are intended as clarification of existing law):

23.49.058 Downtown Office Core 1, upper-level development standards.

The regulations in this section ~~shall~~ apply to all structures in which any floor above an elevation of one hundred twenty-five feet (125') above the sidewalk exceeds fifteen thousand (15,000) square feet. For structures with separate, individual towers, the 15,000 square foot threshold will be applied to each tower individually.

A. Coverage Limits. On streets designated on Map IID as having a pedestrian classification, coverage limit areas ~~shall be~~ are established at two (2) elevations:

1. Between an elevation of one hundred twenty-five feet (125') and two hundred forty feet (240') above the adjacent sidewalk, the area within twenty feet (20') of each street property line and sixty feet (60') of intersecting street property lines (see Exhibit 23.49.058 A), ~~is shall be~~ established as the coverage limit area.
2. Above an elevation of two hundred forty feet (240') above the adjacent sidewalk, the area within forty feet (40') of each street property line and sixty feet (60') of intersecting street property lines (see Exhibit 23.49.058 A), ~~shall be~~ is established as the coverage limit area.
3. The percentage of the coverage limit area ~~that which~~ may be covered by a portion of a structure ~~shall be~~ is as follows:

Lots With Two or More Street Frontages

Lots With Lots 40,000 Sq. Ft. or Greater One Street Sq. Ft. or Than 40,000 Elevation Frontage Less in Size Sq. Ft. in Size

126' to 240' 60% 40% 20% Above 240' 50% 40% 20%

4. To qualify as uncovered area, at least half the area required to be uncovered shall be contiguous and shall have a minimum depth of fifteen feet (15').

5. To meet the coverage limits, a lot may be combined with one or more abutting lots, whether occupied by existing structures or not, provided that:

- a. The coverage of all structures on the lots meets the limits set in this subsection A; and
- b. The fee owners of the abutting lot(s) ~~shall~~ execute a deed or other agreement, ~~which shall be~~ that is recorded with the title to the lots, ~~which that~~ restricts future development so that in combination with the other lots, the coverage limits shall not be exceeded.

Section 6. Subsection C of Section 23.49.068 of the Seattle Municipal Code, which Section was last amended by Ordinance 119484, is further amended as follows:

23.49.068 Downtown Office Core 2, floor area ratio (FAR).

## C. Exemptions from FAR Calculations.

### 1. The following areas shall be exempt from base and maximum FAR calculations:

- a. All gross floor area in residential use, except that on sending lots from which development rights are transferred according to Section 23.49.072 C the only exempt residential space shall be low income housing or low-moderate income housing on landmark theater/housing TDR sites that satisfies all requirements for a bonus under the Public Benefit Features Rule;
- b. All gross floor area below grade;
- c. All gross floor area located above grade ~~which~~ that is used for principal or accessory short-term parking ;
- ~~d. ((,or for parking accessory to residential uses, The gross floor area located above grade of up to one (1) space per dwelling unit of parking that is accessory to residential uses or that is long-term parking shared with residential uses;~~
- d. e. The gross floor area of public benefit features, other than housing, that satisfy the requirements of Section 23.49.070, Ratios for public benefit features, and the Public Benefit Features Rule, whether granted a floor area bonus or not, regardless of maximum bonusable area limitations.

2. As an allowance for mechanical equipment, three and one-half (3 1/2) percent of the gross floor area of a structure shall not be counted in gross floor area calculations. The allowance shall be calculated on the gross floor area after all exempt space permitted under subsection C1 has been deducted. Mechanical equipment located on the roof of a structure, whether enclosed or not, shall be calculated as part of the total gross floor area of the structure, except that for structures existing prior to June 1, 1989, new or replacement mechanical equipment may be placed on the roof and will not be counted in gross floor area calculations.

Section 7. A new subsection G is added to Section 23.49.076 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, as follows:

23.49.076 Downtown Office Core 2, street facade requirements.

## G. Setback and Landscaping Requirements for lots located within the Denny Triangle Urban Village.

### 1. Landscaping in Setbacks.

- a. In the Denny Triangle Urban Village, as shown on Map 23.49.041 A, at least twenty percent (20%) of the total square footage of all areas abutting the street property line that are not covered by a structure, have a depth of ten feet (10') or more from the street property line and are larger than three hundred (300) square feet, shall be landscaped. Any area under canopies or marquees is considered uncovered. Any setback provided to meet the minimum sidewalk widths established by Section 23.49.022 is exempt from the calculation of the area to be landscaped.
- b. All plant material shall be planted directly in the ground or in permanently installed planters. A minimum of fifty percent (50%) of the plant material shall be perennial and shall include trees when a contiguous area, all or a portion of which is landscaped pursuant to subsection 1a above, exceeds six hundred (600) square feet.

