

NO. 66852-8

COURT OF APPEALS
DIVISION I
OF THE STATE OF WASHINGTON

CITY OF SEATTLE,

Respondent,

vs.

ROBERT D. DAVIS and ASF, INC.,

Appellants.

REPLY BRIEF OF APPELLANT

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- Appendix 4:** Third Amended Order Setting Trial Date & Related Dates dated September 21, 2011, United States District Court Western District of Washington at Seattle, ATL Corporation v. City of Seattle
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I. ARGUMENT IN REPLY

1.1 The City Submits Evidence Not in the Record.

The City argued strenuously that Appellants should not be allowed to submit additional evidence on appeal regarding a strip club located at 8914 N.E. Lake City Way, a club called Pandora's which opened after the trial court made its decision in this case. See Motion to Submit Additional Evidence submitted herein, the City's Response and Appellants' Reply submitted herein. The Motion to Submit Additional Evidence was denied. The evidence would have established that the City made a zoning dispersion decision in only 45 days on "Pandora's" and that the City verifies property uses by using King Assessor's information, contrary to Andrew McKim's declaration in the case.

However, the City just slips new evidence into its brief at page one, stating that four other strip clubs have opened in Seattle after the moratorium was declared unconstitutional, "Dreamgirls," near Safeco Field, "Fantasy Unlimited" on Westlake, "Pandora's" on Lake City Way, and "Dreamgirls at Rick" on Lake City Way."¹ This

¹ Respondent's Brief, p. 1, footnote 1.

evidence is not in the record on review. The reason the City submits this evidence is to paint a picture of the City as liberal with respect to allowing new strip clubs (despite a total ban of new strip clubs for 17 years)² and Robert Davis as someone who just cannot figure out how to comply with the City's regulations.³ Nothing could be further from the truth, as Judge Barnett mentioned at oral argument: *"I understand that, but I mean it does appear the City is kind of picking out roadblocks one at a time and throwing them out. Every 60 or 90 days you throw out a new roadblock."* RP p. 31, Ins. 3 – 7.

If the City is allowed to submit the evidence it submitted regarding "Pandora's", then the Court should allow the evidence submitted with the Motion to Allow Additional Evidence regarding the zoning approval for Pandora's, which was granted in 45 days.

1.2 This Court's Review of the Trial Court's Decision is De Novo.

Because the trial court decided this case based upon declarations only and heard no testimony, review of both factual and legal determinations is "de novo," just as it is for summary judgment

² *ASF, Inc. v. City of Seattle*, 408 F.Supp.2d 1102 (W.D. Wash. 2005); CP 110 – 122.

³ The City also states twice that Mr. Davis has misled the City about his intentions (Respondent's Brief, pp. 4 and 7). While not relevant to this appeal, Mr. Davis has hotly disputed these statements. He has always told the City exactly what he has been trying to do. CP 106.

decisions.⁴ Woodinville v. Northshore UCC, 166 Wn.2d 633, 211 P.3d 406 (2009), holding that where an actual trial was conducted, factual findings are reviewed for “clear error.” As this Court is aware, no trial was conducted here. See Verbatim Report of Proceedings. Thus, review of both factual and legal determinations is de novo in this case.

1.3 The Court Erred in Deciding Factual Issues Without a Trial.

Despite Robert Davis’s submission to the trial court of his continuous adult entertainment premises license for 2007, 2008, 2009 and 2010 the Court found only that “Defendants ASF, Inc. has been issued an adult entertainment premises license by the City of Seattle for 2011 for premises located at 5220 Roosevelt Way.” CP 369, Ins. 5 – 7. It was error for the trial court to rule, apparently, as a matter of law, that ASF, Inc. did not have its adult entertainment license, with the attendant zoning approval,⁵ prior to the enactment of the dispersion ordinances.

The City’s argument that the license was not applied for until January 2008 and not paid for until November 2008 does not make

⁴ Mavis v. King Cnty.Pub. Hosp., 159 Wn. App. 639, __ P.3d __ (2011).

⁵ At a time when the City was to check for zoning compliance before issuing the license. CP 94.

sense. The City fails to explain how someone could apply for and pay for a license in 2008 and receive a license for 2007.

Respondent's Brief, p. 12.

This issue should have been determined at an actual trial. It matters, as discussed below,⁶ because the City is estopped from claiming it did not follow its own ordinance in May 2007.

1.4 The Dispersion Ordinance Does Not Apply to Jiggles; Jiggles was not a "New" or "Expanding" Club.

SMC 23.47.004H as enacted on June 22, 2007 applied only to "new and "expanding" strip clubs, not to existing clubs. CP 127. When ASF, Inc. applied for and received its adult entertainment premises license, ASF, Inc. had everything in place that was required at that time to open an adult cabaret. Once the license was received, ASF, Inc. could have opened its doors immediately as it was in a proper commercial zone and had the appropriate certificate of occupancy. CP 161. No dispersion was required.

Robert Davis and ASF, Inc. kept everything in place for the eventual "actual" opening of the club's doors, including continuing to

⁶ And at pp. 9 – 13 of Appellant's Brief. **The City's argument that ASF, Inc. was told that the City did not follow that procedure at that time is without merit. ASF, Inc. applied for its adult entertainment premises license in May 2007 and relied upon that process. The letter the City refers to was way after the fact and dated August 25, 2008. CP 370, Ins. 7 – 11.**

lease the property⁷ and pay for its adult entertainment license each year. ASF, Inc. did not need a building permit, but could simply open its doors at any time.

ASF, Inc. renewed the license every year for four years. CP 151 – 158. The City’s argument that it is the 2011 adult entertainment premises license that is the “operative” license is nonsensical. Respondent’s Brief at page 11. Under that reasoning, there would be no established strip clubs and each year, the City would look anew for zoning compliance. The City does not do that; established clubs simply renew their license each year by paying the \$720 fee.⁸ CP 160. Indeed, an established adult entertainment premises license cannot be revoked or suspended unless there are violations of the standards of conduct for strip clubs. See Appendix 1 and 2, SMC 6.270.150 and SMC 6.202.230.

Most importantly, all of the adult cabarets that were in existence before the dispersion ordinances were enacted simply remained in existence without compliance with dispersion (they were

⁷ Robert Davis was the lessee of the property. CP 369, ln. 3.

⁸ When the moratorium was overturned in 2005, there were four licensed strip clubs in Seattle and all remained after dispersion was enacted. CP 43, lns. 18-21. “[T]here were four operating strip clubs, and the then-existing zoning regulations did not require buffers of any kind.” ATL Corp. v City of Seattle, 758 F.Supp.2d 1147 (W.D. Wash. 2010) at p. 1150.

not “new” or “expanding” clubs). CP 43. And the City did not care if they were actually open for business as evidenced by “The Dancing Bare.” It had not been operating for five years and did not even have a current adult entertainment premises license. CP 130, Ins. 13-19. Yet, when it decided to “resume operations,”⁹ in 2011, after no operations for five years, it simply did; no dispersion was required.

The City’s argument that ASF, Inc. had to “vest” in the regulations in effect in May 2007 by applying for a building permit or a master use permit is misguided. ASF, Inc. was not required to get either one of those things in May 2007 to be able to open an adult cabaret. The one case cited by the City had to do with vesting to the current zoning regulations when you apply for a building permit. As ASF, Inc. was not doing any construction at the Jiggles location (CP 160), that case is not applicable to this situation.

The City relies upon Erickson v. McLerran, 123 Wn.2d 864, 872 P.2d 1090 (1994). In that case the only holding was the vested rights doctrine only applies to building permits, not to other “land development permits.” Id. at 872.

⁹ Amended Second Order on Cross-Motions for Summary Judgment (Appendix 1 to Respondent’s Brief), p. 10, Ins. 8 – 9.

Here, ASF, Inc. had its adult entertainment premises license, was in a proper commercial zone and had a proper certificate of occupancy before dispersion was enacted on June 22, 2007. ASF, Inc. did not need any “land development permits,” because it was not “developing” any land. So ASF, Inc. was not required to “vest” to anything pursuant to SMC 23.76.026; it simply did not apply to this situation, as the City argues. No building permit was ever needed, except for the City’s mistake about the certificate of occupancy, which was later corrected. CP 160 – 162. No change of master use was required at that time in May 2007 because there were no buffers between uses. CP 43.

Moreover, as described at pages 9 – 13 of Appellant ASF, Inc.’s opening brief, the City is estopped from claiming that it did not check for proper zoning when ASF, Inc. applied for its adult entertainment license in May 2007. This author is incredulous that the City now claims that the estoppel argument¹⁰ was not made in the trial court. In fact, the City devoted six pages of its Motion for Injunctive Relief to arguing against estoppel. CP 12 – 17.

¹⁰ Respondent’s Brief at pp. 13 – 14.

And ASF, Inc. responded to that argument starting at page three of its response (CP 81 and 83, Ins.1 – 2, 17 - 20) where it argued that the City could not now claim that zoning was improper when the City was supposed to check for zoning compliance at that time. ASF, Inc. went on to argue in its response that “ASF was granted the license for the year 2007 and has maintained it ever since. The fact that the license was issued is a confirmation that ASF is in compliance with applicable zoning laws.” CP 83. See also CP 90 – 91. Thus, the estoppel issue was properly before the trial court and should be considered in this Court. Mavis v. King Cnty. Pub. Hosp., 159 Wn. App. 639, ___ P.3d ___ (2011). at 651, *citing* Lunsford v. Saberhagen Holdings, Inc., 139 Wn. App. 334, 339, 160 P.3d 1089 (2007).

Moreover, even though a new issue “generally” cannot be raised on appeal, the Court should consider issues that are ‘arguably related’ to issues raised in the trial court. Mavis v. King Cnty. Pub. Hosp., *supra*, at 651.

Estoppel applies here as argued by ASF, Inc. at pp. 9 – 13 of its opening brief. The first and second elements are satisfied contrary to the City’s argument at pp. 14 – 18 of Respondent’s Brief. Here, when Robert Davis applied for the ASF, Inc. adult

entertainment premises license in May 2007, there were no dispersion requirements. The City was to determine compliance with zoning at that time. Mr. Davis relied upon the City's ordinance. The City now says that Mr. Davis knew the City did not do that, but the City is talking about things that happened in 2008, not in May 2007. CP 56, 58 and 61 are all after the fact.

The third element is also satisfied as described at pp. 11 – 13 of Appellant's Brief. Equitable estoppel applies to the actions of the City in this case. If the City exercises its powers irregularly, the doctrine applies to prevent an injustice. Finch v. Mathews, 74 Wn.2d 161, 443 P.2d 833 (1968).

Responsible Urban Growth v. Kent, 123 Wn.2d 376, 868 P.2d 861 (1994) does not help the City, as that case is not an equitable estoppel case. In that case, a builder proceeded with his project, with full knowledge that there was a dispute about his permit. The Court refused to "balance the equities." Id. at 389. Here, we are talking about what the City did (or did not do), in 2007 and arguing that the City is estopped from revoking approval for an adult cabaret because it did not follow its own code at that time. Mr. Davis relied upon

having his approval when he continued to lease the property and pay for an adult cabaret license.¹¹

City of Mercer Island v. Steinman, 9 Wn. App 479, 513 P.2d 80 (1973) is also easily distinguishable. In that case, the Court declined to apply equitable estoppel because the landowner had failed to reveal that he was going to use his property as a rental. Id. at 484. He was presumed to have known that he should not have been granted a permit. Here, Mr. Davis was entitled to rely upon the City's code which required it to check for proper zoning before the adult entertainment premises license was issued. He could not have known that the City failed to do that (as it now claims after the fact). And the City was well aware that Mr. Davis intended to have "live nude dancers." CP 150.

Chelan County v. Nykriem, 146 Wn.2d 904, 52 P.3d 1 (2002) also does not help the City. In that case, the Court held that a county's attempt to revoke a development permit was time-barred by LUPA. The Court stated: "Leaving land use decisions open to reconsideration long after the decisions are finalized places property

¹¹ Much later, in 2008, the City told Mr. Davis it was not following that procedure with respect to the Aurora location which was clearly subject to the dispersion ordinances. CP 56, 58 and 61.

owners in a precarious position” Id. at 933. The permit was upheld even though it was erroneously issued. Id. at 940.

The other cases cited by the City, Beuchel v. State Dept. of Ecology, 125 Wn.2d 196, 884 P.2d 910 (1994) and Ford v. Bellingham-Whatcom County Board of Health, 16 Wn. App. 709, 538 P.2d 821 (1977) are also distinguishable because in those cases, the property owners were arguing that decisions regarding other pieces of property should also be applied to them. Those cases are inapplicable here because Mr. Davis is not arguing that the City is estopped because of actions taken in cases other than his own.

1.5 “If” the Dispersion Ordinance Applies to Jiggles, it is Unconstitutional and the City’s “Severance” Argument was Not Raised in the Trial Court.

The City’s reliance upon Judge Lasnik’s unpublished interlocutory order in the ATL Corporation v. City of Seattle¹² case is entirely misguided. While Washington courts are bound by the interpretation that the U.S. Supreme Court places on a federal statute, opinions of “federal appellate courts” are not binding

¹² Appendix 1 to Respondent’s Brief.

(although if dated after January 1, 2007, they may be cited (GR 32.1)). SS. v. Alexander , 143 Wn. App. 75, 92, 177 P.3d 724 (2008) (holding that the utility of unpublished federal court opinions is “vexing” and no issue will be decided solely on the basis of such authority).

The first problem is that, Judge Lasnik’s order is interlocutory and subject to change despite language in the order that “there is no just cause for delay.” See FRCP 54(b) and Fox v. Sunmaster Products, 115 Wn.2d 498, 798 P.2d 808 (1990). Judge Lasnik did not direct entry of a final judgment, the Petition for Permission to Appeal was denied, and the case is set for trial for March 5, 2011.¹³

But most importantly, everything Judge Lasnik said about the City’s process for making this zoning decision and the 120-day timeframe is “dicta.” The City asked for and Judge Lasnik decided that he had to give “collateral estoppel” effect to Judge Barnett’s Order regarding this injunction. *“To the extent plaintiff is arguing that 120 days is an unreasonably long period of time in which to consider a consolidated land use permit application, the Court finds that plaintiff is collaterally estopped from re-litigating the facial validity of*

¹³ See Appendix 3 and 4 attached hereto.

*the 120-day processing deadline.*¹⁴ Now, amazingly, the City is asking this Court to rely upon Judge Lasnik's Order. This is a circular argument; the City argues that Judge Lasnik had to rely upon Judge Barnett's order and now in deciding whether Judge Barnett was correct, the City is arguing that this Court must rely upon Judge Lasnik's order. The City cannot have it both ways.

Since Judge Lasnik did not actually decide these issues, but deferred to Judge Barnett, the interlocutory order has no persuasive effect. This Court must decide based upon all of the caselaw regarding this First Amendment issue that is precedential and persuasive and contained in Appellant's Brief and the record on appeal, not upon Judge Lasnik's unpublished interlocutory order.

The City tries to rely upon Judge Lasnik's Order because the City did not find a single case where anything close to 120 days to make a simple dispersion decision is reasonable under FW/PBS v. Dallas, 493 U.S. 215 (1990).

Moreover, the City cannot circumvent the First Amendment by embedding the dispersion decision in a lengthy process that may take many months for other approvals. Under the City's reasoning,

¹⁴ Amended Second Order Regarding Cross-Motions for Summary Judgment, p. 6, Ins. 10 -15 (Appendix 1 to Respondent's Brief).

you could delay the decision on whether a location met the dispersion requirements for a very long time, while someone applied for Shoreline substantial development permits, Shoreline variances, rezones, Comprehensive Plan amendments, Environmental review, etc., etc., etc. Respondent's Brief, p. 38. Why would a property owner do all of that and then have the City say, "you don't meet dispersion!" Whether a site meets dispersion is a simple decision and under FW/PBS v. Dallas, *supra*, whether a potential adult cabaret owner can even qualify to open at a location must be determined with First Amendment principles in mind and the time limit must be reasonable. Under the numerous cases cited in Appellant's Brief, 120 days is not reasonable.¹⁵

Despite the City's contention that it does not have a good system like San Diego must have,¹⁶ that the City has "technical

¹⁵ The City tries to distinguish those cases by saying that the municipalities in those cases, "presented no evidence," (Respondent's Brief, p. 42), but those statements do not establish what evidence was actually presented. Certainly, if these cases made it to appellate courts, the municipalities tried to justify their time frames. If it was a paucity, as here, those courts may have simply said that the municipality "presented no evidence" (ie. no sufficient evidence). The City has not distinguished Fantasy Land Video v. San Diego, 373 F.Supp.2d 1094 (S.D. Calif. 2005) or any of the other cases cited by Appellants establishing that 120 days is not reasonable.

¹⁶ Respondent's Brief, p. 43.

restraints,”¹⁷ and the City is short of staff to make a zoning decision,¹⁸ the City’s reasons for violating the First Amendment are of no consequence. See pages 24 – 26 of Appellant’s Brief discussing Judge Robart’s rejection of that argument in ASF, Inc. v. City of Seattle, supra.

If the City’s dispersion ordinance is unconstitutional, either facially or as applied to ASF, Inc., then the permanent injunction must be vacated and Jiggles should be allowed to reopen. The City argues that the buffer requirement could remain and the 120-day requirement could be “severed.” Respondent’s Brief, pp. 26 – 28. However, the City did not make a “severance” argument to the trial court and should not be allowed to raise this new issue here. See State v. Moen, 129 Wn.2d 535, 919 P.2d 69 (1996). If the Court considers the severance argument, it must be rejected.

Whether an unconstitutional provision of an ordinance is severable from the remainder is controlled by state law. City of Lakewood v. Plain Dealer Publishing Co., 486 U.S. 750 (1988). Under Washington law it is well-established that invalid portions of

¹⁷ Respondent’s Brief, p. 43.

¹⁸ Respondents’ Brief, p. 44.

an ordinance are not severable when elimination of the invalid part would render the remainder of the act incapable of accomplishing the legislative purpose. Boeing Co. v. State, 74 Wn.2d 82, 442 P.2d 970 (1968); Hogue v. Port of Seattle, 54 Wn.2d 799, 54 Wn.2d 799, 341 P.2d 171 (1959).

In R/L Associates, Inc. v. City of Seattle, 113 Wn.2d 402, 780 P.2d 838 (1989), the Court invalidated the City's relocation assistance ordinance, and held that the notice and eviction requirements could not be severed because they were "so closely connected that one without the other would be useless to accomplish the purpose of the act." Id. at 409. And in Fine Arts Guild, Inc. v. City of Seattle, 74 Wn.2d 503, 445 P.2d 602 (1968), the Court held that an ordinance regulating and classifying motion pictures violated the First Amendment. The Court held that the procedural defects of the ordinances were not severable from the remainder of the ordinances.

Here, the dispersion requirements of Ordinance numbers 122411¹⁹ and 123046 impact the following Seattle Municipal Code sections, 23.47A.004(H), 23.49.030 and 23.50.012. The City's

¹⁹ Appendix 5 and 6.

method of enforcement of the dispersion requirements is through the Master Use Permit process. The City claimed here that the failure to have obtained a Master Use Permit was the reason that Jiggles had to close. CP 15, 363, 369 – 371.²⁰

The City argues that the permit requirement can be severed and the substantive dispersion portions would remain. How would the dispersion ordinance be enforced in that situation? The Court cannot invalidate the entirety of SMC 23.76.005. And the Court cannot write a time-frame into the dispersion ordinance. Under the City's suggestion, there would be no method to enforce the substantive requirements of the ordinances. Surely, the intent of the ordinances read together is that the dispersion requirements are enforced through the permitting process, as evidenced by the City's enforcement process in this case.

Judge Lasnik's decision in ATL v. City of Seattle, 758 F.Supp.2d 1147 (W.D. Wash. 2010) is distinguishable. In that case, the City could not require an operator to have an adult entertainment license but could still enforce the "standards of conduct" and "operational requirements" of the Seattle Municipal

²⁰ The trial court said that Defendants are enjoined from operating an adult cabaret at 5330 Roosevelt Way, "until such time as the defendants are able to obtain a Master Use Permit from the City allowing an adult cabaret at that location. "

Code. Appendix 7 attached hereto. The licensing requirement was easily severable from the other sections of the code without affecting numerous provisions of Seattle's land use code, as would happen here. IF SMC 23.76.005 was invalidated, there would be no time limit for any land use decision.

The City's reliance upon Tollis v. County of San Diego, 505 F.3d 935 (9th Cir. 2007) is also misplaced. In Tollis v. San Diego, the county enacted a comprehensive adult entertainment ordinance which "restricted the hours in which such businesses can operate, requires the removal of doors on peep show booths, and mandated that businesses disperse to industrial areas." Id. at 937. The county had a time frame of 130 - 140 days to issue an operating permit which the Ninth Circuit affirmed as unconstitutional. Id. at 943. The Ninth Circuit held that the unconstitutional time frame for permitting could not be severed, because it would leave the ordinance with no time frame. So the permitting requirement was unconstitutional. But, similar to Judge Lasnik's ruling, the other substantive requirements for operations of existing clubs could remain.

Accordingly, the dispersion requirements should be declared unconstitutional, until such time as the City re-writes them with

constitutional time-frames for making a decision on whether an adult cabaret meets dispersion.

II. CONCLUSION

This Court should reverse the trial court's order granting preliminary and permanent injunctions and declare SMC 23.47A.004H unconstitutional because the time limit for making a simple zoning decision is unreasonable under FW/PBS v. Dallas, *supra*. In the alternative, this Court should remand the case back to the trial court for a trial on whether ASF, Inc. had all of the approvals it needed for its adult cabaret prior to the enactment of the ordinance.

DATED this 17th day of January, 2012.

Respectfully submitted ,



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Information retrieved January 9, 2012 2:04 PM

Seattle Municipal Code

Title 6 - BUSINESS REGULATIONS
Subtitle IV New License Code
Chapter 6.270 - Adult Entertainment

SMC 6.270.150 Suspension or revocation of premises license.

In addition to the reasons set forth in SMC Section 6.202.230 as now or hereafter amended, an adult entertainment premises license may be suspended or revoked upon a finding that:

- A. The licensee permitted or authorized his or her employees, agents, entertainers or managers to violate any of the provisions of this chapter;
or
- B. The adult entertainment manager permitted or authorized any violation of any of the provisions of this chapter by any person.

Legislative history/notes:

(Ord. 114225 Section 1(part), 1988.)

New legislation may amend this section!

Recently approved legislation may not yet be reflected in Seattle Municipal Code. See the legislative history at the bottom of each section to determine if new legislation has been incorporated.

Search for recently approved legislation referencing this section. (Searches for legislation approved within the past six months, which may not yet be incorporated into the SMC. See the legislative history for each section to confirm whether an ordinance is reflected.)

Search for proposed legislation that refers to this section. (Searches for Council Bills introduced this year and not yet passed.)

Note: The above searches are provided to assist in research, but they are not guaranteed to capture all relevant legislation. Search directly on the Council Bills and Ordinances Index for the most comprehensive results.

For research assistance, contact the Seattle City Clerk's Office at (206) 684-8344, or by e-mail, clerk@seattle.gov.

For interpretation or explanation of a particular SMC section, please contact the relevant City department.

APPENDIX 1





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Seattle Municipal Code

Title 6 - BUSINESS REGULATIONS

Subtitle IV New License Code

Chapter 6.202 - General Provisions

SMC 6.202.230 License -- Denial, revocation, or refusal to renew -- Grounds.

A license may be denied, revoked, or not renewed for violation of any ordinance or law that regulates licensed activity in order to further the public interest in public health, safety, and welfare. A license may also be denied, revoked, or not renewed upon a finding that any applicant or licensee, or any owner, officer or agent thereof:

A. Has omitted to disclose any material fact necessary to make a statement not misleading, in any application for the license; or

B. Has charges pending against her/him or has been convicted of a crime or offense that directly relates to the activity for which the license is required, and the time elapsed since the date of conviction or release from jail or prison, whichever is more recent, is less than ten years; or has been convicted of several crimes including at least one within the last ten years; provided, however, that any licensee whose license is revoked because of charges pending against her/him may engage in the activity for which the license is required, pending a final decision on the charges; or

C. Has been subject to an adverse finding in any judgment or order that directly relates to the activity for which the license is required, in any judicial or administrative proceeding in which fraud, deceit, coercion, breach of trust, unfair method of competition, unfair or deceptive trade act or practice, or assertion of unconscionable contractual provisions, or other similar act, practice, or conduct, on the part of the licensee-applicant is proven, and the time elapsed since the judgment or order is less than ten years; or

D. Has violated or failed to comply with any applicable provisions of this Code or rule or regulation prescribed under this subtitle; provided, that failure to obtain a license shall not be grounds for license denial; or

E. Is in default in any payment of any fee or tax required under Title 5 or Title 6 of the Seattle Municipal Code; or

F. Has been subject to an adverse finding in any judgment or order, in any

APPENDIX 2

judicial or administrative proceeding for violation of any provision of a City ordinance or rule or regulation prescribed thereunder pertaining to fire, building, health, sanitation, zoning, weights and measures, consumer protection, environmental protection, or any other ordinance or law and that is applicable to the licensed activity or licensed premises; or

G. Has been determined to have discriminated against any person because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, or the presence of any sensory, mental, or physical handicap, in the course of licensed activity, in violation of a City ordinance, law, rule or regulation prescribed thereunder; or

H. Has violated or failed to comply with any final order of the Director or Hearing Examiner; or

I. Has failed to complete the application for a license as required by this Code; or

J. Has failed to obtain a license or permit required by state or other law necessary to engage in the licensed activity; or

K. Has failed to comply with RCW Chapters 49.12 and 28A.28, and rules and regulations promulgated pursuant thereto, regarding employment of minors; or

L. Any licensee has permitted or authorized his/her agent to violate or fail to comply with any provision of this Code; or

M. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in SMC Chapter 10.09.

Legislative history/notes:

(Ord. [123188](#) , Section 4, 2009; Ord. [123160](#) , Section 5, 2009; Ord. [119628](#) Section 21, 1999; Ord. 117586 Section 3, 1995; Ord. 109651 Section 5, 1981; Ord. 108934 Section 1.090, 1980.)

New legislation may amend this section!

Recently approved legislation may not yet be reflected in Seattle Municipal Code. See the legislative history at the bottom of each section to determine if new legislation has been incorporated.

[Search for recently approved legislation referencing this section.](#) (Searches for legislation approved within the past six months, which may not yet be incorporated into the SMC. See the legislative history for each section to confirm whether an ordinance is reflected.)

[Search for proposed legislation that refers to this section.](#) (Searches for Council Bills introduced this year and not yet passed.)

Note: The above searches are provided to assist in research, but they are not guaranteed to capture all relevant legislation. Search directly on the Council Bills and Ordinances Index for the most comprehensive results.

For research assistance, contact the Seattle City Clerk's Office at (206) 684-8344, or by e-mail, clerk@seattle.gov.

For interpretation or explanation of a particular SMC section, please contact the relevant City department.



FILED

UNITED STATES COURT OF APPEALS

SEP 14 2011

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ATL CORPORATION,

Plaintiff - Petitioner,

v.

CITY OF SEATTLE,

Defendant - Respondent.

No. 11-80134

D.C. No. 2:09-cv-01240-RSL
Western District of Washington,
Seattle

ORDER

Before: HAWKINS and IKUTA, Circuit Judges.

The petition for permission to appeal pursuant to 28 U.S.C. § 1292(b) is denied.

SL/MOATT

APPENDIX 3

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ATL CORPORATION,

Plaintiff(s),

v.

CITY OF SEATTLE,

Defendant(s).

Case No. C09-1240RSL

THIRD AMENDED ORDER
SETTING TRIAL DATE & RELATED
DATES

TRIAL DATE

March 5, 2012

Settlement conference per CR 39.1(c)(2) held no later than

January 5, 2012

Mediation per CR 39.1(c)(3) held no later than

February 4, 2012

All motions in limine must be filed by
and noted on the motion calendar no earlier than the
second Friday thereafter

February 6, 2012

Agreed pretrial order due

February 22, 2012

Pretrial conference to be scheduled by the Court

Trial briefs and trial exhibits due

February 29, 2012

Length of Trial: 4-5 days

Non Jury XXX

These dates are set at the direction of the Court after reviewing the joint status report and discovery plan submitted by the parties. All other dates are specified in the Local Civil Rules. If any of the dates identified in this Order or the Local Civil Rules fall on a weekend or federal holiday, the act or event shall be performed on the next business day. These are firm dates that can be changed only by order of the Court, not by agreement of counsel or the parties. The

1 Court will alter these dates only upon good cause shown; failure to complete discovery within
2 the time allowed is not recognized as good cause.

3 If the trial date assigned to this matter creates an irreconcilable conflict, counsel must
4 notify Teri Roberts, the judicial assistant, at 206-370-8810 within 10 days of the date of this
5 Order and must set forth the exact nature of the conflict. A failure to do so will be deemed a
6 waiver. Counsel must be prepared to begin trial on the date scheduled, but it should be
7 understood that the trial may have to await the completion of other cases.

8
9 ALTERATIONS TO ELECTRONIC FILING PROCEDURES AND LOCAL RULES

10 As of June 1, 2004, counsel are required to electronically file all documents with the
11 Court. *Pro se* litigants may file either electronically or in paper form. Information and
12 procedures for electronic filing can be found on the Western District of Washington's website at
13 www.wawd.uscourts.gov. The following alterations to the Electronic Filing Procedures apply in
14 all cases pending before Judge Lasnik:

15 – Pursuant to Local Rule 10(e)(8), when the aggregate submittal to the court (*i.e.*, the
16 motion, any declarations and exhibits, the proposed order, and the certificate of service) exceeds
17 **50** pages in length, a paper copy of the documents (with tabs or other organizing aids as
18 necessary) shall be delivered to the Clerk's Office for chambers by 10:30 am the morning after
19 filing. The chambers copy must be clearly marked with the words "Courtesy Copy of Electronic
20 Filing for Chambers."

21 – Section III, Paragraph L - unless the proposed order is stipulated, agreed, or otherwise
22 uncontested, the parties need not e-mail a copy of the order to the judge's e-mail address.

23 – Pursuant to Local Rule 10(e)(10), all references in the parties' filings to exhibits should
24 be as specific as possible (*i.e.*, the reference should cite the specific page numbers, paragraphs,
25 line numbers, etc.). All exhibits must be marked to designate testimony or evidence referred to
26 in the parties' filings. Filings that do not comply with Local Rule 10(e) may be rejected and/or

1 returned to the filing party, particularly if a party submits lengthy deposition testimony without
2 highlighting or other required markings.

3 – Pursuant to this order, any motion *in limine* must be filed by the date set forth above
4 and noted on the motion calendar no earlier than the second Friday thereafter. Any response is
5 due on or before the Wednesday before the noting date. Parties may file and serve reply
6 memoranda, not to exceed nine pages in length, on or before the noting date.

7
8 **PRIVACY POLICY**

9 Pursuant to Federal Rule of Civil Procedure 5.2 and Local Rule 5.2, parties must redact
10 the following information from documents and exhibits before they are filed with the court:

11 * Dates of Birth - redact to the year of birth

12 * Names of Minor Children - redact to the initials

13 * Social Security Numbers and Taxpayer Identification Numbers - redact in their entirety

14 * Financial Accounting Information - redact to the last four digits

15 * Passport Numbers and Driver License Numbers - redact in their entirety

16 All documents filed in the above-captioned matter must comply with Federal Rule of
17 Civil Procedure 5.2 and Local Rule 5.2.

18
19 **COOPERATION**

20 As required by CR 37(a), all discovery matters are to be resolved by agreement if
21 possible. Counsel are further directed to cooperate in preparing the final pretrial order in the
22 format required by CR 16.1, except as ordered below.

23
24 **TRIAL EXHIBITS**

25 The original and one copy of the trial exhibits are to be delivered to chambers five days
26 before the trial date. Each exhibit shall be clearly marked. Exhibit tags are available in the

1 Clerk's Office. The Court hereby alters the CR 16.1 procedure for numbering exhibits:
2 plaintiff's exhibits shall be numbered consecutively beginning with 1; defendant's exhibits shall
3 be numbered consecutively beginning with 500. Duplicate documents shall not be listed twice:
4 once a party has identified an exhibit in the pretrial order, any party may use it. Each set of
5 exhibits shall be submitted in a three-ring binder with appropriately numbered tabs.

6
7 **SETTLEMENT**

8 Should this case settle, counsel shall notify the Deputy Clerk as soon as possible.
9 Pursuant to GR 3(b), an attorney who fails to give the Deputy Clerk prompt notice of settlement
10 may be subject to such discipline as the Court deems appropriate.

11
12 DATED this 21st day of September, 2011.

13
14
15 
16 Robert S. Lasnik
United States District Judge



City of Seattle Legislative Information Service

Information updated as of August 28, 2009 4:08 PM

Council Bill Number: 115871

Ordinance Number: 122411

AN ORDINANCE relating to land use and zoning; amending Chapters 23.47A, Commercial zones; 23.48, Seattle Mixed zone; 23.49, Downtown zones; 23.50, Industrial zones; 23.54, Parking and Access; and 23.84A, Definitions; of the Seattle Municipal Code, adopting regulations for the establishment and location of new or expanding adult cabarets.

Date introduced/referred: April 16, 2007

Date passed: June 11, 2007

Status: Passed as Amended

Vote: 8-0 (Excused: Clark)

Date of Mayor's signature: June 22, 2007

(about the signature date)

Note: Returned unsigned by Mayor 6/22/07.

Committee: Urban Development and Planning

Sponsor: STEINBRUECK

Index Terms: LAND-USE-REGULATIONS, LAND-USE-PERMITS, BUSINESS-ENTERPRISES, DOWNTOWN, PARKING, COMMERCIAL-AREAS, INDUSTRIAL-DISTRICT, NEIGHBORHOOD-COMMERCIAL-AREAS ADULT-ENTERTAINMENT, ENTERTAINMENT-INDUSTRY, ZONING, LAND-USE-PERMITS, BUILDING-PERMITS, PERMITS

References/Related Documents: Amending: Ord 122311, 118302

Text

AN ORDINANCE relating to land use and zoning; amending Chapters 23.47A, Commercial zones; 23.48, Seattle Mixed zone; 23.49, Downtown zones; 23.50, Industrial zones; 23.54, Parking and Access; and 23.84A, Definitions; of the Seattle Municipal Code, adopting regulations for the establishment and location of new or expanding adult cabarets.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Council Findings and Analysis. The City Council's Findings and Analysis are in Attachment 1 to this ordinance.

Section 2. Section 23.47A.004 of the Seattle Municipal Code, which section was enacted by Ordinance 122311, is amended to add a new subsection as follows:

23.47A.004 Permitted and prohibited uses.

* * *

H. Adult Cabarets.

APPENDIX 5

1. Any lot line of property containing any proposed new or expanding adult cabaret must be eight hundred (800) feet or more from any lot line of property containing any community center; child care center; school, elementary or secondary; or public parks and open space use.

2. Any lot line of property containing any proposed new or expanding adult cabaret must be six hundred (600) feet or more from any lot line of property containing any other adult cabaret.

IH. The terms of Chart A are subject to any applicable exceptions or contrary provisions expressly set forth in this title.

Section 3. Subsection C.3, Entertainment Uses, of subsection C of Chart A of Section 23.47A.004 of the Seattle Municipal Code, which section was enacted by Ordinance 122311, is amended as follows:

Chart A for Section 23.47A.004
Uses in Commercial Zones

USES	PERMITTED AND PROHIBITED USES BY ZONE (1)				
	NC1	NC2	NC3	C1	C2
C. COMMERCIAL USES	* * *				
C.3. Entertainment Uses					
C.3.a. Cabarets, adult (14)	X	P	P	P	P
C.3.b. Motion picture theaters, adult	X	25	P	P	P
C.3.c. Panorams, adult	X	X	X	X	X
C.3.d. Sports and recreation, indoor	10	25	P	P	P
C.3.e. Sports and recreation, outdoor	X	X	X(2)	P	P
C.3.f. Theaters and spectator sports facilities	X	25	P	P	P

KEY

- A = Permitted as an accessory use only
- CU = Administrative Conditional Use (business establishment limited to the multiple of 1,000 sq. ft. of any number following a hyphen, according to 23.47A.010)
- CCU = Council Conditional Use (business establishment limited to the multiple of 1,000 sq. ft. of any number following a hyphen, according to 23.47A.010)
- P = Permitted
- S = Permitted in shoreline areas only
- X = Prohibited
- 10 = Permitted, business establishments limited to 10,000 sq. ft., according to 23.47A.010
- 20 = Permitted, business establishments limited to 20,000 sq. ft., according to 23.47A.010
- 25 = Permitted, business establishments limited to 25,000 sq. ft., according to 23.47A.010
- 35 = Permitted, business establishments limited to 35,000 sq. ft., according to 23.47A.010
- 50 = Permitted, business establishments limited to 50,000 sq. ft., according to 23.47A.010

NOTES

(1) In pedestrian-designated zones, a portion of the street-level street-facing facade of a structure along a designated principal pedestrian street may be limited to certain uses as provided in section 23.47A.005E. In pedestrian-designated zones, drive-in lanes are prohibited (Section 23.47A.028).

(2) Permitted at Seattle Center.

* * *

(14) Subject to subsection 23.47A.004 H.

Section 4. Section 23.48.004 of the Seattle Municipal Code, which section was enacted by Ordinance 118302, is amended as follows:

23.48.004 Permitted uses.

A. All uses are permitted outright, either as principal or accessory uses, except those specifically prohibited by Section 23.48.006 and those permitted only as conditional uses by Section 23.48.008.

B. Adult cabarets must comply with the requirements of 23.47A.004 H.

Section 5. Chapter 23.49 of the Seattle Municipal Code is amended to add a new section as follows:

23.49.030 Adult Cabarets.

A. Any lot line of property containing any proposed new or expanding adult cabaret must be eight hundred (800) feet or more from any lot line of property containing any community center; child care center; school, elementary or secondary; or public parks and open space use.

B. Any lot line of property containing any proposed new or expanding adult cabaret must be six hundred (600) feet or more from any lot line of property containing any other adult cabaret and must be six hundred (600) feet or more from any lot line of property containing any adult panoram or adult motion picture theater.

Section 6. Section 23.50.012 of the Seattle Municipal Code, which Section was last amended by Ordinance 122311, is amended to add a new subsection E as follows:

23.50.012 Permitted and prohibited uses.

* * *

E. Adult cabarets

1. Any lot line of property containing any proposed new or expanding adult cabaret must be eight hundred (800) feet or more from any lot line of property containing any community center; child care center; school, elementary or secondary; or public parks and open space use.

2. Any lot line of property containing any proposed new or expanding adult cabaret must be six hundred (600) feet or more from any lot line of property containing any other adult cabaret.

Section 7. Subsection C.3, Entertainment Uses, of section C of Chart A of Section 23.50.012 of the Seattle Municipal Code, which chart was last amended by Ordinance 122311, is amended as follows:

Chart A For Section 23.50.012
Uses in Industrial Zones

PERMITTED AND PROHIBITED USES BY ZONE

USES	IB	IC	IG1 and IG2 (general)	G1 in the Duwamish M/I Center	IG2 in the Duwamish M/I Center
------	----	----	-----------------------	-------------------------------	--------------------------------

* * *

C. COMMERCIAL USES
* * *

C.3. Entertainment Uses

C.3.a.	Cabarets, adult	P(12)	P(12)	X	X	X
C.3.b a	Motion picture theaters, adult	X	X	X	X	X
C.3.c b	Panorams, adult	X	X	X	X	X
C.3.d c	Sports and recreation, indoor	P	P	P	X	P
C.3.e d	Sports and recreation, outdoor	P	P	P	X	P
C.3.f e	Theaters and spectator sports facilities					
C.3.f eI.	Lecture and meeting halls	P	P	P	P	P
C.3.f eii.	Motion picture theaters	P	P	P	X	X
C.3.f eiii.	Performing arts theaters	P	P	P	X	X
C.3.f e	Spectator sports facilities	P	P	P	X(2)	X(2)

* * *

KEY

- CU = Administrative conditional use
- CCU = Council conditional use
- EB = Permitted only in a building existing on October 5, 1987
- EB/CU = Administrative conditional use permitted only in a building existing on October 5, 1987.
- P = Permitted
- X = Prohibited

NOTES

* * *

(2) Parking required for a spectator sports facility or exhibition hall is allowed and shall be permitted to be used for general parking purposes or shared with another such facility to meet its required parking. A spectator sports facility or exhibition hall within the Stadium Transition Overlay Area District may reserve

parking. Such reserved non-required parking shall be permitted to be used for general parking purposes and is exempt from the one (1) space per six hundred fifty (650) square feet ratio under the following circumstances:

(a) The parking is owned and operated by the owner of the spectator sports facility or exhibition hall, and

(b) The parking is reserved for events in the spectator sports facility or exhibition hall, and

(c) The reserved parking is outside of the Stadium Transition Overlay Area District, and south of South Royal Brougham Way, west of 6th Avenue South and north of South Atlantic Street. Parking that is covenanted to meet required parking will not be considered reserved parking.