### 2. Terry and 9th Avenue green street setbacks.

- a. In addition to the requirements of subsection G1 of this section, a two foot wide landscaped setback from the street property line is required along Terry and 9th Avenues within the Denny Triangle Urban Village as shown on

Map 23.49.041 A. The Director may allow averaging of the setback requirement of this subsection to provide greater conformity with an adopted green street plan.



b. Fifty percent (50%) of the setback area must be landscaped.

Section 8. The introductory paragraph and subsections A and B of Section 23.49.078 of the Seattle Municipal Code, which Section was last amended by Ordinance 112519, are further amended as follows (the amendment to the introductory paragraph of Section 23.49.078 is intended as a clarification of existing law):

23.49.078 Downtown Office Core 2, upper-level development standards.

The regulations in this section ~~shall~~ apply to all structures in which any floor above an elevation of one hundred twenty-five feet (125') above the adjacent sidewalk exceeds fifteen thousand (15,000) square feet in size. For structures with separate, individual towers, the 15,000 square foot threshold will be applied to each tower individually.

A. Coverage Limits. On streets designated on Map IIID as having a pedestrian classification, coverage limit areas ~~shall be~~ are established ~~at two (2) elevations as follows:~~

1. Between an elevation of one hundred twenty-five (125) feet and two hundred forty (240) feet above the adjacent sidewalk, the area within twenty (20) feet of each street property line and sixty (60) feet of intersecting street property lines (see Exhibit 23.49.078 A) ~~shall be~~ is established as the coverage limit area.

2. Above an elevation of two hundred forty (240) feet, the area within forty (40) feet of each street property line and sixty (60) feet of intersecting street property lines, (see Exhibit 23.49.078 A) ~~shall be~~ is established as the coverage limit area, except as stated in subsection A3 below.

3. For projects participating in the TDC Program pursuant to SMC 23.49.041, the coverage limit areas above an elevation of two hundred forty (240) feet for structures three hundred (300) feet in height or less are the same as the coverage limit areas under subsection A1 above for the entire height of the structure above one hundred twenty-five (125) feet above the adjacent sidewalk.

4. The percentage of the coverage limit area ~~which~~ that may be covered by a portion of a structure shall be as follows:

~~Lots With Two or More Street Frontages~~ ~~Lots With Lots 40,000~~ ~~Lots Greater One Street Sq. Ft. or Than 40,000~~  
~~Elevation Frontage Less in Size Sq. Ft. in Size~~

~~126' to 240' 60% 40% 20% Above 240' 50% 40% 20%~~

a. Projects, except those described in subsection b below:

Lots With Two or More Street Frontages

Lots With Lots 45,000 Lots Greater One Street Sq. Ft. or Than 45,000 Elevation Frontage Less in Size Sq. Ft. in Size

126' to 240' 60% 40% 20% Above 240' 50% 40% 20%

b. Certain projects participating in the TDC Program. For projects participating in the TDC Program pursuant to SMC 23.49.041, on lots that either (i) have at least 25% of the lot area at street level in open space use or occupied by structures, or portions of structures, no greater than 35' in height, or any combination thereof; or (ii) have at least 50% of the lot area at street level in open space use or occupied by structures, or portions of structures, no greater than 65' in height, or any combination thereof:

Lots With Two or More Street Frontages

Lots With Lots 45,000 Lots Greater One Street Sq. Ft. or Than 45,000 Elevation Frontage Less in Size Sq. Ft. in Size

126' to 240' 60% 50% 25% Above 240' 50% 50% 25%

~~4.5.~~ To qualify as uncovered area, at least half the area required to be uncovered shall be contiguous and shall have a minimum depth of fifteen (15) feet.

~~5.6.~~ To meet the coverage limits, a lot may be combined with one (1) or more abutting lots, whether occupied by existing structures or not, provided that:

a. The coverage of all structures on the lots meets the limits set in this subsection A; and

b. The fee owners of the abutting lot(s) shall execute a deed or other agreement, which shall be recorded with the title to the lots, ~~which that~~ restricts further development so that in combination with the other lots, the coverage limits shall not be exceeded.

B. Maximum Facade Lengths. A maximum facade length shall be established for facades above an elevation of one hundred twenty-five (125) feet above the adjacent sidewalk. This maximum length ~~shall be~~ is measured parallel to each street property line of streets designated on Map IIID as having a pedestrian classification, and ~~shall apply~~ applies to any portion of a facade, including projections such as balconies, ~~which that~~ is located within fifteen (15) feet of a street property lines.

1. The maximum length of facades above an elevation of one hundred twenty-five (125) feet ~~shall be~~ is as follows:

~~Lots With Two or More Street Frontages~~

~~Lots With Lots 40,000 Lots Greater One Street Sq. Ft. or Than 40,000 Elevation Frontage Less in Size Sq. Ft. in Size~~

~~126' to 240' 120' 120' 120' Above 240' 90' 1 120' 90' 1~~

Lots With Two or More Street Frontages

Lots With Lots 45,000 Lots Greater One Street Sq. Ft. or Than 45,000 Elevation Frontage Less in Size Sq. Ft. in Size

126' to 240' 120' 120' 120' Above 240' 90' 1 120' 90' 1

1 Above an elevation of two hundred forty (240) feet, for each half percent reduction of coverage in the coverage limit area from the requirements established in subsection A, the maximum facade length may be increased by one (1) foot to a maximum of one hundred twenty (120) feet.

2. To be considered a separate facade for the purposes of determining the maximum facade length established in subsection B1, any portion of a facade above an elevation of one hundred twenty-five (125) feet ~~which that is less than fifteen (15) feet from a street property line shall be separated from any similar portion of the facade by at least sixty (60) feet of facade which that~~ is set back at least fifteen (15) feet from a street property line. (See Exhibit 23.49.078 B.)

Section 9. A new subsection G is added to Section 23.49.134 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, as follows:

23.49.134 Downtown Mixed Commercial, street facade requirements.

G. Setback and Landscaping Requirements for lots located within the Denny Triangle Urban Village.

1. Landscaping in the street right-of-way for all streets other than those with adopted green street plans. All new development in the Denny Triangle Urban Village, as shown on Map 23.49.041 A, shall provide landscaping in the sidewalk area of the street right-of-way, except on streets with adopted green street plans. The square feet of landscaped area provided shall be at least one and one-half (1 1/2) times the length of the street property line. The following

standards shall apply to the required landscaped area:

- a. The landscaped area shall be at least eighteen inches (18") wide and shall be located in the public right-of-way along the entire length of the street property line, except for building entrances, vehicular access or other connections between the sidewalk and the lot, but in any event the landscaped area shall cover at least fifty percent (50%) of the total length of the street property line(s).
- b. As alternative to locating the landscaping at the street property line, all or a portion of the required landscaped area may be provided in the sidewalk within five feet (5') of the curbline.
- c. Landscaping provided within five feet (5') of the curbline shall be located and designed in relation to the required street tree planting and take into consideration use of the curb lane for parking and loading.
- d. All plant material shall be planted directly in the ground. A minimum of fifty percent (50%) of the plant material shall be perennial.
- e. Where the required landscaping is on a green street or street with urban design and/or landscaping guidelines promulgated by Seattle Transportation, the planting shall be in conformance with those provisions.

## 2. Landscaping in Setbacks.

- a. In the Denny Triangle Urban Village, as shown on Map 23.49.041 A, at least twenty percent (20%) of the total square footage of all areas on the street property line that are not covered by a structure, that have a depth of ten feet (10') or more from the street property line and are larger than three hundred (300) square feet, shall be landscaped. Any area under canopies or marquees is considered uncovered. Any setback provided to meet the minimum sidewalk widths established by Section 23.49.022 is exempt from the calculation of the area to be landscaped.
- b. All plant material shall be planted directly in the ground or in permanently installed planters. A minimum of fifty percent (50%) of the plant material shall be perennial and shall include trees when a contiguous area, all or a portion of which is landscaped pursuant to subsection 2a above, exceeds six hundred (600) square feet.

## 3. Terry and 9th Avenue green street setbacks.

- a. In addition to the other requirements of this subsection G, a two foot wide landscaped setback from the street property line is required along Terry and 9th Avenues within the Denny Triangle Urban Village as shown on Map 23.49.041 A. The Director may allow averaging of the setback requirement of this subsection to provide greater conformity with an adopted green street plan.
- b. Fifty percent (50%) of the setback area must be landscaped.

Section 10. The introductory paragraph and subsection A of Section 23.49.136 of the Seattle Municipal Code, which Section was last amended by Ordinance 112519, are further amended as follows (the amendment to the introductory paragraph of Section 23.49.136 is intended as a clarification of existing law):

### 23.49.136 Downtown Mixed Commercial, upper-level development standards.

The regulations in this section ~~shall~~ apply to all structures in which any floor above an elevation of one hundred twenty-five feet (125') above the adjacent sidewalk exceeds fifteen thousand (15,000) square feet. For structures with separate, individual towers, the 15,000 square foot threshold will be applied to each tower individually.

A. Coverage Limits. On streets designated on Map VD as having a pedestrian classification, a coverage limit area ~~shall~~ ~~be is~~ established as follows:

1. Above an elevation of one hundred twenty-five feet (125') above the adjacent sidewalk the area within twenty feet

(20') of each street property line and sixty feet (60') of intersecting street property lines (See Exhibit 23.49.136 A), ~~shall be established as is~~ the coverage limit area.