* * *

(12) Subject to subsection 23.50.012 E.

Section 8. Chart A for Section 23.54.015 of the Seattle Municipal Code, which chart was last amended by Ordinance 122311, is amended as follows:

Chart A for Section 23.54.015

PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS

Chart A for Section 23.54.015

PARKING FOR NONRESIDENTIAL USES OTHER THAN INSTITUTIONS

Use	Minimum parking required
A. AGRICULTURAL USES	1 space for each 2,000 square feet
B. COMMERCIAL USES	
B.1. Animal shelters and kennels	1 space for each 2,000 square feet
B.2. Eating and drinking establishments	1 space for each 250 square feet
B.3. Entertainment Uses	1 space for each 8 fixed seats, or
<u>general, except as noted</u>	1 space for each 100 square feet
<u>below (1)</u>	of public assembly area not containing fixed seats
B.3.a. Adult cabarets	<u>1 space for each 250 square</u>
	+{ feet
B.4. Food processing and craft work	1 space for each 2,000 square feet

* * *

NOTES

(1) Required parking for spectator sports facilities or exhibition halls must be available when the facility or exhibition hall is in use. A facility shall be considered to be "in use" during the period beginning three (3) hours before an event is scheduled to begin and ending one (1) hour after a scheduled event is expected to end. For sports events of variable or uncertain duration, the expected event length shall be the average length of the events of the same type for which the most recent data are available, provided it is within the past five (5) years. During an inaugural season, or for nonrecurring events, the best available good faith estimate of event duration will be used. A facility will not be deemed to be "in use" by virtue of the fact that administrative or maintenance personnel are present. The Director may reduce the required parking for any event when projected attendance for a spectator sports facility is certified to be fifty (50) percent or less of the facility's seating capacity, to an amount not less than that required for the certified projected attendance, at the rate of one (1) space for each ten (10) fixed seats of certified projected attendance. An application for reduction

and the certification shall be submitted to the Director at least fifteen (15) days prior to the event. When the event is one of a series of similar events, such certification may be submitted for the entire series fifteen (15) days prior to the first event in the series. If the Director finds that a certification of projected attendance of fifty (50) percent or less of the seating capacity is based on satisfactory evidence such as past attendance at similar events or advance ticket sales, the Director shall, within fifteen (15) days of such submittal, notify the facility operator that a reduced parking requirement has been approved, with any conditions deemed appropriate by the Director to ensure adequacy of parking if expected attendance should change. The parking requirement reduction may be applied for only if the goals of the facility's Transportation Management Plan are otherwise being met. The Director may revoke or modify a parking requirement reduction approval during a series, if projected attendance is exceeded.

* * *

Section 9. Section 23.84A.002 "A." of the Seattle Municipal Code, which section was enacted by Ordinance 122311, is amended as follows:

23.84A.002 "A."

* * *

- "Administrative office." See "Office."
- "Adult cabaret." See "Entertainment use."
- "Adult care center." See "Institution."
- "Adult family home." See "Residential use."
- "Adult motion picture theater." See "Entertainment use."
- "Adult panoram." See "Entertainment use."

* * *

Section 10. Section 23.84A.006 "C." of the Seattle Municipal Code, which section was enacted by Ordinance 122311, is amended as follows:

23.84A.006 "C."

- "C zone." See "Zone, general commercial."
- "Cabaret, adult." See "Entertainment use."
- "Candelabra mounting." See "Communication devices and utilities."

* * *

Section 11. Section 23.84A.010 "E." of the Seattle Municipal Code, which section was enacted by Ordinance 122311, is amended as follows:

23.84A.010 "E."

* * *

"Entertainment use" means a commercial use in which recreational, entertainment, athletic, and/or cultural opportunities are provided for the general public, either as participants or spectators. Uses accessory to institutions or to public parks or playgrounds shall not be considered entertainment uses. Entertainment uses include the following uses:

1. "Cabaret, adult" means an entertainment use where licensing as an "adult entertainment premises" is required by SMC Chapter 6.270.

2. "Motion picture theater, adult" means a use in

which, in an enclosed building, motion picture films are presented that are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas," as defined in this subsection, for observation by patrons therein:

- a. "Specified sexual activities":
 - (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse or sodomy;
 - (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- b. "Specified anatomical areas":
 - (1) Less than completely and opaquely covered:
 - (a) Human genitals, pubic region,
 - (b) Buttock, or
 - (c) Female breast below a point immediately above the top of the areola; or
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

~~32~~. "Panoram, adult" means a device which exhibits or displays for observation by a patron a picture or view from film or videotape or similar means which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined in subsection ~~21~~.

~~43~~. "Sports and recreation, indoor" means an entertainment use in which facilities for engaging in sports and recreation are provided within an enclosed structure, and in which any spectators are incidental and are not charged admission. Examples include but are not limited to bowling alleys, roller and ice skating rinks, dance halls, racquetball courts, physical fitness centers and gyms, and videogame parlors.

~~54~~. "Sports and recreation, outdoor" means an entertainment use in which facilities for engaging in sports and recreation are provided outside of an enclosed structure, and in which any spectators are incidental and are not charged admission. Examples include tennis courts, water slides, and driving ranges.

~~65~~. "Theaters and spectator sports facilities" means an entertainment use in which cultural, entertainment, athletic, or other events are provided for spectators either in or out of doors. Adult motion picture theaters and adult panorams shall not be considered theaters and spectator sports facilities for the purposes of this definition. Theaters and spectator sports facilities include, but are not limited to, the following uses:

- a. "Lecture and meeting hall" means a theater and spectator sports facility intended and expressly designed for public gatherings such as but not limited to commercial spaces available for rent or lease for the purpose of holding meetings or the presentation of public speeches.
- b. "Motion picture theater" means a theater and spectator sports facility use intended and expressly designed for the presentation of motion pictures, other than an adult motion picture theater.
- c. "Performing arts theater" means a theater and spectator sports facility intended and expressly designed for the presentation of live performances of drama, dance and music.
- d. "Spectator sports facility" means a theater and spectator sports facility intended and expressly designed for the presentation of sports events, such as a stadium or arena.

* * *

Section 12. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision is not intended to affect the validity of any other provision of this ordinance or the validity of any provision contained within another ordinance or code.

Section 13. 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 _____, 2007, and signed by me in open session in authentication of its passage this ____ day of _____, 2007.

President _____ of the City Council

Approved by me this ____ day of _____, 2007.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2007.

City Clerk

Attachment 1: City Council's Findings and Analysis

5/23/07

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ATTACHMENT 1

City Council's Findings and Analysis

The proposed amendments to the City's zoning regulations for the location of new or expanding adult strip clubs would prohibit new or expanding strip clubs in Industrial General 1 and Industrial General 2 (IG1 and IG2) zones citywide, and would require that these clubs be separated a certain distance from two categories of land use.

Under existing zoning, new or expanding strip clubs are already prohibited in IG1 and IG2 zones in the Duwamish Manufacturing and Industrial Center. The proposed legislation, as amended, would extend this prohibition to IG1 and IG2 zones citywide. This makes the zoning consistent citywide, and protects these most-intensive industrially-zoned lands for industrial uses. This approach is also consistent with the Seattle Planning Commission's position: "The Planning Commission has been a strong advocate for reserving industrial land for industrial uses."

Regarding the buffers required from two categories of land use, included in the first category are locations where children congregate. This includes schools, child care centers, community centers, and public parks or open space areas. There is some evidence that the presence of adult uses may correspond with increased levels of crime in an area, including sex-related crimes such as prostitution. In addition, because alcohol is not served inside strip clubs in Washington, and because recreational drugs are illegal, it is believed that consumption of alcohol and drugs may occur in club parking lots, on adjacent public streets, or in the surrounding neighborhood. These activities are particularly problematic and incompatible with locations where children congregate. The Seattle Planning Commission recognized this, and

advised that the "City Council may want to consider other ways to regulate this land use, such as applying buffer zones to separate adult cabarets from sensitive uses." Therefore, it is appropriate to require a buffer between new adult strip clubs and places where children tend to congregate. To accomplish this, this zoning proposal would prohibit new or expanding adult strip clubs within 800 feet of an elementary or secondary school, a child care center, a community center, or a public park or open space area.

The second proposed buffer would require new or expanding strip clubs to be at least 600 feet from other strip clubs, and at least 600 feet from adult panorams and adult motion picture theaters, which are allowed in certain downtown zones. The courts have recognized that adult uses may be dispersed in this manner in order to reduce the possible secondary effects of adult uses on the surrounding neighborhood.

Although cities normally have broad discretion to establish development standards for various land uses, such as development "set backs" and buffers, adult strip clubs are unique because they enjoy constitutional protection that most other land uses lack. Therefore the City Council must consider whether the prohibition against new or expanding adult strip clubs in IG1 and IG2 zones and the adoption of the proposed buffer requirement may violate the constitutional rights of citizens who may wish to operate a strip club.

The principal constitutional criterion is a requirement that a city's zoning provide an adequate number of possible locations for new strip clubs. Whether the number of locations is adequate depends in part upon the number of new strip clubs that may seek to open. Seattle has had about four strip clubs in operation in recent years. In 2004, the City received one application to open a new strip club, but the club never opened. The City has received no applications since 2004. Despite the absence of applications, the City is required to assume that some persons may wish to open new strip clubs at some future time, and the City is required to accommodate that potential need. Therefore, the City assumes for purposes of this analysis that the potential market demand for strip clubs might be double the historic demand. Although this level of demand is unlikely in light of the history of this use in Seattle, the City chooses to err on the safe side in light of the constitutional constraints. In other words, for purposes of the market demand analysis, the City's zoning ordinance should allow up to four new strip clubs to locate in the city. However because the courts generally require that the ratio of potential locations to potential clubs exceed one to one, the City's zoning ordinance should allow for a larger number of viable locations for the location of new strip clubs.

Staff has analyzed the effect that adoption of the prohibition against new or expanding adult strip clubs in IG1 and IG2 zones and the proposed buffer requirements may have upon the number of sites that are available for the location of new, potential strip clubs. The result is that there are over 300 acres, comprised of over 1000 parcels of land, on which new strip clubs would be allowed. The areas are located throughout the city, and are easily accessible via the city's transportation systems. There are numerous buildings of varied sizes and types that could reasonably accommodate a new adult strip club.

In conclusion, the Council believes that the proposed zoning change and buffer requirements meet constitutional standards for the zoning of adult uses, and that the proposed amendments may therefore be adopted.

Fiscal Note





City of Seattle Legislative Information Service

Information retrieved on September 17, 2009 11:50 AM

Council Bill Number: 116551
Ordinance Number: 123046

AN ORDINANCE relating to land use and zoning; amending Sections 23.22.062, 23.24.045, 23.34.010, 23.34.018, 23.40.020, 23.41.006, 23.42.112, 23.43.008, 23.43.010, 23.43.012, 23.44.006, 23.44.010, 23.44.012, 23.44.014, 23.44.016, 23.44.017, 23.44.018, 23.44.022, 23.44.051, 23.44.060, 23.45.008, 23.45.016, 23.45.160, 23.46.004, 23.46.012, 23.47A.002, 23.47A.004, 23.47A.005, 23.47A.018, 23.47A.020, 23.49.014, 23.49.017, 23.49.030, 23.49.046, 23.49.096, 23.49.148, 23.49.324, 23.50.012, 23.50.022, 23.50.051, 23.53.015, 23.53.020, 23.53.030, 23.55.020, 23.55.022, 23.55.028, 23.55.030, 23.55.034, 23.69.021, 23.71.016, 23.74.004, 23.74.010, 23.76.004, 23.76.024, 23.76.058, 23.76.060, 23.84A.006, 23.84A.024, 23.84A.036, 23.84A.038, and 23.86.010 of the Seattle Municipal Code, to correct typographical errors, correct section references, clarify regulations, and make minor amendments; adding a new Section 23.42.030; repealing Section 23.40.050; and authorizing the Code Reviser to amend all references in Title 23 of the Seattle Municipal Code to "chart."

Date introduced/referred: June 8, 2009

Date passed: July 27, 2009

Status: Passed

Vote: 9-0

Date of Mayor's signature: July 28, 2009

(about the signature date)

Note: 2009 Omnibus Land Use Code Amendments

Committee: Planning, Land Use and Neighborhoods

Sponsor: CLARK

Index Terms: LAND-USE-CODE

Electronic Copy: [PDF scan of Ordinance No. 123046](#)

Text

AN ORDINANCE relating to land use and zoning; amending Sections 23.22.062, 23.24.045, 23.34.010, 23.34.018, 23.40.020, 23.41.006, 23.42.112, 23.43.008, 23.43.010, 23.43.012, 23.44.006, 23.44.010, 23.44.012, 23.44.014, 23.44.016, 23.44.017, 23.44.018, 23.44.022, 23.44.051, 23.44.060, 23.45.008, 23.45.016, 23.45.160, 23.46.004, 23.46.012, 23.47A.002, 23.47A.004, 23.47A.005, 23.47A.018, 23.47A.020, 23.49.014, 23.49.017, 23.49.030, 23.49.046, 23.49.096, 23.49.148, 23.49.324, 23.50.012, 23.50.022, 23.50.051, 23.53.015, 23.53.020, 23.53.030, 23.55.020, 23.55.022, 23.55.028, 23.55.030, 23.55.034, 23.69.021, 23.71.016, 23.74.004, 23.74.010, 23.76.004, 23.76.024, 23.76.058, 23.76.060, 23.84A.006, 23.84A.024, 23.84A.036, 23.84A.038, and 23.86.010 of the Seattle Municipal Code, to correct typographical errors, correct section references, clarify regulations, and make minor

APPENDIX 6

amendments; adding a new Section 23.42.030; repealing Section 23.40.050; and authorizing the Code Reviser to amend all references in Title 23 of the Seattle Municipal Code to "chart."

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.22.062 of the Seattle Municipal Code, which section was last amended by Ordinance 122190, is amended as follows:

23.22.062 Unit lot subdivisions~~-~~

A. The provisions of this section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, ~~residential and cluster developments, for housing,~~ as permitted in Single-Family, Residential Small Lot and Lowrise zones, and for single-family dwelling units in ~~zones where such uses are permitted~~ Lowrise zones, or any combination of the above types of residential development, as permitted in the applicable zones.

* * *

Section 2. Subsection A of Section 23.24.045 of the Seattle Municipal Code, which section was last amended by Ordinance 122190, is amended as follows:

23.24.045 Unit lot subdivisions~~-~~

A. The provisions of this section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, ~~residential and cluster developments for housing, as~~ permitted in Single-Family, Residential Small Lot and Lowrise zones, and for single-family dwelling units in ~~zones where such uses are permitted~~ Lowrise zones, or any combination of the above types of residential development, as permitted in the applicable zones.

* * *

Section 3. Section 23.34.010 of the Seattle Municipal Code, which section was last amended by Ordinance 122575, is amended as follows:

23.34.010 Designation of single-family zones~~-~~

A. Except as provided in subsections B or C of ~~this~~ Section 23.34.010, single-family zoned areas may be rezoned to zones more intense than ~~s~~Single-family 5000 only if the City Council determines that the area does not meet the criteria for single-family designation.

B. Areas zoned single-family or RSL that meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 and that are located within the adopted boundaries of an urban village may be rezoned to zones more intense than ~~s~~Single-family 5000 when all of the following conditions are met:

1. A neighborhood plan has designated the area as appropriate for the zone designation, including specification of the RSL/T, RSL/C, or RSL/TC suffix when applicable;

2. The rezone is:

a. To a Residential Small Lot (RSL), Residential Small Lot-Tandem (RSL/T), Residential Small Lot-Cottage (RSL/C), Residential Small Lot-Tandem/Cottage (RSL/TC), Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1), ~~or~~ Lowrise 1/Residential-Commercial (L1/RC), or

b. Within the areas identified on Map P-1 of the adopted North Beacon Hill Neighborhood Plan, and the rezone is to any Lowrise zone, or to an NC1 zone or NC2 zone with a 30+ foot or 40+foot height limit~~-, or~~

c. Within the residential urban village west of Martin Luther King Junior Way South in the adopted Rainier Beach Neighborhood Plan, and the rezone is to a Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1) or Lowrise 2 (L2) zone.

C. Areas zoned single-family within the Northgate Overlay District, established pursuant to Chapter 23.71, that consist of one or more lots and meet the criteria for single-family zoning contained in subsection B of Section 23.34.011 may be rezoned through a contract rezone to a neighborhood commercial zone if the rezone is limited to blocks (defined for the purpose of this subsection C as areas bounded by street lot lines) in which more than 80 ~~%~~ percent of that block is already designated as a neighborhood commercial zone.

Section 4. Section 23.34.018 of the Seattle Municipal Code, which section was last amended by Ordinance 118794, is amended as follows:

23.34.018 Lowrise 2 (L2) zone, function and locational criteria~~-~~

* * *

B. Locational Criteria. Lowrise 2 zone designation is most appropriate in areas generally characterized by the following:

1. Development Characteristics of the Areas.

a. Areas that feature a mix of single-family structures and small to medium multifamily structures generally occupying one ~~(1)~~ or two ~~(2)~~ lots, with heights generally less than ~~thirty (30)~~ feet;

b. Areas suitable for multifamily development ~~where~~ if topographic conditions and the presence of views make it desirable to limit height and building bulk to retain views from within the zone;

c. Areas occupied by a substantial amount of multifamily development ~~where~~ if factors such as narrow streets, on-street parking congestion, local traffic congestion, lack of alleys ~~and~~ irregular street patterns restrict local access and circulation and make an intermediate intensity of development desirable.

2. Relationship to the Surrounding Areas.

a. Properties that are well-suited to multifamily development, but where adjacent single-family areas make a transitional scale of development desirable. It is desirable that there be a well-defined edge such as an arterial, open space, change in block pattern, topographic change or other significant feature providing physical separation from

the single-family area. However, this is not a necessary condition ~~where if~~ existing moderate scale multifamily structures have already established the scale relationship with abutting single-family areas;

b. Properties that are definable pockets within a more intensive area, ~~where if~~ it is desirable to preserve a smaller scale character and mix of densities;

c. Properties in areas otherwise suitable for higher density multifamily development but where it is desirable to limit building height and bulk to protect views from uphill areas or from public open spaces and scenic routes;

d. Properties where vehicular access to the area does not require travel on "residential access streets" in less intensive residential zones.

C. Areas zoned single family that meet the locational criteria for single-family designation may be rezoned to L2 only if the provisions of subsection 23.34.010.B are met.

_____ Section 5. Subsection A of Section 23.40.020 of the Seattle Municipal Code, which section was last amended by Ordinance 120691, is amended as follows:

23.40.020 Variances~~-~~

A. Variances may be sought from the provisions of Subtitle ~~IV~~, ~~Parts III~~, Divisions 2 and 3 of this Land Use Code, ~~as applicable~~, except for the establishment of a use ~~which~~ that is otherwise not permitted in the zone in which it is proposed, for a structure ~~maximum~~ height ~~in excess of that which is~~ shown on the Official Land Use Map, from the provisions of Section 23.55.014.A, or from the provisions of Chapter 23.52. Applications for prohibited variances shall not be accepted for filing.

* * *

Section 6. Section 23.40.050, relating to the Demonstration program for innovative housing design, which section was last amended by Ordinance 122311 of the Seattle Municipal Code, is repealed.

Section 7. Section 23.41.006 of the Seattle Municipal Code, which section was last amended by Ordinance 119972, is amended as follows:

23.41.006 Design Review Districts Map~~-~~

For the purposes of design review, the City shall be divided into seven ~~(7)~~ districts, as depicted on the Design Review Districts Map, Map A for Exhibit 23.41.006A.

Section 8. Exhibit 23.41.006 A of the Seattle Municipal Code, which section was last amended by Ordinance 119972, is amended by replacing Exhibit 23.41.006 A with a new map, as follows:

Map A for 23.41.006

New Map A for 23.41.006

Design Review Board Districts

Section 9. A new section, Section 23.42.030, is added to the Seattle Municipal Code as follows:

23.42.030 Access to Uses

Vehicular and pedestrian access may be provided to a use in one zone across property in a different zone, but only if the use to which access is being provided is permitted, either outright or as a conditional use, in the zone across which access is to be provided.

Section 10. Subsection A of Section 23.42.112 of the Seattle Municipal Code, which section was last amended by Ordinance 121762, is amended as follows:

23.42.112 Nonconformity to Development Standards-

A. A structure nonconforming to development standards may be maintained, renovated, repaired or structurally altered but ~~shall be prohibited from~~ may not be expanded or extend ~~ing~~ in any manner that increases the extent of nonconformity or creates additional nonconformity, except:

1. ~~Any portion~~ Portions of a principal structures in a Single Family zones that is ~~are~~ nonconforming to front and/or rear yard requirements may be increased in height by up to ~~five (5)~~ feet, but not to exceed the height limit of the zone, and only to the extent necessary to achieve minimum ceiling height in an existing basement or ~~attic~~ another floor within the principal structure to conform to the City's regulations for habitable rooms or to accommodate a pitched roof on the principal structure. If the height of a principal structure is being raised to increase ceiling height in a basement or another floor, existing porches or steps may extend into a required yard to the extent necessary to meet Building Code standards, but in no case shall they be located closer than 3 feet to any lot line.

2. As otherwise required by law;

3. As necessary to improve access for the elderly or disabled; or

4. As specifically permitted for nonconforming uses and nonconforming structures elsewhere in this Code.

* * *

Section 11. Subsection D of Section 23.43.008 of the Seattle Municipal Code, which Section was amended by Ordinance 122823, is amended as follows:

23.43.008 Development standards for one dwelling unit per lot-

* * *

D. Yards and Setbacks.

1. Front and Rear Yards.

a. The sum of the front yard plus the rear yard shall be a minimum of ~~thirty~~ ~~(30)~~ feet.

b. In no case shall either yard have a depth of less than ~~ten~~ ~~(10)~~ feet.

c. If recommended in a neighborhood plan adopted or amended by the City Council after January 1, 1995, an ordinance designating an area as RSL may require front and/or rear yard setbacks greater than ~~ten~~ ~~(10)~~ feet, provided that the requirement of subsection 23.43.008.D.1.a ~~of this section~~ shall not be increased or decreased, and the requirement of subsection 23.43.008.D.1.b ~~of this section~~ shall not be reduced.

2. Side Setbacks. The required minimum side setback ~~is shall be five~~ ~~(5)~~ feet. The side setback may be averaged. No portion of the side setback shall be less than ~~three~~ ~~(3)~~ feet, except as follows:

a. Street side setbacks shall be a minimum of ~~five~~ ~~(5)~~ feet.

b. If an easement is provided along a side lot line of the abutting lot sufficient to leave a ~~ten~~ ~~(10)~~ foot separation between the two ~~(2)~~ principal structures of the two ~~(2)~~ lots, the required side yard may be reduced from the requirement of subsection 23.43.008.D.2 ~~above~~. The easement shall be recorded with the King County Department of Records and Elections. The easement shall provide access for normal maintenance activities to the principal structure on the lot with less than the required side setback. No principal structure shall be located in the easement area, except that the eaves of a principal structure may project a maximum of ~~eighteen~~ ~~(18)~~ inches into the easement area. No portion of any structure, including eaves, shall cross the property line.

3. Exceptions from Standard Yard and Setback Requirements. For all developments except cluster developments, only structures that comply with the following may project into a required yard or setback:

a. Uncovered Porches or Steps. Uncovered, unenclosed porches or uncovered, unenclosed steps that project into a required yard or setback, if the porch or steps are no higher than 4 feet on average above existing grade, no closer than 3 feet to any side lot line, no wider than 6 feet, and project no more than 6 feet into a required front or rear yard. The heights of porches and steps are to be calculated separately.

b. Certain Features of a Structure.

1) External architectural features with no living area such as chimneys, eaves, cornices and columns, that project no more than 18 inches into a required yard or setback;

2) Bay windows that are no wider than 8 feet and project no more than 2 feet into a required front or rear yard or street side setback;

3) Other external architectural features that include interior space such as garden windows, and project no more than 18 inches into a required yard or setback, starting a minimum of 30 inches above the height of a finished floor, and with maximum dimensions of 6 feet in height and 8 feet in width;

4) The combined area of features that project into a required yard or setback pursuant to subsection 23.43.008.D.3.b may comprise no more than 30 percent of the area of the facade on which the features are located.

* * *

Section 12. Subsection C of Section 23.43.010 of the Seattle Municipal Code, which Section was adopted by Ordinance 117430, is amended as follows:

23.43.010 Tandem housing-

* * *

C. Yards and Setbacks.

1. Front Yard. The front yard ~~shall~~ is required to be a minimum of ~~ten (10)~~ feet.

2. Interior Separation between Tandem Houses. The interior separation between the residential structures ~~shall~~ is required to be a minimum of ~~ten (10)~~ feet.

3. Rear Yard. Where no platted alley exists, the rear yard for a lot containing tandem houses shall be a minimum of ~~ten (10)~~ feet. Where a platted developed alley exists, this rear yard requirement ~~shall~~ does not apply.

4. Total Combined Yards. The total of the front yard, rear yard (if any), and the interior separation ~~shall~~ is required to be a minimum of ~~thirty five (35)~~ feet.

5. Modification of Front and Rear Yards. If recommended in a neighborhood plan adopted or amended by the City Council after January 1, 1995, an ordinance designating an area as RSL may require front and/or rear yard setbacks greater than ~~ten (10)~~ feet (except for rear yards where platted and developed alleys exist), subject to the provisions of subsections 23.43.010.C.1, C.2, C.3, and C.4 of this section, and provided that the required total combined yards ~~shall~~ does not exceed ~~thirty five (35)~~ feet.

6. Side Setbacks. The required minimum side setback is ~~shall be five (5)~~ feet. The side setback may be averaged. No portion of the side setback shall be less than ~~three (3)~~ feet, except as follows:

a. Street side setbacks ~~shall~~ is required to be a minimum of ~~five (5)~~ feet.

b. If an easement is provided along a side lot line of the abutting lot sufficient to leave a ~~ten (10)~~ foot

separation between the two ~~(2)~~ principal structures of the two ~~(2)~~ lots, the required side setback may be reduced from the requirement of Section ~~23.43.008~~ 23.43.010.C.6. The easement shall be recorded with the King County Department of Records and Elections. The easement shall provide access for normal maintenance activities on the principal structure on the lot with less than the required side setback. No principal structure shall be located in the easement area, except that eaves of a principal structure may project a maximum of ~~eighteen~~ (18) inches into the easement area. No portion of any structure, including eaves shall cross the property line.

7. Exceptions from Standard Yard, Setback and Interior Separation Requirements. For all developments, only structures that comply with the following may project into a required yard, setback or interior separation:

a. Uncovered Porches or Steps. Uncovered, unenclosed porches or uncovered, unenclosed steps that project into a required yard or setback, if the porch or steps are no higher than 4 feet on average above existing grade, no closer than 3 feet to any side lot line, no wider than 6 feet, and project no more than 6 feet into a required front or rear yard, and no more than 3 feet into the interior separation between residential structures. The heights of porches and steps are to be calculated separately.

b. Certain Features of a Structure.

1) External architectural features with no living area such as chimneys, eaves, cornices and columns, that project no more than 18 inches into a required yard, setback or interior separation between residential structures;

2) Bay windows that are no wider than 8 feet in width and project no more than 2 feet into a required front or rear yard or street side setback;

3) Other external architectural features that include interior space such as garden windows, and project no more than 18 inches into a required yard, setback, or interior separation between residential structures starting a minimum of 30 inches above the height of a finished floor, and with maximum dimensions of 6 feet in height and 8 feet in width;

4) The combined area of features that project into a required yard, setback or interior separation between residential structures pursuant to subsection 23.43.010. C.7.b may comprise no more than 30 percent of the area of the facade on which the features are located.

* * *

Section 13. Subsection E of Section 23.43.012 of the Seattle Municipal Code, which Section was adopted by Ordinance 117430, is amended as follows:

23.43.012 Cottage Housing Developments (CHDs)-

* * *

E. Yards and Setbacks.

1. Front Yards Setback. The minimum front yard setback for cottage housing developments ~~shall be~~ is an average of ~~ten~~(10) feet, and at no point shall it be less than ~~five~~(5) feet.

2. Rear Yards. The ~~minimum~~ rear yard for a cottage housing development shall be ~~ten~~(10) feet.

3. Side Yards. The ~~minimum required~~ side yard for a cottage housing development shall be ~~five~~(5) feet. ~~When~~ If there is a principal entrance along a side facade, the side yard shall be no less than ~~ten~~(10) feet along that side for the length of the pedestrian route. This ~~ten~~(10) foot side yard ~~shall apply~~requirement applies only to a height of ~~eight~~(8) feet above the access route.

4. Interior Separation ~~for Cottage Housing Developments.~~ ~~There shall be a~~ minimum separation of ~~six~~(6) feet is required between principal structures. Facades of principal structures facing ~~facades~~ of accessory structures shall be separated by a minimum of ~~three~~(3) feet. ~~When~~ If there is a principal entrance on an interior facade of either or both of the facing facades, the minimum separation shall be ~~ten~~(10) feet.

5. Exceptions from Standard Yard, Setback and Interior Separation Requirements. For all developments, only structures that comply with the following may project into a required yard, setback or interior separation:

a. Uncovered Porches or Steps. Uncovered, unenclosed porches or uncovered, unenclosed steps that project into a required front setback, a side or a rear yard, if the porch or steps are no higher than 4 feet on average above existing grade, no closer than 3 feet to any side lot line, no wider than 6 feet, and project no more than 6 feet into a required front setback or rear yard. The heights of porches and steps are to be calculated separately. If an interior separation of 10 feet is required pursuant to subsection 23.43.012.E.4, uncovered, unenclosed steps no higher than 4 feet on average above existing grade may project up to 3 feet into the interior separation. If an interior separation of 6 feet or less is required, porches and steps may not project into the interior separation.

b. Certain Features of a Structure.

1) External architectural features with no living area such as chimneys, eaves, cornices and columns, that project no more than 18 inches into a required yard or into a required interior separation between structures;

2) Bay windows that are no wider than 8 feet and project no more than 2 feet into a required front setback or rear yard;

3) Other external architectural features that include interior space such as garden windows, and project no more than 18 inches into a required front setback or rear yard, starting a minimum of 30 inches above the height of a finished floor, and with maximum

dimensions of 6 feet in height and 8 feet in width;

4) The combined area of features that project into a required yard or interior separation pursuant to subsection 23.43.012.E.5.b may comprise no more than 30 percent of the area of the facade on which the features are located.

Section 14. Subsection C of Section 23.44.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

23.44.006 Principal uses permitted outright-

* * *

C. Parks and open space; ~~including customary buildings and activities, provided that garages and service or storage areas accessory to parks are located one hundred (100) feet or more from any other lot in a residential zone and are obscured from view from each such lot.~~

* * *

Section 15. Subsection D of Section 23.44.010 of the Seattle Municipal Code, which section was last amended by Ordinance 122823, is amended as follows:

23.44.010 Lot requirements-

* * *

D. Lot Coverage Exceptions.

1. Lots Abutting Alleys. For purposes of computing the lot coverage only:

a. The area of a lot with an alley or alleys abutting any lot line may be increased by ~~one-half (1/2)~~ of the width of the abutting alley or alleys.

b. The total lot area for any lot may not be increased by the provisions of this section by more than ~~ten~~ 10 percent ~~(10%)~~.

2. Special Structures and Portions of Structures. The following structures and portions of structures ~~shall~~ are not ~~be~~ counted in lot coverage calculations:

a. Access Bridges. Uncovered, unenclosed pedestrian bridges 5 feet or less in width and of any height necessary for access ~~and five (5) feet or less in width;~~

b. Barrier-free Access. Ramps or other access for the disabled or elderly that comply with ~~meeting~~ Washington State Building Code, Chapter 11;

c. Decks. Decks or parts of a deck ~~which~~ that are ~~thirty-six (36)~~ inches or less above ~~the~~ existing grade;

d. Freestanding Structures and Bulkheads. Fences, ~~arbors and freestanding walls,~~ ~~except~~ bulkheads, signs and other similar structures;

e. Underground Structures. An underground structure, or underground portion of a structure ~~, may occupy any part of the entire lot;~~

f. Eaves and Gutters. The first ~~thirty-six (36)~~ ~~→~~ inches of eaves and gutters that ~~project projecting~~ from principal and accessory structures ~~, except that eaves associated with the roof of an arbor shall be included in lot coverage calculations;~~

g. Solar collectors ~~meeting the provisions of that comply with~~ Section 23.44.046 and swimming pools ~~meeting the provisions of that comply with~~ Section 23.44.044.

Section 16. Subsection A of Section 23.44.012 of the Seattle Municipal Code, which section was last amended by Ordinance 122823, is amended as follows:

23.44.012 Height limits-

A. Maximum Height Established.

1. Except as permitted in Section 23.44.041.B, and except as provided in subsections ~~23.44.012.A.2~~ ~~below~~, the maximum permitted height for any structure not located in a required yards ~~shall not exceed thirty (~~ ~~is 30)~~ feet.

2. The maximum permitted height for any structure on a lots ~~thirty (30)~~ feet or less in width ~~shall not exceed is~~ ~~twenty-five (25)~~ feet.

3. The method of determining structure height and lot width ~~are~~ is detailed in Chapter 23.86, Measurements.

* * *

Section 17. Section 23.44.014 of the Seattle Municipal Code, which section was last amended by Ordinance 122823, is amended as follows:

23.44.014 Yards-

Yards are required for every lot in a single-family residential zone. A yard ~~which~~ that is larger than the minimum size may be provided.

* * *

C. Side yards. The side yard shall be ~~five (5)~~ feet except as follows:

1. In the case of a reversed corner lot, the key lot of which is in a single-family zone, the width of the side yard on the street side of the reversed corner lot shall be not less than ~~ten (10)~~ feet.

2. ~~When~~ If the side yard of a lot borders on an alley, a single-family structure may be located in the required side yard, provided that no portion of the structure may cross the side lot line.

D. Exceptions from Standard Yard Requirements. No structure shall be placed in a required yard except pursuant to the following ~~subsections~~:

1. Garages. Garages may be located in a required yards subject to the standards of Section 23.44.016.

2. Certain Accessory Structures in Side and Rear Yards.

a. Any accessory structure that complies with the requirements of Section 23.44.040 may be constructed in a side yard which that abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed corner lot within ~~five (5)~~ feet of the key lot and not abutting the front yard of the key lot, upon recording with the King County Department of Records and Elections an agreement to this effect between the owners of record of the abutting properties. ~~Garages may be located in that portion of a side yard which is either within thirty five (35) feet of the centerline of an alley or within twenty five (25) feet of any rear lot line which is not an alley lot line, without providing an agreement as provided in Section 23.44.016.~~

b. Any detached accessory structure that complies with the requirements of Section 23.44.040 may be located in a rear yard, provided that on a reversed corner lot, no accessory structure shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot, nor shall the accessory structure be located closer than 5 feet from the key lot's side lot line unless the provisions of subsections 23.44.014.D.2.a or 23.44.016.D.9 apply.

3. A single-family structure may extend into one ~~(1)~~ side yard if an easement is provided along the side or rear lot line of the abutting lot, sufficient to leave a ~~ten (10)~~ foot separation between that structure and any principal ~~or accessory~~ structures on the abutting lot. The 10 foot separation shall be measured from the wall of the principal structure that is proposed to extend into a side yard to the wall of the principal structure on the abutting lot.

a. No structure or portion of a structure may be built on either lot within the 10 foot separation, except as provided in this section.

b. Accessory structures and #features of and projections from principal structures, such as porches, eaves, and chimneys ~~shall be~~ are permitted in the ~~ten (10)~~ foot separation area if allowed by subsection 23.44.014.D.as if the property line were five (5) feet from the wall of the house on the dominant lot, provided that no For purposes of calculating the distance a structure or feature may project into the 10 foot separation, assume the property line is 5 feet from the wall of the principal structure proposed to extend into a side yard and consider the 5 feet between the wall and the assumed property line to be the required side yard.

c. No portion of ~~either principal~~ any structure, including ~~eaves~~ any projection, shall cross the ~~actual~~ property line.

d. The easement shall be recorded with the King County Department of Records and Elections. The easement shall provide access for normal maintenance activities to the principal structure on the lot with less than the required 5 foot side yard.

4. Certain Additions. Certain additions may extend into a required yard ~~when~~ if the existing single-family structure is already nonconforming with respect to that yard. The presently nonconforming portion must be at least ~~sixty~~ (60) percent of the total width of the respective facade of the structure prior to the addition. The line formed by the existing nonconforming wall of the structure ~~shall be~~ is the limit to which any additions may be built, except as described below. ~~They~~ Additions may extend up to the height limit and may include basement additions. New additions to the nonconforming wall or walls shall comply with the following requirements (Exhibit A for 23.44.014 ~~A~~):

a. Side Yard. ~~When~~ If the addition is a side wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than ~~three~~ (3) feet to the side lot line;

b. Rear Yard. ~~When~~ If the addition is a rear wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than ~~twenty~~ (20) feet to the rear lot line or centerline of an alley abutting the rear lot line;

c. Front Yard. ~~When~~ If the addition is a front wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than ~~fifteen~~ (15) feet to the front lot line;

d. ~~When~~ If the nonconforming wall of the single-family structure is not parallel or is otherwise irregular, relative to the lot line, then the Director shall determine the limit of the wall extension, except that the wall extension shall not be located closer than specified in subsections 23.44.014.D.
4.a, b, and - c above.

e. Roof eaves, gutters, and chimneys on such additions may extend an additional 18 inches into a required yard, but in no case shall such features be closer than 2 feet to the side lot line.

5. Uncovered Porches or Steps. Uncovered, unenclosed porches or steps may project into any required yard, ~~provided that~~ if they are no higher than ~~four~~ (4) feet on average above existing grade, no closer than ~~three~~ (3) feet to any side lot line, no wider than ~~six~~ (6) feet and project no more than ~~six~~ (6) feet into required front or rear yards. The height of porches and steps are to be calculated separately ~~from each other.~~

6. ~~Special~~ Certain Features of a Structure.
~~Special~~ Unless otherwise provided elsewhere in this chapter,

certain features of a structure may extend into required yards
~~subject to the following standards only if they comply with the~~
~~following , unless permitted elsewhere in this chapter:~~

a. External architectural details with no living area, such as chimneys, eaves, cornices and columns, may project no more than ~~eighteen (18)~~ inches into any required yard;

b. Bay windows ~~shall be~~ are limited to ~~eight (8)~~ feet in width and may project no more than ~~two (2)~~ feet into a required front, rear, and street side yard;

c. Other projections ~~which that~~ include interior space, such as garden windows, may extend no more than ~~eighteen (18)~~ inches into any required yard, starting a minimum of ~~thirty (30)~~ inches above finished floor, and with maximum dimensions of ~~six (6)~~ feet ~~tall~~ in height and ~~eight (8)~~ feet wide in width;

d. The combined area of features permitted by ~~in~~ subsections 23.44.014.D.6.b and c above may comprise no more than ~~thirty (30)~~ percent of the area of the facade.

7. Covered Unenclosed Decks, and Roofs Over Patios, ~~and Other Accessory Structures in Rear Yards.~~

~~a.~~ Covered, unenclosed decks and roofs over patios, if attached to a principal structure, may extend into the required rear yard, but shall not be within ~~twelve (12)~~ feet of the centerline of any alley, ~~nor~~ within ~~twelve (12)~~ feet of any rear lot line ~~which that~~ is not an alley lot line, or closer to any side lot line in the required rear yard than the side yard requirement of the principal structure along that side, ~~nor~~ closer than ~~five (5)~~ feet to any accessory structure. The height of the roof over unenclosed decks and patios shall not exceed 12 feet. The roof over such decks or patios shall not be used as a deck.

8. Access Bridges. Uncovered, unenclosed pedestrian bridges 5 feet or less in width and of any height, ~~necessary for access and five (5) feet or less in width,~~ are permitted in required yards, except that in side yards an access bridge must be at least ~~three (3)~~ feet from any side lot line.

9. Barrier-free Access. Access facilities for the disabled and elderly ~~meeting that comply with~~ Washington State Building Code, Chapter 11 are permitted in any required yards.