2. The percentage of the coverage limit area ~~which that~~ may be covered by a portion of a structure ~~shall be~~ is as follows:

~~Lots With Two or More Street Frontages~~

~~Lots With Lots 40,000 Lots Greater One Street Sq. Ft. or Than 40,000 Elevation Frontage Less in Size Sq. Ft. in Size  
146' to 240' 60% 40% 20%~~

a. Certain projects participating in the TDC Program. For projects participating in the TDC Program pursuant to SMC 23.49.041, on lots that either (i) have at least 25% of the lot area at street level in open space use or occupied by structures, or portions of structures, no greater than 35' in height, or any combination thereof; or (ii) have at least 50% of the lot area at street level in open space use or occupied by structures, or portions of structures, no greater than 65' in height, or any combination thereof:

Lots With Two or More Street Frontages

Lots With Lots 45,000 Lots Greater One Street Sq. Ft. or Than 45,000 Elevation Frontage Less in Size Sq. Ft. in Size  
Above 125' 60% 50% 25%

b. All other projects:

Lots With Two or More Street Frontages

Lots With Lots 45,000 Lots Greater One Street Sq. Ft. or Than 45,000 Elevation Frontage Less in Size Sq. Ft. in Size  
Above 125' 60% 40% 20%

3. To qualify as uncovered area, at least half the area required to be uncovered shall be contiguous and shall have a minimum depth of fifteen feet (15').

4. To meet the coverage limits, a lot may be combined with one (1) or more abutting lots, whether occupied by existing structures or not, provided that:

a. The coverage of all structures on the lots meets the limits set in this subsection A; and

b. The fee owners of the abutting lot(s) shall execute a deed or other agreement, which shall be recorded with the title to the lots, ~~which that~~ restricts future development so that in combination with the other lots, the coverage limits shall not be exceeded.

Section 11. Three codified maps, IB Downtown Zones, IIID Downtown Office Core-2, and VD Downtown Mixed Commercial, located at the end of Chapter 23.49 of the Seattle Municipal Code, are amended as shown in Attachment 1 to this ordinance.

Section 12. A new subsection F is hereby added to Section 23.76.026 of the Seattle Municipal Code, which Section was last amended by Ordinance 118980, to read as follows:

23.76.026 Vesting of development rights.

F. Master use permits for development projects that contain credit floor area pursuant to participation in the City/County Transfer of Development Credits (TDC) Program (SMC 23.49.041). Any right to use rural development credits under

SMC 23.49.041 for any project is subject to any development regulation(s) that become effective prior to the date of vesting for purposes of other Master Use Permit components for the project under the terms of this section. If a Master Use Permit is not issued for any reason or expires prior to construction of the project using the rural development credits, then the applicant may apply for use of the rural development credits for another project on the same lot or another eligible lot, but any such use shall be subject to any modification or repeal of the provisions for use of rural development credits up until the time of vesting for purposes of other Master Use Permit components for such project under this section.

Section 13. Subsection A of Section 23.86.030 of the Seattle Municipal Code, which Section was last amended by Ordinance 111926, is further amended as follows:

23.86.030 Common recreation area.

Certain zones require that a minimum common recreation area be provided for residential use. When a common recreation area is required, the following provisions shall apply:

A. An outdoor area, ~~which that~~ is not part of a green street ~~park~~ or publicly owned open space; ~~shall qualify~~ as a common recreation area if the ground surface of the area is permeable and is landscaped with grass, ground cover, bushes and/or trees; provided that patios, paved areas designed for recreation, and pedestrian access ~~which that~~ meets the Washington State Rules for Barrier- Free Design shall also be considered common recreation area.

Section 14. The Executive is directed to report to the Council three years from the effective date of this ordinance on development that has occurred from making use of the provisions of this ordinance and the City's experience in administration of the Transfer of Development Credit program. The report should include a list of projects that have been proposed; the status of each project; the number of rural development credits used; the amount of residential floor area added or to be added through these projects; the amenities funded by developers and by King County; the funds available for additional amenities; the status of any rules issued or proposed to be issued by the Director of Design, Construction and Land Use; issues that have arisen with administration of the program; recommendations concerning continuation of the program; and analysis of any recommended amendments.

Section 15. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 16. 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 \_\_\_\_\_, 1999, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

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

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_ Paul Schell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

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

(SEAL)

Attachment 1

[Map IB Downtown Zones](#)

[Map IID Downtown Office Core-2](#)

[Map VD Downtown Mixed Commercial](#)

October 12, 1999 V12