10. Freestanding Structures and Bulkheads.

a. Fences, freestanding walls, bulkheads, signs and similar structures ~~six (6)~~ feet or less in height above existing or finished grade, whichever is lower, may be erected in any required yard. The ~~six (6)~~ foot height may be averaged along sloping grade for each ~~six (6)~~ foot long segment of the fence, but in no case may any portion of the fence exceed ~~eight (8)~~ feet. Architectural features may be added to the top of the fence or freestanding wall above the ~~six (6)~~ foot height ~~when~~ if the features comply with the following

~~provisions are met~~: horizontal architectural feature(s), no more than ~~ten (10)~~ inches high, and separated by a minimum of ~~six (6)~~ inches of open area, measured vertically from the top of the fence, ~~may be~~ permitted ~~when if~~ the overall height of all parts of the structure, including post caps, ~~are is~~ no more than ~~eight (8)~~ feet high, ~~averaging the eight (8) foot height is~~ not permitted. Structural supports for the horizontal architectural feature(s) may be spaced no closer than ~~three (3)~~ feet on center.

b. The Director may allow variation from the development standards listed in subsection 23.44.014.D.10 ~~a above~~, according to the following:

~~(1) No part of the structure may exceed eight (8) feet; and~~

~~(2) Any portion of the structure above six (6) feet shall be predominately open, such that there is free circulation of light and air.~~

c. Bulkheads and retaining walls used to raise grade may be placed in any required yard when limited to ~~six (6)~~ feet in height, measured above existing grade. A guardrail no higher than ~~forty two (42)~~ inches may be placed on top of a bulkhead or retaining wall existing as of ~~the date of the ordinance codified in this section~~ February 20, 1982. If a fence is placed on top of a new bulkhead or retaining wall, the maximum combined height is limited to ~~nine and one half (9 1/2)~~ feet.

d. Bulkheads and retaining walls used to protect a cut into existing grade may not exceed the minimum height necessary to support the cut or ~~six (6)~~ feet, whichever is greater. ~~When If~~ the bulkhead is measured from the low side and it exceeds ~~six (6)~~ feet, an open guardrail of no more than ~~forty two (42)~~ inches meeting Building Code requirements may be placed on top of the bulkhead or retaining wall. A fence must be set back a minimum of ~~three (3)~~ feet from such a bulkhead or retaining wall.

e. ~~When If~~ located in ~~the~~ shoreline setbacks or in view corridors in the Shoreline District as regulated in Chapter 23.60, ~~these~~ structures shall not obscure views protected by Chapter 23.60, and the Director shall determine the permitted height.

11. Decks in Yards. Decks no ~~greater~~ higher than ~~eighteen (18)~~ inches above existing or finished grade, whichever is lower, may extend into required yards.

12. Heat Pumps. Heat pumps and similar mechanical equipment, not including incinerators, ~~may be~~ permitted in required yards if they comply with the requirements of the Noise Control Ordinance, Chapter 25.08, Noise Control ~~are not violated~~. Any heat pump or similar equipment shall not be located within ~~three (3)~~ feet of any lot line.

13. Solar Collectors. Solar collectors may be located in required yards, subject to the provisions of Section 23.44.046.

14. Front Yard Projections for Structures on Lots ~~Thirty (30)~~ Feet or Less in Width. For a structure on a lot ~~which that~~ is ~~thirty (30)~~ feet or less in width, portions of the front facade ~~which that~~ begin ~~eight (8)~~ feet or more above finished grade may project up to ~~four (4)~~ feet into the required front yard, provided that no portion of the facade, including eaves and gutters, shall be closer than ~~five (5)~~ feet to the front lot line

(Exhibit B for 23.44.014 ~~B~~.)

Exhibit B for 23.44.014

15. Front and rear yards may be reduced by ~~twenty five (25)~~ percent, but no more than ~~five (5)~~ feet, if the site contains a required environmentally critical area buffer or other area of the property ~~which that~~ cannot be disturbed pursuant to subsection A of Section 25.09.280 of ~~SMC Chapter 25.09, Regulations for Environmentally Critical Areas.~~

16. Arbors. Arbors may be permitted in required yards under the following conditions:

a. In any required yard, an arbor may be erected with no more than a ~~forty (40)~~ square foot footprint, measured on a horizontal roof plane inclusive of eaves, to a maximum height of ~~eight (8)~~ feet. Both the sides and the roof of the arbor ~~must shall~~ be at least ~~fifty (50)~~ percent open, or, if latticework is used, there ~~must shall~~ be a minimum opening of ~~two (2)~~ inches between crosspieces.

b. In each required yard abutting a street, an arbor over a private pedestrian walkway with no more than a ~~thirty (30)~~ square foot footprint, measured on the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of ~~eight (8)~~ feet. The sides of the arbor shall be at least ~~fifty (50)~~ percent open, or if latticework is used, there ~~must shall~~ be a minimum opening of ~~two (2)~~ inches between crosspieces.

E. Additional Standards for Structures if Allowed in Required Yards. Structures in required yards shall comply with the following:

1. Accessory structures, attached garages and portions of a principal structure shall not exceed a maximum combined coverage of 40 percent of the required rear yard. In the case of a rear yard abutting an alley, rear yard coverage shall be calculated from the centerline of the alley.

2. Any accessory structure located in a required yard shall be separated from its principal structure by a minimum of 5 feet. This requirement does not apply to terraced garages that comply with Section 23.44.016.D.9.b.

3. Except for detached accessory dwelling units in subsection 23.44.041.B, any accessory structure located in a required yard shall not exceed 12 feet in height or 1,000 square feet in area.

Section 18. Section 23.44.016 of the Seattle Municipal Code, which section was last amended by Ordinance 122823, is amended as follows:

23.44.016 Parking and Garages~~7~~

A. Parking Quantity. Off-street parking is required pursuant to Section 23.54.015.

B. Access to Parking.

1. Vehicular access to parking from an improved street, alley or easement is required ~~when~~ if parking is required pursuant to Section 23.54.015.

2. Access to parking is permitted through a required yard abutting a street only if the Director determines that one ~~(1)~~ of the following conditions exists:

a. There is no alley improved to the standards of Section 23.53.030.C, and there is no unimproved alley in common usage that currently provides access to parking on the lot or to parking on adjacent lots in the same block; or

b. Existing topography does not permit alley access;
or

c. A portion of the alley abuts a nonresidential zone;
or

d. The alley is used for loading or unloading by an existing nonresidential use; or

e. Due to the relationship of the alley to the street system, use of the alley for parking access would create a significant safety hazard; or

f. Parking access must be from the street in order to provide access to a parking space ~~(s)~~ that ~~meet~~ complies with the Washington State Building Code, Chapter 11.

C. Location of Parking.

1. Parking shall be located on the same lot as the principal use, except as otherwise provided in this subsection.

2. Parking on planting strips is prohibited.

3. No more than three ~~(3)~~ vehicles may be parked outdoors on any lot.

4. Parking accessory to a floating home may be located on another lot if within ~~six hundred (600)~~ feet of the lot on which the floating home is located. The accessory parking shall be screened and landscaped according to subsection 23.44.016.G.

5. Parking accessory to a single-family structure existing on June 11, 1982 may be established on another lot if all the following conditions are met:

a. There is no vehicular access to permissible parking areas on the lot.

b. Any garage constructed is for no more than ~~two~~ ~~two~~ ~~(2)~~ axle~~s~~, or two ~~(2)~~ up - to - four ~~(4)~~ wheeled vehicles.

c. ~~Any garage is located and~~ Parking is screened or landscaped ~~per Section 23.44.016 G if applicable,~~ as required by the Director~~s~~, who shall consider development patterns of the block or nearby blocks.

d. The lot providing the parking is within the same block or across the alley from the principal use lot.

e. The accessory parking shall be tied to the lot of the principal use by a covenant or other document recorded with the King County Department of Records and Elections.

D. Parking and Garages in Required Yards.

1. Parking and garages shall not be located in the required front yard except as provided in subsections 23.44.016.D.7, D.9, D.10, D.11 and D.12.

2. Parking and garages shall not be located in a required side yard abutting a street or the first ~~ten~~ ~~(10)~~ feet of a required rear yard abutting a street except as provided in subsections 23.44.016.D.7, D.9, D.10, D.11 and D.12.

3. Parking and garages shall not be located in a required side yard ~~that~~ ~~which~~ abuts the rear or side yard of another lot~~;~~ or in that portion of the rear yard of a reversed corner lot within ~~five~~ ~~(5)~~ feet of the key lot's side lot line ~~and not abutting the front yard of the key lot unless:~~

a. The garage is located entirely in that portion of a side yard that is either within 35 feet of the centerline of an alley or within 25 feet of any rear lot line that is not an alley lot line; or

b. An agreement between the owners of record of the abutting properties, authorizing the garage in that location, is executed and recorded, pursuant to §subsection 23.44.014.D.2.a ~~, provided, that no such agreement is required if the garage is located entirely in that portion of a side yard which is either within thirty five (35) feet of the centerline of an alley or within twenty five (25) feet of any rear lot line which is not an alley lot line.~~

4. Detached garages with vehicular access ~~from~~ an alley shall not be located within ~~twelve~~ ~~(12)~~ feet of the centerline of the alley except as provided in subsections 23.44.016.D.9, D.10, D.11 and D.12.

5. Attached garages shall not be located within ~~twelve~~ ~~(12)~~ feet of the centerline of any alley, nor within ~~twelve~~ ~~(12)~~ feet of any rear lot line ~~that~~ ~~which~~ is not an alley lot line, except as provided in subsections

23.44.016.D.9, D.10, D.11 and D.12.

6. On a reversed corner lot, no garage shall be located in that portion of the required rear yard ~~which~~that abuts the required front yard of the adjoining key lot unless the provisions of Ssubsection 23.44.016.D.9~~b~~ apply.

7. ~~Where~~If access to required parking ~~spaces~~ passes through a required yard, automobiles, motorcycles and similar vehicles may be parked on the open access located in a required yard.

8. Trailers, boats, recreational vehicles and similar equipment shall not be parked in required front and side yards or the first ~~ten~~(10) feet of a rear yard measured from the rear lot line.

9. Lots With Uphill Yards Abutting Streets. Parking for one ~~(1)~~ two ~~(2)~~ axle or one ~~(1)~~ up ~~to~~ four ~~(4)~~ wheeled vehicle may be established in a required yard abutting a street according to subsection 23.44.016.D.9.a or b ~~below~~ only if access to parking is permitted through that yard pursuant to subsection ~~A of this section~~ 23.44.016.B.

a. Open Parking Space.

~~i.~~ 1) The existing grade of the lot slopes upward from the street lot line an average of at least ~~six~~ (6) feet above sidewalk grade at a line that is ~~ten~~ (10) feet from the street lot line; and

~~ii.~~ 2) The parking area shall be at least an average of ~~six~~ (6) feet below the existing grade prior to excavation and/or construction at a line that is ~~ten~~ (10) feet from the street lot line; and

~~iii.~~ 3) The parking space shall be no wider than ~~ten~~ (10) feet for one ~~(1)~~ parking space at the parking surface and no wider than ~~twenty~~ (20) feet for two ~~(2)~~ parking spaces ~~if~~when permitted as provided in subsection 23.44.016.D.12.

b. Terraced Garage.

~~i.~~ 1) The height of a terraced garage ~~shall be~~is limited to no more than ~~two~~ (2) feet above existing or finished grade, whichever is lower, for the portions of the garage that are ~~ten~~ (10) feet or more from the street lot line. The ridge of a pitched roof on a terraced garage may extend up to ~~three~~ (3) feet above this ~~two~~ (2) foot height limit. All parts of the roof above the ~~two~~ (2) foot height limit shall be pitched at a rate ~~of~~ not less than four to twelve (4:12). No portion of a shed roof shall be permitted to extend beyond the ~~two~~ (2) foot height limit of this provision. Portions of a terraced garage that are less than ~~ten~~ (10) feet from the street lot line shall comply with the height standards in Section 23.44.016.E.2;

~~ii.~~ 2) The width of a terraced garage structure ~~width may~~ shall not exceed ~~fourteen~~ ~~(14)~~ feet for one ~~(1)~~ two-~~(2)~~-axle or one ~~(1)~~ up-to-four-~~(4)~~-wheeled vehicle, or ~~twenty-four~~ ~~(24)~~ feet ~~when if~~ permitted to have two ~~(2)~~ two-~~(2)~~-axle or two ~~(2)~~ up-to-four-~~(4)~~-wheeled vehicles as provided in subsection 23.44.016.D.12;

~~iii.~~ 3) All above ground portions of the terraced garage shall be included in lot coverage; and

~~iv.~~ 4) The roof of the terraced garage may be used as a deck and shall be considered to be a part of the garage structure even if it is a separate structure on top of the garage.

10. Lots With Downhill Yards Abutting Streets. Parking, either open or enclosed in an attached or detached garage, for one ~~(1)~~ two-~~(2)~~-axle or one ~~(1)~~ up-to-four-~~(4)~~-wheeled vehicle may be located in a required yard abutting a street ~~when if~~ the following conditions are met:

a. The existing grade slopes downward from the street lot line ~~which~~ that the parking faces;

b. For front yard parking, the lot has a vertical drop of at least ~~twenty~~ ~~(20)~~ feet in the first ~~sixty~~ ~~(60)~~ feet, as measured along a line from the midpoint of the front lot line to the midpoint of the rear lot line;

c. Parking ~~is shall~~ not be permitted in ~~downhill~~ required side yards abutting a streets;

d. Parking in ~~a downhill~~ rear yards ~~shall be in accordance~~ complies with ~~S~~ subsection s 23.44.016., ~~subsections~~ D.2, D.5 and D.6;

e. Access to parking is permitted through the required yard abutting the street by subsection 23.44.016. ~~of this section~~; and

f. A driveway access bridge ~~is may be~~ permitted in ~~the any~~ required ~~downhill~~ yard abutting the street if where necessary for access to parking. The access bridge shall be no wider than ~~twelve~~ ~~(12)~~ feet for access to one ~~(1)~~ parking space or ~~eighteen~~ ~~(18)~~ feet for access to two ~~(2)~~ or more parking spaces. The driveway access bridge may not be located closer than ~~five~~ ~~(5)~~ feet to an adjacent property line and shall not be included in lot coverage calculations.

11. Through Lots. On through lots less than ~~one hundred~~ ~~twenty five~~ ~~(125)~~ feet in depth, parking, either open or enclosed in an attached or detached garage, for one ~~(1)~~ two-~~(2)~~-axle or one ~~(1)~~ up-to-four-~~(4)~~-wheeled vehicle may be located in one ~~(1)~~ of the required front yards. The front yard in which the parking may be located

shall be determined by the Director based on the location of other garages or parking areas on the block. If no pattern of parking location can be determined, the Director shall determine in which yard the parking shall be located based on the prevailing character and setback patterns of the block.

12. Lots With Uphill Yards Abutting Streets or Downhill or Through Lot Front Yards Fronting on Streets That Prohibit Parking. Parking for two ~~(2)~~ two ~~(2)~~ axle or two ~~(2)~~ up ~~to~~ ~~four~~ ~~(4)~~ wheeled vehicles may be located in uphill yards abutting streets or downhill or through lot front yards as provided in subsections 23.44.016.D.9, D.10 or D.11 if, in consultation with Seattle Department of Transportation, it is found that uninterrupted parking for ~~twenty-four~~ ~~(24)~~ hours is prohibited on at least one ~~(1)~~ side of the street within ~~two hundred~~ ~~(200)~~ feet of the lot line over which access is proposed. The Director may authorize a curb cut wider than would be permitted under Section 23.54.030 if necessary for access.

E. Standards for Garages ~~when Permitted~~ if Allowed in Required Yards. Garages that are either detached structures or portions of a principal structure for the primary purpose of enclosing a two ~~(2)~~ axle or four ~~(4)~~ wheeled vehicle may be permitted in required yards according to the following conditions:

1. Maximum Coverage and Size.

a. Garages, together with any other accessory structures and other portions of the principal structure, are limited to a maximum combined coverage of ~~forty~~ ~~(40)~~ percent of the required rear yard. In the case of a rear yard abutting an alley, rear yard coverage shall be calculated from the centerline of the alley.

b. Garages located in side or rear yards shall not exceed ~~one thousand~~ ~~(1,000)~~ square feet in area.

c. In front yards, the area of garages ~~shall be~~ is limited to ~~three hundred~~ ~~(300)~~ square feet with ~~fourteen~~ ~~(14)~~ foot maximum width ~~where if~~ if one ~~(1)~~ space is allowed provided, and ~~six hundred~~ ~~(600)~~ square feet with ~~twenty four~~ ~~(24)~~ foot maximum width ~~where if~~ if two ~~(2)~~ spaces are allowed provided. Access driveway bridges permitted under Section 23.44.016.D.10.f shall not be included in this calculation.

2. Height Limits.

a. Garages ~~shall be~~ are limited to ~~twelve~~ ~~(12)~~ feet in height ~~as~~ measured on the facade containing the entrance for the vehicle.

b. The ridge of a pitched roof on a garage located in a required yard may extend up to ~~three~~ ~~(3)~~ feet above the ~~twelve~~ ~~(12)~~ foot height limit. All parts of the roof above the height limit shall be pitched at a rate of not less than four to twelve (4:12). No portion of a shed roof ~~shall be~~ is permitted to extend beyond the ~~twelve~~ ~~(12)~~ foot height limit under this provision.

c. Open rails around balconies or decks located on the roofs of garages may exceed the ~~twelve (12)~~ foot height limit by a maximum of ~~three (3)~~ feet. The roof over a garage shall not be used as a balcony or deck in rear yards.

3. Separations. ~~a.~~ Any garage located in a required yard shall be separated from its principal structure by a minimum of ~~five (5)~~ feet. This requirement does not apply to terraced garages that comply with Section 23.44.016.D.9.b.

4. Roof eaves and gutters of a garage located in a required yard may extend a maximum of 18 inches from the exterior wall of the garage. Such roof eaves and gutters are excluded from the maximum coverage and size limits of subsection 23.44.016.E.1 and the separation requirements of subsection 23.44.016.E.3, except that all portions of a detached garage, including projecting eaves and gutters, shall be separated by at least 5 feet from all portions of a principal structure, including any eaves and gutters of the principal structure.

5. Except for terraced garages that comply with Section 23.44.016.D.9.b, the roof over a garage in a rear yard shall not be used as a balcony or deck.

* * *

Section 19. Subsection C of Section 23.44.017 of the Seattle Municipal Code, which section was last amended by Ordinance 122823, is amended as follows:

23.44.017 Development standards for public schools-

* * *

C. Setbacks.

1. General Requirements.

a. No setbacks ~~are shall be~~ required for new public school construction or for additions to existing public school structures for that portion of the site across a street or an alley or abutting a lot in a nonresidential zone. ~~If when~~ any portion of the site is across a street or an alley from or abuts a lot in a residential zone, setbacks ~~are shall be~~ required for areas facing or abutting residential zones, as provided in subsections 23.44.017.C.2 through 23.44.017.C.5 below.

Setbacks for sites across a street or alley from or abutting lots in Residential-Commercial (RC) zones shall be based upon the residential zone classification of the RC lot.

b. The minimum setback requirement may be averaged along the structure facade with absolute minimums for areas abutting lots in residential zones as provided in subsections 23.44.017.C.2.b, C.3.b and C.4.b.

c. Trash disposals, ~~openable~~ operable windows in a gymnasium, main entrances, play equipment, kitchen ventilators or other similar items shall be located at least ~~thirty (30)~~ feet from any single-family zoned lot and ~~twenty (20)~~ feet from any multi-family zoned lot.

d. The exceptions of subsections 23.44.014

~~D.4, D.5, D.6, D.7, D.8, D.9, D.10, D.11 and D.12 of Section 23.44.014 shall apply.~~

* * *

Section 20. Subsection F of Section 23.44.018 of the Seattle Municipal Code, which section was last amended by Ordinance 119239, is amended as follows:

23.44.018 General provisions-

* * *

F. Minor structural work ~~which that~~ does not increase usable floor area or seating capacity and that does not exceed the development standards applicable to the use shall not be considered an expansion, unless the work would exceed the height limit of the zone for uses permitted outright. Such work includes but is not limited to roof repair or replacement and construction of uncovered decks and porches, facilities for barrier-free access, bay windows, dormers, and eaves.

Section 21. Subsection L of Section 23.44.022 of the Seattle Municipal Code, which section was last amended by Ordinance 122823, is amended as follows:

23.44.022 Institutions-

L. Parking and Loading Berth Requirements.

1. Quantity and Location of Off-street Parking.

a. Use of transportation modes such as public transit, vanpools, carpools and bicycles to reduce the use of single-occupancy vehicles ~~is shall be~~ encouraged.

b. Parking and loading ~~is shall be~~ required as provided in Section 23.54.015.

c. The Director may modify the parking and loading requirements of Section 23.54.015, ~~Required parking,~~ and the requirements of Section 23.44.016, ~~Parking location and access,~~ on a case-by-case basis using the information contained in the transportation plan prepared pursuant to subsection 23.44.022. ~~M of this section.~~ The modification shall be based on adopted City policies and shall:

~~i. 1)~~ Provide a demonstrable public benefit such as, but not limited to, reduction of traffic on residential streets, preservation of residential structures, and reduction of noise, odor, light and glare; and

~~ii. 2)~~ Not cause undue traffic through residential streets nor create a ~~serious~~ safety hazard.

2. Parking Design. Parking access and parking shall be designed as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.

3. Loading Berths. The quantity and design of loading berths shall be as provided in Design Standards for Access and Off-street Parking, Chapter 23.54.

* * *

Section 22. Subsection A of Section 23.44.051 of the Seattle Municipal Code, which section was last amended by Ordinance 122208, is amended as follows:

23.44.051 Bed and breakfasts~~—~~

A bed and breakfast use is permitted if it meets the following standards:

A. General Provisions.

1. The bed and breakfast use must have a business license issued by the Department of ~~Finance~~ Executive Administration;

* * *

Section 23. Subsection C of Section 23.44.060 of the Seattle Municipal Code, which section was last amended by Ordinance 110669, is amended as follows:

23.44.060 Uses accessory to parks and playgrounds~~—~~

* * *

C. Storage structures and areas and other structures and activities customarily associated with parks and playgrounds are subject to the following development standards in addition to the general development standards for accessory uses:

1. Any active play area shall be located ~~thirty~~ (30 →) feet or more from any lot in a single-family zone.

2. Garages and service or storage areas shall be ~~screened from view from abutting lots in residential zones~~ located 100 feet or more from any other lot in a residential zone and obscured from view from each such lot.

Section 24. Subsection F of Section 23.45.008 of the Seattle Municipal Code, which section was last amended by Ordinance 122235, is amended as follows:

23.45.008 Density - Lowrise zones~~—~~

* * *

F. Adding Units to Existing Structures in Multifamily zones.

1. In all multifamily zones, one additional dwelling unit

may be added to an existing multifamily structure regardless of the density restrictions in subsections 23.45.008.A, .B, and .C, and .D above, and regardless of the open space requirements in Section 23.45.016. ~~This provision shall only apply when~~ An additional unit is allowed only if the proposed additional unit is to be located entirely within an existing structure.

2. For the purposes of this subsection, "existing structures" ~~shall be~~ are those structures or portions of structures that were established under permit, or for which a permit has been granted and the permit has not expired as of October 31, 2001.

Section 25. Subsections A and C of Section 23.45.016 of the Seattle Municipal Code, which section was last amended by Ordinance 120928, is amended as follows:

23.45.016 Open Space requirements - Lowrise zones-

A. Quantity of Open Space.

1. Lowrise Duplex/Triplex Zones.

a. Single-family Structures. A minimum of ~~six hundred~~ ~~(600)~~ square feet of landscaped area shall be provided, except for cottage housing developments.

b. Cottage Housing Developments. A minimum of ~~four hundred~~ ~~(400)~~ square feet per unit of landscaped area is required. This quantity shall be allotted as follows:

~~(1)~~ A minimum of ~~two hundred~~ ~~(200)~~ square feet per unit shall be private usable open space; and

~~(2)~~ A minimum of ~~one hundred fifty~~ ~~(150)~~ square feet per unit shall be provided as common open space.

c. Additional Dwelling Unit Added to Existing Structure Pursuant to Section 23.45.008.F. No open space is required for an additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F.

~~c.d.~~ Structures with Two Dwelling Units. At least one ~~(1)~~ unit shall have direct access to a minimum of ~~four hundred~~ ~~(400)~~ square feet of private, usable open space. The second unit shall also have direct access to ~~four hundred~~ ~~(400)~~ square feet of private, usable open space; or ~~six hundred~~ ~~(600)~~ square feet of common open space shall be provided on the lot.

~~d.e.~~ Structures with Three Dwelling Units. At least two ~~(2)~~ units shall have direct access to a minimum of ~~four hundred~~ ~~(400)~~ square feet of private, usable open space per unit. The third unit shall have direct access to ~~four hundred~~ ~~(400)~~ square feet of private, usable open space; or ~~six hundred~~ ~~(600)~~ square feet of common open space shall be provided on the lot.

2. Lowrise 1 Zones.

a. Ground-related Housing.

~~(1) An average of three hundred~~
~~(300)~~ square feet per unit of private, usable open space, at ground level and directly accessible to each unit, ~~shall be~~ is required, except for cottage housing developments and for an additional unit added to an existing multifamily structure pursuant to Section 23.45.008.F. No unit shall have less than ~~two hundred~~ ~~(200)~~ square feet of private, usable open space, except for an additional unit added to an existing multifamily structure pursuant to Section 23.45.008.F, for which no open space is required. ~~When a new unit that is not a ground-related unit is added to an existing structure, common open space at ground level shall be provided for the new unit. As long as the average per unit amount of open space is maintained at three hundred (300) square feet on the lot, a minimum of two hundred (200) square feet of common open space at ground level shall be provided for the unit but it does not have to be directly accessible to the unit.~~

~~(2) On lots with slopes of~~
~~twenty (20)~~ percent or more, decks of the same size as the required ground-level open space may be built over the sloping ground-level open space. In order to qualify for this provision, ~~such~~ the decks shall not cover the open space of another unit, nor be above the living space of any unit. Decks may project into setbacks in accordance with subsection F of Section 23.45.014.

b. Apartments. An average of ~~three hundred~~ ~~(300)~~ square feet per unit of common open space, with a minimum of ~~two hundred (200)~~ square feet, shall be provided at ground level, but it does not have to be directly accessible to the unit, except that no open space is required for an additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F. Except for an additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F, if an additional unit that is not a ground-related unit is added to an existing structure, common open space at ground level shall be provided for the additional unit. As long as the average per unit amount of open space is maintained at 300 square feet on the lot, a minimum of 200 square feet of common open space at ground level shall be provided for the unit but it does not have to be directly accessible to the unit.

c. Cottage Housing Developments. A minimum of ~~three hundred (300)~~ square feet per unit of landscaped area is required. This quantity shall be allotted as follows:

~~(1) A minimum of one hundred fifty~~
~~(150)~~ square feet per unit shall be private, usable open space; and

~~(2) A minimum of one hundred fifty~~
~~(150)~~ square feet per unit shall be provided as common open space.

3. Lowrise 2, Lowrise 3 and Lowrise 4 Zones.

a. Ground-Related Housing.

~~(1)~~ In Lowrise 2 and Lowrise 3 zones an average of ~~three hundred (300)~~ square feet per unit of private, usable open space, at ground level and directly accessible to each unit, ~~shall be~~ is required, except that no open space is required for an additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F except as allowed by Section 23.45.008.F, ~~no~~ unit shall have less than ~~two hundred (200)~~ square feet of private, usable open space.

~~(2)~~ In Lowrise 4 zones a minimum of ~~fifteen (15)~~ percent of lot area, plus ~~two hundred (200)~~ square feet per unit of private usable open space, at ground level and directly accessible to each unit, ~~shall be~~ is required, except that no open space is required for an Additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F.

~~(3)~~ On lots with slopes of ~~twenty (20)~~ percent or more, decks of the same size as the required ground-level open space may be built over the sloping ground-level open space. In order to qualify for this provision, ~~such~~ the decks shall not cover the open space of another unit, nor be above the living space of any unit. Decks may project into setbacks in accordance with subsection F of Section 23.45.014.

b. Apartments.

~~(1)~~ Lowrise 2 Zones. A minimum of ~~thirty (30)~~ percent of the lot area shall be provided as usable open space at ground level, except that no open space is required for an additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F.

~~(2)~~ Lowrise 3 and Lowrise 4 Zones.

i. A minimum of ~~twenty five (25)~~ percent of the lot area shall be provided as usable open space at ground level, except as provided in subsection 23.45.016. A.3.b.(2).ii and except that no open space is required for an additional dwelling unit added to an existing multifamily structure pursuant to Section 23.45.008.F.

ii. A maximum of ~~one third (1/3)~~ of the required open space may be provided above ground in the form of balconies, decks, individual unit decks on roofs or common roof gardens if the total amount of required open space is increased to ~~thirty (30)~~ percent of lot area.

* * *

C. Open Space Relationship to Grade.

1. The elevation of open space for ground-related housing must be within ~~ten (10)~~ vertical feet of the elevation of the dwelling unit it serves. The ~~ten (10)~~ feet ~~shall~~ be measured between the finished floor level of the principal living areas of a dwelling unit and the grade of at least ~~fifty (50)~~ percent of the required open space. Direct access to the open space shall be from at least one ~~(1)~~ habitable room of at least ~~eighty (80)~~ square feet of the principal living

areas of the unit. Principal living areas ~~shall~~ do not include foyers, entrance areas, closets or storage rooms, hallways, bathrooms or similar rooms alone or in combination. This subsection 23.45.016.C.1 does not apply to townhouses or single-family structures.

2. The grade of the ground level open space ~~can either be~~ shall be no higher than 18 inches above the existing grade ~~or within eighteen (18) inches of existing grade~~. The portion of the open space ~~which~~ that is within ~~ten (10)~~ vertical feet of the unit shall include the point where the access to the open space from the unit occurs.

3. The elevation of private usable open space for Lowrise Duplex/Triplex structures must be within ~~four (4)~~ feet of the elevation of the dwelling unit it serves. The ~~four (4)~~ feet ~~shall be~~ is measured between the finished floor level of the dwelling unit and the grade of at least ~~fifty (50)~~ percent of the required open space. The grade of the ground level open space ~~can either be~~ shall be no higher than 18 inches above the existing grade ~~or within eighteen (18) inches of existing grade~~. The maximum difference in elevation at the point of access shall be ~~four (4)~~ feet.

* * *

Section 26. Subsection A of Section 23.45.160 of the Seattle Municipal Code, which section was last amended by Ordinance 122208, is amended as follows:

23.45.160 Bed and breakfasts~~-~~

A bed and breakfast use may be operated in a dwelling unit that is at least five ~~(5)~~ years old by a resident of the dwelling unit under the following conditions:

A. The bed and breakfast use must have a business license issued by the Department of ~~Finance~~ Executive Administration.

* * *

Section 27. Subsection D of Section 23.46.004 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

23.46.004 Uses~~-~~

* * *

D. Permitted commercial uses ~~shall be~~ are allowed only in structures containing at least one ~~(1)~~ dwelling unit ~~, which may be a~~ or live-work unit, according to the development standards of Section 23.46.012, ~~Location of commercial uses~~.

* * *

Section 28. Subsection A of Section 23.46.012 of the Seattle Municipal Code, which section was last amended by Ordinance 121196, is amended as follows:

23.46.012 Location of commercial uses-

A. Commercial uses ~~shall be~~ are permitted only on or below the ground floor of a structure that contains at least one ~~(1) dwelling unit, which may be a~~ or live-work unit, except as provided in the Northgate Overlay District, Chapter 23.71, and except that if there is an existing established commercial use in a structure that does not contain a dwelling unit or live-work unit, the existing established commercial use may be converted to another permitted commercial use without providing a dwelling unit or live-work unit in the structure and without obtaining an administrative conditional use.

* * *

Section 29. Subsection C of Section 23.47A.002 of the Seattle Municipal Code, which section was adopted by Ordinance 122311, is amended as follows:

23.47A.002 Scope of provisions-

* * *

C. Other regulations, ~~such as, and including but not~~ limited to, ~~requirements for setbacks from property lines to provide clearance for the Seattle City Light Overhead Power Distribution System located in the street right of way (Washington Administrative Code 296 24 960 and 296 155 420, National Electric Safety Code 2002, Rules 236 and 237, and Seattle City Light Guideline D2-3),~~ requirements for streets, alleys and easements (Chapter 23.53); standards for parking quantity, access and design (Chapter 23.54); signs (Chapter 23.55); and methods for measurements (Chapter 23.86) may apply to development proposals. Communication utilities and accessory communication devices, except as exempted in Section 23.57.002, are subject to the regulations in this chapter and additional regulations in Chapter 23.57, Communications Regulations.

Section 30. Subsection H of Section 23.47A.004 of the Seattle Municipal Code, which section was last amended by Ordinance 122935, is amended as follows:

23.47A.004 Permitted and prohibited uses

* * *

H. Adult Cabarets.

1. Any lot line of property containing any proposed new or expanding adult cabaret must be ~~eight hundred (800)~~ feet or more from any lot line of property ~~containing any~~ on which any of the following uses has been established by permit or otherwise recognized as a legally established use: community center; child care center; school, elementary or secondary; or public parks and open space use.

2. Any lot line of property containing any proposed new or expanding adult cabaret must be ~~six hundred (600)~~ feet or more from any lot line of property ~~containing~~ for which a permit has been issued for any other adult cabaret.

3. The dispersion analysis required by subsections

23.47A.004.H.1 and 2 shall be based on the facts that exist on the earlier of:

a) the date a complete application for a building permit for an adult cabaret for the property proposed to contain the new or expanding adult cabaret is made, or

b) the date of publication of notice of the Director's decision on the Master Use Permit application to establish or expand an adult cabaret use, if the decision can be appealed to the Hearing Examiner, or the date of the Director's decision if no Hearing Examiner appeal is available.

* * *

Section 31. Subsection C of Section 23.47A.005 of the Seattle Municipal Code, which section was last amended by Ordinance 123020, is amended as follows:

23.47A.005 Street-level uses

* * *

C. Residential uses at street level.

1. Residential uses are generally permitted anywhere in a structure in NC1, NC2, NC3, and C1 zones, except as provided in subsections 23.47A.005.C.2 and 23.47A.005.C. 3.

2. Residential uses may not occupy, in the aggregate, more than 20 percent of the street-level street-facing facades in the following circumstances or locations:

a. In a pedestrian-designated zone, facing a designated principal pedestrian street;

b. Within the Bitter Lake Village Hub Urban Village;
or

c. Within the Lake City Hub Urban Village, except as provided in subsection 23.47A.005.C.4.

3. Residential uses may not exceed, in the aggregate, 20 percent of the street-level street-facing facades when facing an arterial or within a zone that has a height limit of 85 feet or higher, except that there is no limit on residential uses in the following circumstances or locations:

a. Within a very low-income housing project existing as of May 1, 2006, or within a very low-income housing project replacing a very low-income housing project existing as of May 1, 2006 on the same site.

b. The residential use is an assisted living facility or nursing home and private living units are not located at street level.

c. Within the Station Area Overlay District, in which case the provisions of Chapter 23.61 apply.

d. Within the International Special Review District east of the Interstate 5 Freeway, in which case the provisions of Section 23.66.330 apply.

4. Residential uses may occupy 100 percent of the street-level street-facing facade in a structure if the structure:

a. Is developed and owned by the Seattle Housing Authority;

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

c. Is not located in a pedestrian-designated zone or a zone that has a height limit of 85 feet or higher; and

d. Does not face a designated principal pedestrian street.

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

~~5.~~ 6. Where residential uses at street level are limited to 20 percent of the street-level street-facing facade, such limits do not apply to residential structures separated from the street lot line by an existing structure meeting the standards of this section and Section 23.47A.008, or by an existing structure legally nonconforming to those standards.

* * *

Section 32. Subsection A of Section 23.47A.018 of the Seattle Municipal Code, which section was adopted by Ordinance 122311, is amended as follows:

~~23.47A.018 Noise standards-~~

A. In an NC1, NC2 or NC3 zone, all manufacturing, fabricating, repairing, refuse compacting and recycling activities shall be conducted wholly within an enclosed structure. In a C1 or C2 zone, location within an enclosed structure is required only when the ~~lot~~ structure is located within ~~fifty~~ (50) feet of a residential zone, except when required as a condition for permitting a major noise generator according to subsection 23.47A.018.B. Doors on such a structure that are further than 50 feet from the residential zone and that face away from the residential zone may remain open.

* * *

Section 33. Subsection B of Section 23.47A.020 of the Seattle Municipal Code, which section was adopted by Ordinance 122311, is amended as follows:

~~23.47A.020 Odor Standards-~~

* * *

B. Major Odor Sources.

1. Uses that employ the following odor-emitting processes or activities are considered major odor sources:

- a. Lithographic, rotogravure or flexographic printing;
- b. Film burning;
- c. Fiberglassing;
- d. Selling of gasoline and/or storage of gasoline in tanks larger than ~~two hundred sixty~~ (260) gallons;
- e. Handling of heated tars and asphalts;
- f. Incinerating (commercial);
- g. Tire buffing;
- h. Metal plating;
- i. Vapor degreasing;
- j. Wire reclamation;
- k. Use of boilers (greater than 106 British Thermal Units per hour, ~~ten thousand~~ (10,000) pounds steam per hour, or ~~thirty~~ (30) boiler horsepower);
- l. Animal food processing;
- m. Other similar processes or activities.

2. Uses that employ the following processes are considered major odor sources, except when the entire activity is conducted as part of a commercial use other than food processing or heavy commercial services:

- a. Cooking of grains;
- b. Smoking of food or food products;
- c. Fish or fishmeal processing;
- d. Coffee or nut roasting;
- e. Deep fat frying;
- f. Dry cleaning;
- ~~g. Other similar processes or activities.~~

* * *

Section 34. Subsection B of Section 23.49.014 of the Seattle Municipal Code, which section was last amended by Ordinance 122611, is amended as follows:

23.49.014 Transfer of development rights (TDR)=-

* * *

B. Standards for sending lots.

1. a. The maximum amount of floor area that may be transferred, except as open space TDR, Landmark TDR, or Landmark housing TDR, from an eligible sending lot, except a sending lot in the PSM or IDM zones, is the amount by which the product of the eligible lot area times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds the sum of any chargeable gross floor area existing or, if a DMC housing TDR site, to be developed on the sending lot, plus any TDR previously transferred from the sending lot.

b. The maximum amount of floor area that may be transferred from an eligible open space TDR site is the amount by which the product of the eligible lot area times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds the sum of ~~(a)~~ any existing chargeable gross floor area that is built on or over the ~~eligible lot area on the portion of the sending lot that is not made ineligible by Section 23.49.017.C~~, plus ~~(b)~~ the amount, if any, by which the total of any other chargeable floor area on the sending lot exceeds the product of the base FAR of the sending lot, as provided in Section 23.49.011, multiplied by the difference between the total lot area and the eligible lot area, plus ~~(c)~~ any TDR previously transferred from the sending lot.

c. The maximum amount of floor area that may be transferred from an eligible Landmark housing TDR site is the amount by which the product of the eligible lot area times the base FAR of the sending lot, as provided in Section 23.49.011, exceeds TDR previously transferred from the sending lot, if any.

d. The maximum amount of floor area that may be transferred from an eligible Landmark TDR site, when the chargeable floor area of the landmark structure is less than or equal to the base FAR permitted in the zone, is equivalent to the base FAR of the sending lot, minus any TDR that have been previously transferred. For landmark structures having chargeable floor area greater than the base FAR of the zone, the amount of floor area that may be transferred is limited to an amount equivalent to the base FAR of the sending lot minus the sum of (i) any chargeable floor area of the landmark structure exceeding the base FAR and (ii) any TDR that have been previously transferred.

e. For purposes of this subsection 23.49.014.B.1, the eligible lot area is the total area of the sending lot, reduced by the excess, if any, of the total of accessory surface parking over ~~one-quarter (1/4)~~ of the total area of the footprints of all structures on the sending lot; and for an open space TDR site, further reduced by the area of any portion of the lot ineligible under Section 23.49.0167.C.

2. ~~When~~If the sending lot is located in the PSM or IDM zone, the gross floor area that may be transferred is ~~six (6)~~ 6 FAR, minus the sum of any existing chargeable gross floor area and any floor area in residential use on the sending lot, and further reduced by any TDR previously transferred from the sending lot.

3. ~~When~~If TDR are transferred from a sending lot in a zone with a base FAR limit, the amount of chargeable gross floor area that may then be built on the sending lot ~~shall be~~ is

equal to the area of the lot multiplied by the applicable base FAR limit set in Section 23.49.011, minus the total of:

- a. The existing chargeable floor area on the lot; plus
- b. The amount of gross floor area transferred from the lot.

4. ~~When~~If TDR are sent from a sending lot in a PSM zone, the combined maximum chargeable floor area and residential floor area that may then be established on the sending lot ~~shall be~~ is equal to the total gross floor area that could have been built on the sending lot consistent with applicable development standards as determined by the Director had no TDR been transferred, less the sum of:

- a. The existing chargeable floor area on the lot; plus
- b. The amount of gross floor area that was transferred from the lot.

5. Gross floor area allowed above base FAR under any bonus provisions of this title or the former Title 24, or allowed under any exceptions or waivers of development standards, may not be transferred. TDR may be transferred from a lot that contains chargeable floor area exceeding the base FAR only if the TDR are from an eligible Landmark site, consistent with subsection 23.49.014.B.1.c above, or to the extent, if any, that:

- a. TDR were previously transferred to such lot in compliance with the Land Use Code provisions and applicable rules then in effect;
- b. Those TDR, together with the base FAR under Section 23.49.011, exceed the chargeable floor area on the lot and any additional chargeable floor area for which any permit has been issued or for which any permit application is pending; and
- c. The excess amount of TDR previously transferred to such lot would have been eligible for transfer from the original sending lot under the provisions ~~of this~~ Section 23.49.014 at the time of their original transfer from that lot.

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

7. Housing on lots from which housing TDR are transferred shall be rehabilitated to the extent required to provide decent, sanitary and habitable conditions, in compliance with applicable codes, and so as to have an estimated minimum useful life of at least ~~fifty~~ +50+ years from the time of the TDR transfer, as approved by the Director of the Office of Housing. Landmark buildings on lots from which Landmark housing TDR are transferred shall be rehabilitated to the extent required to provide decent, sanitary and habitable housing, in compliance with applicable codes, and so as to have an estimated minimum useful life of at least ~~fifty~~ +50+ years from the time of the TDR transfer, as approved by the Director of the Office of Housing and the Landmarks Preservation Board. If housing TDR or Landmark housing TDR are proposed to be transferred prior to the completion of work necessary to satisfy this subsection 23.49.014.B.7, the

Director of the Office of Housing may require, as a condition to such transfer, that security be deposited with the City to ensure the completion of such work.

8. The housing units on a lot from which housing TDR, Landmark housing TDR, or DMC housing TDR are transferred, and that are committed to low-income housing use as a condition to eligibility of the lot as a TDR sending lot, shall be generally comparable in their average size and quality of construction to other housing units in the same structure, in the judgment of the Housing Director, after completion of any rehabilitation or construction undertaken in order to qualify as a TDR sending lot.

* * *

Section 35. Subsections D and H of Section 23.49.017 of the Seattle Municipal Code, which section was adopted by Ordinance 122054, are amended as follows:

23.49.017 Open space TDR Site Eligibility~~7~~

* * *

D. Basic requirements. In order to qualify as a sending lot for open space TDR, the sending lot must include open space that satisfies the basic requirements of this subsection, unless an exception is granted by the Director pursuant to ~~(Section 23.49.039) subsection H of this s~~ subsection 23.49.017.H. A sending lot for open space TDR must:

1. Include a minimum area as follows:

a. Contiguous open space with a minimum area of ~~fifteen thousand (15,000)~~ square feet; or

b. A network of adjacent open spaces, which may be separated by a street right-of-way, that are physically and visually connected with a minimum area of ~~thirty thousand (30,000)~~ square feet;

2. Be directly accessible from the sidewalk or another public open space, including access for persons with disabilities;

3. Be at ground level, except that in order to provide level open spaces on steep lots, some separation of multiple levels may be allowed, provided they are physically and visually connected;

4. Not have more than ~~twenty (20)~~ percent of the lot area occupied by any above grade structures; and

5. Be located a minimum of ~~one quarter (1/4)~~ of a mile from the closest lot approved by the Director as a separate open space TDR site.

* * *

H. Special exception for Open Space TDR sites. The Director may authorize an exception to the requirements for open space TDR sites in subsection ~~D of this Section 23.49.017.D~~, as a special exception pursuant to Chapter 23.76, Procedures for Master Use Permit

and Council Land Use Decisions.

1. The provisions of this subsection 23.49.017.H will be used by the Director in determining whether to grant, grant with conditions or deny a special exception. The Director may grant exceptions only to the extent such exceptions further the provisions of this subsection 23.49.017.H.

2. In order for the Director to grant, or grant with conditions, an exception to the requirements for open space TDR sites, the following must be satisfied:

a. The exception allows the design of the open space to take advantage of unusual site characteristics or conditions in the surrounding area, such as views and relationship to surroundings; and

b. The applicant demonstrates that the exceptions would result in an open- space that better meets the intent of the provisions for open space TDR sites in subsection 23.49.017.G ~~D of this Section.~~

Section 36. Section 23.49.030, which section was adopted by Ordinance 122411, is amended as follows:

~~23.49.030 Adult Cabarets-~~

A. Any lot line of property containing any proposed new or expanding adult cabaret must be ~~eight hundred (800)~~ feet or more from any lot line of property ~~containing anyon~~ which any of the following uses has been established by permit or otherwise recognized as a legally established use: community center; child care center; school, elementary or secondary; or public parks and open space use.

B. Any lot line of property containing any proposed new or expanding adult cabaret must be ~~six hundred (600)~~ feet or more from any lot line of property ~~containing~~ for which a permit has been issued for any other adult cabaret, and must be ~~six hundred (600)~~ feet or more from any lot line of property ~~containing~~ for which a permit has been issued for any adult panoram or adult motion picture theater.

C. The analysis required by subsections 23.49.030.A and B shall be based on the facts that exist on the earlier of:

1) the date a complete application is made for a building permit for an adult cabaret for the property proposed to contain the new or expanding adult cabaret, or

2) the date of publication of notice of the Director's decision on the Master Use Permit application to establish or expand an adult cabaret use, if the decision can be appealed to the Hearing Examiner, or the date of the Director's decision if no Hearing Examiner appeal is available.

Section 37. Subsection E of Section 23.49.046 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.49.046 Downtown Office Core 1, Downtown Office Core 2, and Downtown Mixed Commercial conditional uses and Council decisions-

* * *

E. Rooftop features listed in subsection ~~C4~~ of Section 23.49.008.D.1.c more than ~~fifty~~ (50) feet above the roof of the structure on which they are located may be authorized by the Director as an administrative conditional use pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, according to the criteria of Section 23.49.008, ~~Structure height~~.

* * *

Section 38. Subsection F of Section 23.49.096 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

* * *

23.49.096 Downtown Retail Core, conditional uses and Council decisions

* * *

F. Rooftop features listed in subsection ~~C4~~ of Section 23.49.008.D.1.c more than ~~fifty~~ (50) feet above the roof of the structure on which they are located may be authorized by the Director as an administrative conditional use pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, according to the criteria of Section 23.49.008, ~~Structure height~~.

* * *

Section 39. Subsection E of Section 23.49.148 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.49.148 Downtown Mixed Residential, conditional uses and Council decisions-

* * *

E. Rooftop features listed in subsection ~~C4~~ of Section 23.49.008.D.1.c more than ~~fifty~~ (50) feet above the roof of the structure on which they are located may be authorized by the Director as an administrative conditional use pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, according to the criteria of Section 23.49.008, ~~Structure height~~.

* * *

Section 40. Subsection E of Section 23.49.324 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.49.324 Downtown Harborfront 2, conditional uses-

* * *

E. Rooftop features listed in subsection ~~C4of Section~~ 23.49.008.D.1.c more than ~~fifty (50)~~ feet above the roof of the structure on which they are located may be authorized by the Director as an administrative conditional use pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, according to the criteria of Section 23.49.008, ~~Structure height~~.

* * *

Section 41. Subsection E of Section 23.50.012 of the Seattle Municipal Code, which section was last amended by Ordinance 122411, is amended as follows:

23.50.012 Permitted and prohibited uses-

* * *

E. Adult Cabarets.

1. Any lot line of property containing any proposed new or expanding adult cabaret must be ~~eight hundred (800)~~ feet or more from any lot line of property ~~containing anyon which any of the following uses has been established by permit or otherwise recognized as legally established:~~ community center; child care center; school, elementary or secondary; or public parks and open space use.

2. Any lot line of property containing any proposed new or expanding adult cabaret must be ~~six hundred (600)~~ feet or more from any lot line of property ~~containing~~ for which a permit has been issued for any other adult cabaret .

3. The analysis required by subsections 23.50.012.E.1 and E.2 shall be based on the facts that exist on the earlier of:

a) the date a complete application is made for a building permit for an adult cabaret for the property proposed to contain the new or expanding adult cabaret, or

b) the date of publication of notice of the Director's decision on the Master Use Permit application to establish or expand an adult cabaret use, if the decision can be appealed to the Hearing Examiner, or the date of the Director's decision if no Hearing Examiner appeal is available.

Section 42. Subsection B of Section 23.50.022 and Exhibit 23.50.022A of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended and the Exhibit 23.50.022A replaced with a new Exhibit A, as follows:

23.50.022 General Industrial 1 and 2 - Structure height-

* * *

B. Except for the provisions of Section 23.50.020 and of ~~subsection C below~~ subsection 23.50.022.C, the maximum structure height for any portion of a structure that contains commercial uses other than spectator sports facilities and food processing and craft work uses, whether they are principal or accessory, ~~shall be thirty (30) is 30 feet, forty five (45) 45 feet, sixty five (65) 65~~

feet, or ~~eighty five (85)~~ 85 feet, as designated on the Official Land Use Map, Chapter 23.32. (also see ~~Exhibit Exhibit A for~~ 23.50.022 ~~*~~)

Exhibit A for 23.50.022

New Exhibit A for 23.50.022

* * *

Section 43. Subsections L, N and O of Section 23.50.051 of the Seattle Municipal Code, which section was adopted by Ordinance 122611, are amended as follows:

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

* * *

L. Energy Management Plan. The Master Use Permit application shall include an energy management plan, approved by the ~~Director~~ Superintendent of Seattle City Light, containing specific energy conservation or alternative energy generation methods or on-site electrical systems that together can ensure that the existing electrical system can accommodate the projected loads from the project. The Director, after consulting with the ~~Director~~ Superintendent of Seattle City Light, may condition the approval of the Master Use Permit on the implementation of the energy management plan.

* * *

N. Bonus floor area and TDR. A minimum of ~~seventy five~~ ~~(75)~~ percent of floor area above ~~five (5)~~ 4.5 FAR may be gained only through bonuses under Section 23.50.052. The remaining ~~twenty five (25)~~ percent may be gained either through TDR consistent with Section 23.50.053 or bonuses under Section 23.50.052, provided that the condition in ~~§~~ subsection 23.50.051.N is satisfied if applicable. The Master Use Permit application to establish any floor area above ~~five (5)~~ 4.5 FAR under this section shall include a calculation of the amount of floor area and shall identify the manner in which the conditions to added floor area will be satisfied.

O. Landmark TDR. If Landmark TDR is available, not less than ~~five (5)~~ percent of floor area on a lot above ~~five (5)~~ 4.5 FAR shall be gained through the transfer of Landmark TDR. Landmark TDR shall be considered "available" if, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR eligible for use on the lot for sale at a price per square foot no greater than the total bonus contribution under Section 23.50.052 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the condition in this section by purchases of Landmark TDR from private parties, by transfer of Landmark TDR from an eligible sending lot owned by the applicant, by purchase of Landmark TDR from the City, or by any combination of the foregoing.

Section 44. Subsections A, B and D of Section 23.53.015 of the Seattle Municipal Code, which sections were last amended by Ordinance 122615, is amended as follows:

23.53.015 Improvement requirements for existing streets in residential and commercial zones~~—~~

A. General Requirements.

1. ~~When~~If new lots are proposed to be created, or ~~if~~ any type of development is proposed in residential or commercial zones, existing streets abutting the lot(s) are required to be improved in accordance with this ~~section~~ Section 23.53.015 and Section 23.53.006, Pedestrian access and circulation. One ~~(1)~~ or more of the following types of improvements may be required under this ~~section~~ Section 23.53.015:

- a. Pavement;
- b. Curb installation;
- c. Drainage;
- d. Grading to future right-of-way grade;
- e. Design of structures to accommodate future right-of-way grade;
- f. No-protest agreements; and
- g. Planting of street trees and other landscaping.

A setback from the property line, or dedication of right-of-way, may be required to accommodate the improvements.

2. ~~Subsection D of this section~~ Subsection 23.53.015.D contains exceptions from the standard requirements for street improvements, including exceptions for streets that already have curbs, projects that are smaller than a certain size, and for special circumstances, such as location in an environmentally critical area or buffer.

3. Off-site improvements, such as provision of drainage systems or fire access roads, shall be required pursuant to the authority of this Code or other ordinances to mitigate the impacts of development.

4. Detailed requirements for street improvements are located in the Right-of-Way Improvements Manual.

5. The regulations in this section are not intended to preclude the use of Chapter 25.05 of the Seattle Municipal Code, the Seattle SEPA Ordinance, to mitigate adverse environmental impacts.

6. Minimum Right-of-Way Widths.

- a. Arterials. The minimum right-of-way widths

for arterials designated on ~~Exhibit 23.53.015 A~~ the Arterial street map, Section 11.18.010, shall be as specified in the Right-of-Way Improvements Manual.

b. Nonarterial ~~s~~ streets.

(1) The minimum right-of-way width for an existing street that is not an arterial designated on ~~Exhibit 23.53.015 A~~ the Arterial street map, Section 11.18.010, shall be as shown on ~~Chart~~ Table A for Section 23.53.015.

~~Chart~~ Table A for Section 23.53.015 Minimum Right-of-Way Widths for Existing Nonarterial Streets

Zone Category	Required Right-of-Way Width
1. SF, LDT, L1, L2 and NC1 zones; and NC2 zones with a maximum height limit of forty feet (40') or less	40 feet
2. L3, L4, MR, HR, NC2 zones with height limits of more than forty feet (40') , NC3, C1, C2 and SCM zones	52 feet

(2) ~~When~~ If a block is split into more than one (1) zone, the zone category with the most frontage shall determine the minimum width on ~~the chart~~ Table A for 23.53.015. If the zone categories have equal frontage, the one with the wider requirement shall be used to determine the minimum right-of-way width.

B. Improvements to Arterial ~~s~~ Streets. Except as provided in ~~subsection D of this section~~ Subsection 23.53.015.D, arterials shall be improved according to the following requirements:

1. ~~When~~ If a street is designated as an arterial on ~~Exhibit 23.53.015 A~~ the Arterial street map, Section 11.18.010, a paved roadway with a curb and pedestrian access and circulation as required by Section 23.53.006, drainage facilities, and any landscaping required by the zone in which the lot is located shall be provided in the portion of the street right-of-way abutting the lot, as specified in the Right-of-Way Improvements Manual.

2. If necessary to accommodate the right-of-way and roadway widths specified in the Right-of-Way Improvements Manual, dedication of right-of-way is required.

* * *

D. Exceptions.

1. Streets With Existing Curbs.

a. Streets With Right-of-Way Greater Than or Equal to the Minimum Right-of-Way Width. ~~When~~ If a street with existing curbs abuts a lot and the existing right-of-way is greater than or equal to the minimum width established in subsection 23.53.015.A.6 ~~of this section~~, but the roadway width is less than the minimum

established in the Right-of-Way Improvements Manual, the following requirements shall be met:

(1) All structures on the lot shall be designed and built to accommodate the grade of the future street improvements.

(2) A no-protest agreement to future street improvements is required, as authorized by RCW Chapter 35.43. The agreement shall be recorded with the King County Department of Records and Elections.

(3) Pedestrian access and circulation is required as specified in Section 23.53.006.

b. Streets With Less than the Minimum Right-of-Way Width. ~~When~~ If a street with existing curbs abuts a lot and the existing right-of-way is less than the minimum width established in subsection 23.53.015.A.6 ~~of this section~~, the following requirements shall be met:

(1) Setback Requirement. A setback equal to half the difference between the current right-of-way width and the minimum right-of-way width established in subsection 23.53.015.A.6 ~~of this section~~ is required; provided, however, that if a setback has been provided under this provision, other lots on the block shall provide the same setback. In all residential zones except Highrise zones, an additional ~~three (3)~~ foot setback ~~shall~~ is also ~~be~~ required. The area of the setback may be used to meet any development standard, except that required parking may not be located in the setback. Underground structures that would not prevent the future widening and improvement of the right-of-way may be permitted in the required setback by the Director after consulting with the Director of Transportation.

(2) Grading Requirement. ~~When~~ If a setback is required, all structures on the lot shall be designed and built to accommodate the grade of the future street, as specified in the Right-of-Way Improvements Manual.

(3) No-protest Agreement Requirement. A no-protest agreement to future street improvements is required, as authorized by RCW Chapter 35.43. The agreement shall be recorded with the King County Department of Records and Elections.

(4) Pedestrian access and circulation is required as specified in Section 23.53.006.

2. Projects With Reduced Improvement Requirements.

a. One (1) or Two (2) Dwelling Units.

~~When~~ If no more than one (1) or two (2) new dwelling units are proposed to be constructed, or no more than one (1) or two (2) new Single Family zoned lots are proposed to be created, the following requirements shall be met:

(1) If there is no existing hard-surfaced roadway, a crushed-rock roadway at least ~~sixteen (16)~~ feet in width ~~shall be~~ is required, as specified in the Right-of-Way Improvements Manual.

(2) All structures on the lot(s) shall be

designed and built to accommodate the grade of the future street improvements.

~~+3)~~ A no-protest agreement to future street improvements ~~shall be~~ is required, as authorized by RCW Chapter 35.43. The agreement shall be recorded with the King County Department of Records and Elections.

~~+4)~~ Pedestrian access and circulation is required as specified in Section 23.53.006.

b. Other Projects With Reduced Requirements. The types of projects listed in this subsection 23.53.015.D.2.b are exempt from right-of-way dedication requirements and are subject to the street improvement requirements of this subsection:

~~+1)~~ Types of Projects.

i. Proposed developments that contain more than two but fewer than ten ~~+10)~~ units in SF, RSL, LDT and L1 zones, and or fewer than six ~~+6)~~ residential units in all other zones, or proposed short plats in which no more than two additional lots are proposed to be created;

ii. The following uses ~~when if~~ they are smaller than ~~seven hundred fifty~~ ~~+750)~~ square feet of gross floor area: major and minor vehicle repair uses, and multipurpose retail sales;

iii. Non-residential structures that have less than ~~four thousand~~ ~~+4,000)~~ square feet of gross floor area and that do not contain uses listed in subsection 23.53.015.D.2.b.+1).ii that are larger than ~~seven hundred fifty~~ ~~+750)~~ square feet;

iv. Structures containing a mix of residential uses and either nonresidential uses or live-work units, if there are fewer than ten ~~+10)~~ units in SF, RSL, LDT and L1 zones, or fewer than six ~~+6)~~ residential units in all other zones, and the square footage of nonresidential use is less than specified in subsections 23.53.015.D.2.b.+1).ii and D.2.b.+1).iii;

v. Remodeling and use changes within existing structures;

vi. Additions to existing structures that are exempt from environmental review; and

vii. Expansions of surface parking, outdoor storage, outdoor sales or outdoor display of rental equipment of less than ~~twenty~~ ~~+20)~~ percent of the parking, storage, sales or display area or number of parking spaces.

~~+2)~~ Paving Requirement. For the types of projects listed in subsection 23.53.015.D.2.b.+1), the streets abutting the lot shall have a hard-surfaced roadway at least ~~eighteen~~ ~~+18)~~ feet wide. If there is not an ~~eighteen~~ ~~+18)~~ foot wide hard-surfaced roadway, the roadway shall be paved to a width of at least ~~twenty~~ ~~+20)~~ feet from

the lot to the nearest hard-surfaced street meeting this requirement, or ~~one hundred~~ (100) feet, whichever is less. Streets that form a dead end at the property to be developed shall be improved with a cul-de-sac or other vehicular turnaround as specified in the Right-of-Way Improvements Manual. The Director, after consulting with the Director of Transportation, shall determine whether the street has the potential for being extended or whether it forms a dead end because of topography and/or the layout of the street system.

†3) Other Requirements. The requirements of subsection 23.53.015.D.1.b shall also be met.

3. Exceptions from Required Street Improvements. The Director, in consultation with the Director of Transportation, may waive or modify the requirements for paving and drainage, dedication, setbacks, grading, no-protest agreements, landscaping, and curb installation ~~when~~ if one ~~(1)~~ or more of the following conditions are met. The waiver or modification shall provide the minimum relief necessary to accommodate site conditions while maximizing access and circulation.

a. Location in an environmentally critical area or buffer, disruption of existing drainage patterns, or removal of natural features such as significant trees or other valuable and character-defining mature vegetation makes widening and/or improving the right-of-way impractical or undesirable.

b. The existence of a bridge, viaduct or structure such as a substantial retaining wall in proximity to the project site makes widening and/or improving the right-of-way impractical or undesirable.

c. Widening the right-of-way and/or improving the street would adversely affect the character of the street, as it is defined in an adopted neighborhood plan or adopted City plan for green streets, boulevards, or other special rights-of-way, or would otherwise conflict with the stated goals of such a plan.

d. Widening and/or improving the right-of-way would preclude vehicular access to an existing lot.

e. Widening and/or improving the right-of-way would make building on a lot infeasible by reducing it to dimensions where development standards cannot reasonably be met.

f. One ~~(1)~~ or more substantial principal structures on the same side of the block as the proposed project are located in the area needed for future expansion of the right-of-way and the structure(s)' condition and size make future widening of the remainder of the right-of-way unlikely.

g. Widening and/or improving the right-of-way is impractical because topography would preclude the use of the street for vehicular access to the lot, for example due to an inability to meet the required ~~twenty~~ (20) percent maximum driveway slope.

h. Widening and/or improving the right-of-way is not necessary because it is adequate for current and potential vehicular traffic, for example, due to the limited number of lots served by the development or because the development on the street is at zoned capacity.

23.53.015 Segment A23.53.015 Segment B

Section 45. Subsections A and B of Section 23.53.020 of the Seattle Municipal Code, which sections were last amended by Ordinance 122615, is amended as follows:

23.53.020 Improvement requirements for existing streets in industrial zones-

A. General Requirements.

1. ~~When~~If new lots are created or any type of development is proposed in an industrial zone, existing streets abutting the lot(s) are required to be improved in accordance with this ~~section~~ Section 23.53.020 and Section 23.53.006, Pedestrian access and circulation. One ~~(1)~~ or more of the following types of improvements may be required by this section:

- a. Pavement;
- b. Curb installation;
- c. Drainage;
- d. Grading to future right-of-way grade;
- e. Design of structures to accommodate future right-of-way grade;
- f. No-protest agreements; and
- g. Planting of street trees and other landscaping.

A setback from the property line, or dedication of right-of-way, may be required to accommodate the improvements.

2. Subsection 23.53.020.E ~~of this section~~ contains exceptions from the standard requirements for street improvements, including exceptions for streets that already have curbs, projects that are smaller than a certain size, and for special circumstances, such as location in an environmentally critical area.

3. Off-site improvements such as provision of drainage systems or fire access roads, shall be required pursuant to the authority of this Code or other ordinances to mitigate the impacts of development.

4. Detailed requirements for street improvements are located in the Right-of-Way Improvements Manual.

5. The regulations in this ~~s~~Section 23.53.020 are not intended to preclude the use of Chapter 25.05 of the Seattle Municipal Code, the Seattle SEPA Ordinance, to mitigate adverse environmental impacts.

6. Minimum Right-of-way Widths.

a. Arterials. The minimum right-of-way widths for arterials designated on ~~Exhibit 23.53.015 A~~ the Arterial street map, Section 11.18.010, shall be as specified in the Right-of-Way Improvements Manual.

b. Non-arterials.

(1) The minimum right-of-way width for an existing street that is not an arterial designated on ~~Exhibit 23.53.015 A~~ the Arterial street map, Section 11.18.010, shall be as shown on ~~Chart~~ Table A for ~~Section~~ 23.53.020.

~~Chart~~ Table A
for ~~Section~~ 23.53.020
Minimum Right-of-way Widths
for Existing Nonarterial Streets

Zone Category	Right-of-Way Widths
1. IB, IC	52 feet
2. IG1, IG2	56 feet

(2) ~~when~~If a block is split into more than one (1) zone, the zone category with the most frontage shall determine the minimum width on ~~the chart~~ Table A for 23.53.020. If the zone categories have equal frontage, the one with the wider requirement shall be used to determine the minimum right-of-way width.

B. Improvements on Designated Streets in All Industrial Zones. In all industrial zones, except as provided in subsection ~~23.53.020.E of this section~~, ~~when~~if a lot abuts a street designated on the Industrial Streets Landscaping Maps, Exhibits 23.50.016 A and 23.50.016 B, the following on-site improvements shall be provided:

1. Dedication Requirement. ~~when~~If the street right-of-way is less than the minimum width established in subsection ~~23.53.020.A.6 of this section~~, dedication of additional right-of-way equal to half the difference between the current right-of-way and the minimum right-of-way width established in subsection ~~23.53.020.A.6 of this section~~ is required; provided, however, that if right-of-way has been dedicated since 1982, other lots on the block shall ~~not be~~ required to dedicate more than that amount of right-of-way.

2. Improvement Requirements. A paved roadway with a concrete curb, pedestrian access and circulation as required by ~~Section~~ 23.53.006 and drainage facilities shall be provided in the portion of the street right-of-way abutting the lot, as specified in the Right-of-Way Improvements Manual.

3. Street Trees.

a. Street trees shall be provided along designated street frontages. Street trees shall be provided in the planting strip as specified in City Tree Planting Standards.

b. Exceptions to Street Tree Requirements.

~~(1)~~ Street trees required by subsection 23.53.020.B.3.a may be located on the lot at least ~~two (2)~~ 2 feet from the street lot line instead of in the planting strip ~~when~~if:

i. Existing trees and/or landscaping on the lot provide improvements substantially equivalent to those required in this ~~section~~ Section 23.53.020;

ii. It is not feasible to plant street trees according to City standards. A ~~five (5)~~ 5 foot deep landscaped setback area ~~shall be~~ required along the street property lines, and trees shall be planted there. If an on-site landscaped area is already required, the trees shall be planted there if they cannot be placed in the planting strip.

* * *

Section 46. Subsection E of Section 23.53.030 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

23.53.030 Alley improvements in all zones-

* * *

E. Existing Alleys That Meet the Minimum Width. Except as provided in subsection 23.53.030.G ~~of this section~~ and except for one ~~(1)~~ and two ~~(2)~~ dwelling unit developments that abut an alley that is not improved but is in common usage, ~~when~~if an existing alley meets the minimum right-of-way width established in subsection 23.53.030.D ~~of this section~~, the following requirements shall be met:

1. ~~When~~if the alley is used for access to parking spaces, open storage, or loading berths on a lot, the following improvements shall be provided:

a. For the following types of projects, the entire width of the portion of the alley abutting the lot, and the portion of the alley between the lot and a connecting street, shall be improved to at least the equivalent of a crushed rock surface, according to the Right-of-Way Improvements Manual. The applicant may choose the street to which the improvements will be installed. If the alley does not extend from street to street, and the connecting street is an arterial designated on ~~Exhibit 23.53.015-A~~ the Arterial street map, Section 11.18.010, either the remainder of the alley shall be improved so that it is passable to a passenger vehicle, or a turnaround shall be provided. The turnaround may be provided by easement.

~~(1)~~ Residential structures with fewer than ten ~~(10)~~ units;

~~(2)~~ The following uses ~~when~~ if they are smaller than ~~seven hundred fifty (750)~~ 750 square feet of gross floor area: major and minor vehicle repair uses, and multipurpose retail sales;

~~(3)~~ Nonresidential structures or structures with one ~~(1)~~ or more live-work units that: (a) have

less than ~~four thousand~~(4,000) square feet of gross floor area; and (b) do not contain uses listed in subsection 23.53.030.E.1.a.(2) that are larger than ~~seven~~ hundred fifty (750) square feet;

(4) Structures containing a mix of residential and either nonresidential uses or live-work units, if the residential use is less than ten (10) units, and the total square footage of nonresidential uses and live-work units is less than specified in subsections 23.53.030.E.1.a.(2) and E.1.a.(3);

(5) Remodeling and use changes within existing structures;

(6) Additions to existing structures that are exempt from environmental review; and

(7) Expansions of a surface parking area or open storage area of less than ~~twenty (20) percent~~ 20 percent of the parking area, or storage area or number of parking spaces.

b. For projects not listed in subsection 23.53.030.E.1.a, the entire width of the portion of the alley abutting the lot, and the portion of the alley between the lot and a connecting street, shall be paved. The applicant may choose the street to which the pavement will be installed. If the alley does not extend from street to street, and the connecting street is an arterial designated on ~~Exhibit 23.53.015~~ the Arterial street map, Section 11.18.010, either the remainder of the alley shall be improved so that it is passable to a passenger vehicle, or a turnaround shall be provided. The turnaround may be provided by easement.

2. ~~When~~If the alley is not used for access, if the alley is not fully improved, all structures shall be designed to accommodate the grade of the future alley improvements, and a no-protest agreement to future alley improvements shall be required, as authorized by RCW Chapter 35.43. The agreement shall be recorded with the King County Department of Records and Elections.

* * *

Section 47. Subsection D of Section 23.55.020 of the Seattle Municipal Code, which section was last amended by Ordinance 121429, is amended as follows:

23.55.020 Signs in single-family zones:

* * *

D. The following signs ~~shall be~~ are permitted in all single-family zones:

1. Electric, externally illuminated or nonilluminated signs bearing the name of the occupant of a dwelling unit, not exceeding ~~sixty-four~~ (64) square inches in area;

2. Memorial signs or tables, and the name of buildings and dates of building erection ~~when~~if cut into a masonry surface

or constructed of bronze or other noncombustible materials;

3. Signs for public facilities indicating danger and/or providing service or safety information;

4. ~~Properly displayed national~~ National, state and institutional flags;

5. For any ~~permitted~~ nonresidential use allowed in the zone except for ~~public~~ elementary or ~~public~~ secondary schools, one ~~(1)~~ electric or nonilluminated double-faced identifying wall or ground sign not to exceed ~~fifteen (15)~~ square feet of area per sign face on each street frontage;

6. On-premises directional signs not exceeding ~~eight (8)~~ square feet in area. One ~~(1)~~ such sign ~~shall be~~ is permitted for each entrance or exit to a surface parking area or parking garage;

7. For ~~public~~ elementary or ~~public~~ secondary schools, one ~~(1)~~ electric or nonilluminated double-faced identifying sign, not to exceed ~~thirty (30)~~ square feet of area per sign face on each street frontage, provided that the signs shall be located and landscaped so that light and glare impacts on surrounding properties are reduced, and so that any illumination is controlled by a timer set to turn off by 10 p.m.

* * *

Section 48. Subsection D of Section 23.55.022 of the Seattle Municipal Code, which section was last amended by Ordinance 121429, is amended as follows:

23.55.022 Signs in multi-family zones-

* * *

D. The following signs ~~shall be~~ are permitted in all multifamily zones:

1. Electric, externally illuminated or nonilluminated signs bearing the name of the occupant of a dwelling unit, not exceeding ~~sixty-four (64)~~ square inches in area;

2. Memorial signs or tablets, and the names of buildings and dates of building erection ~~when~~ if cut into a masonry surface or constructed of bronze or other noncombustible materials;

3. Signs for public facilities indicating danger and/or providing service or safety information;

4. ~~Properly displayed national~~ National, state and institutional flags;

5. One ~~(1)~~ electric, externally illuminated or nonilluminated sign bearing the name of a home occupation not exceeding ~~sixty-four (64)~~ square inches in area;

6. One ~~(1)~~ nonilluminated wall or ground identification sign for multifamily structures on each street or alley

frontage in addition to signs permitted by subsection 23.55.022.
 D.2. For structures of ~~sixteen~~ (16) units or less,
 the maximum area of each sign face ~~shall be~~ is
~~sixteen~~ (16) square feet. One ~~(1)~~ square foot of sign
 area ~~shall be~~ is permitted for each additional unit over
~~sixteen~~ 16, to a maximum area of ~~fifty~~ (50) square
 feet per sign face;

7. For institutions other than ~~public~~ elementary and
~~public~~ secondary schools, one ~~(1)~~ electric or nonilluminated
 double-faced identifying wall or ground sign on each street frontage,
 not to exceed ~~twenty-four~~ (24) square feet of area per sign
 face;

8. One ~~(1)~~ electric, externally illuminated or
 nonilluminated sign bearing the name of a bed and breakfast, not
 exceeding ~~sixty-four~~ (64) square inches in area-

i

9. For ~~public~~ elementary or ~~public~~ secondary
 schools, one ~~(1)~~ electric or nonilluminated double-faced
 identifying sign, not to exceed ~~thirty~~ (30) square feet of
 area per sign face on each street frontage, provided that the signs
 shall be located and landscaped so that light and glare impacts on
 surrounding properties are reduced, and that any illumination is
 controlled by a timer set to turn off by 10 p.m.

* * *

Section 49. Subsection D of Section 23.55.028 of the Seattle
 Municipal Code, which section was last amended by Ordinance 121196, is
 amended as follows:

23.55.028 Signs in NC1 and NC2 zones-

* * *

D. On-premises Signs.

1. The following signs ~~shall be~~ are permitted in
 addition to the signs permitted by subsections 23.55.028.D
.2, D.3 and D.4:

a. Electric, externally illuminated or nonilluminated
 signs bearing the name of the occupant of a dwelling unit, not exceeding
~~sixty-four~~ (64) square inches in area;

b. Memorial signs or tablets, and the names of
 buildings and dates of building erection ~~when~~ if cut into a
 masonry surface or constructed of bronze or other noncombustible
 materials;

c. Signs for public facilities indicating danger
 and/or providing service or safety information;

d. ~~Properly displayed national~~ National,
 state and institutional flags;

e. One ~~(1)~~ under-marquee sign ~~which~~
~~that~~ does not exceed ~~ten~~ (10) square feet in area;

f. One ~~(1)~~ electric, externally illuminated or nonilluminated sign bearing the name of a home occupation, not exceeding ~~sixty-four (64)~~ square inches in area.

2. Number and Type of ~~Permitted~~ Signs Allowed for Business Establishments.

a. Each business establishment may have one ~~(1)~~ ground, roof, projecting or combination sign (Type A sign) for each ~~three hundred (300)~~ lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

b. In addition to the signs permitted by subsection 23.55.028.D.2.a, each business establishment may have one ~~(1)~~ wall, awning, canopy, marquee, or under-marquee sign (Type B sign) for each ~~thirty (30)~~ lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

c. In addition to the signs permitted by subsections 23.55.028.D.2.a and D.2.b, each multiple business center and drive-in business may have one ~~(1)~~ pole sign for each ~~three hundred (300)~~ lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys. Such pole signs may be for a drive-in business or for an individual business establishment located in a multiple business center, or may identify a multiple business center.

d. Individual businesses ~~which that~~ are not drive-in businesses and ~~which that~~ are not located in a multiple business center may have one ~~(1)~~ pole sign in lieu of another Type A sign permitted by Section 23.55.028.D.2.a for each ~~three hundred (300)~~ lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

3. Maximum Area of Signs for Nonresidential Uses and Live-work Units. The maximum area of all signs for each business establishment permitted in subsection 23.55.028.D.2 ~~shall be is one hundred eighty five (185)~~ square feet, and the maximum area of any one ~~(1)~~ Type A sign ~~shall be is seventy two (72)~~ square feet, provided that the maximum area of pole signs for gas stations ~~which that~~ identify the price of motor fuel being offered by numerals of equal size ~~shall be is ninety six (96)~~ square feet.

4. Identification Signs for Multifamily Structures.

a. One ~~(1)~~ identification sign bearing the name of a multifamily structure ~~shall be is~~ permitted on each street or alley frontage of a residential use in addition to the signs permitted by subsection 23.55.028.D.1.

b. Identification signs may be wall, ground, awning, canopy, marquee, under-marquee, or projecting signs.

c. For structures of ~~twenty four (24)~~ units or less, the maximum area of each sign face ~~shall be is twenty four (24)~~ square feet. One ~~(1)~~ square foot of sign area ~~shall be is~~ permitted for each additional unit over ~~twenty four (24)~~, to a maximum of ~~fifty (~~

50+ square feet per sign face.

5. Sign Height.

a. The maximum height for any portion of a pole, projecting or combination sign ~~shall be is~~ is ~~twenty five (25)~~ feet.

b. The maximum height for any portion of a wall or under-marquee sign ~~shall be is~~ is ~~twenty (20)~~ feet or the height of the cornice of the structure to which the sign is attached, whichever is greater.

c. Marquee signs may not exceed a height of ~~thirty (30)~~ inches above the top of the marquee, and total vertical dimension shall not exceed ~~five (5)~~ feet.

d. No portion of a roof sign shall exceed a height of ~~twenty five (25)~~ feet above grade.

* * *

Section 50. Subsection D of Section 23.55.030 of the Seattle Municipal Code, which section was last amended by Ordinance 123020, is amended as follows:

E. On-premises Signs.

1. The following signs ~~shall be~~ are permitted in addition to the signs permitted by subsections 23.55.030.E.2 and 23.55.030.E.3:

a. Electric, externally illuminated or nonilluminated signs bearing the name of the occupant of a dwelling unit, not exceeding 64 square inches in area;

b. Memorial signs or tablets, and the names of buildings and dates of building erection ~~when~~ if cut into a masonry surface or constructed of bronze or other noncombustible materials;

c. Signs for public facilities indicating danger and/or providing service or safety information;

d. ~~Properly displayed national~~ National, state and institutional flags;

e. One under-marquee sign ~~which~~ that does not exceed 10 square feet in area;

f. One electric, externally illuminated or nonilluminated sign bearing the name of a home occupation, not to exceed 64 square inches in area.

2. Number and Type of ~~Permitted~~ Signs Allowed for Business Establishments.

a. Each business establishment may have one ground, roof, projecting or combination sign (Type A sign) for each 300 lineal feet, or portion thereof, of frontage on public rights-of-way, except

alleys.

b. In addition to the signs permitted by ~~subsection 23.55.030.E.2.a of this section~~, each business establishment may have one wall, awning, canopy, marquee or under-marquee sign (Type B sign) for each 30 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

c. In addition to the signs permitted by ~~subsections 23.55.030.E.2.a and 23.55.030.E.2.b of this section~~, each multiple business center and drive-in business may have one pole sign for each 300 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys. Such pole signs may be for a drive-in business or for an individual business establishment located in a multiple business center, or may identify a multiple business center.

d. Individual businesses ~~which that~~ are not drive-in businesses and ~~which that~~ are not located in multiple business centers may have one pole sign in lieu of another Type A sign permitted by subsection 23.55.030.E.2.a for each 300 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

e. ~~Where~~ If the principal use or activity on the lot is outdoor retail sales, banners and strings of pennants maintained in good condition ~~shall be~~ are permitted in addition to the signs permitted by subsections 23.55.030.E.2.a, 23.55.030.E.2.b and 23.55.030.E.2.c.

3. Maximum Area.

a. NC3 Zones and the SM zone.

(1) The maximum area of each face of a pole, ground, roof, projecting or combination signs ~~shall be~~ is 72 square feet plus 2 square feet for each foot of frontage over 36 feet on public rights-of-way, except alleys, to a maximum area of 300 square feet, provided that:

i. The maximum area for signs for multiple business centers, and signs for business establishments located within 100 feet of a state route right-of-way ~~which that~~ is not designated in Section 23.55.042 as a landscaped or scenic view section, ~~shall be~~ is 600 square feet; and

ii. The maximum area for pole signs for gas stations ~~which that~~ identify the price of motor fuel being offered by numerals of equal size ~~shall be~~ is 96 square feet.

(2) There ~~shall be~~ is no maximum area limit for wall, awning, canopy, marquee or under-marquee signs.

b. C1 and C2 Zones. There ~~shall be~~ is no maximum area limits for on-premises signs for business establishments in C1 and C2 zones.

4. Identification Signs for Multifamily Structures.

a. One identification sign ~~shall be~~ is permitted on each street or alley frontage of a multi-family

structure.

b. Identification signs may be wall, ground, awning, canopy, marquee, under-marquee, or projecting signs.

c. The maximum area of each sign ~~shall be~~ is 72 square feet.

5. Sign Height.

a. The maximum height for any portion of a projecting or combination sign ~~shall be~~ is 65 feet above existing grade, or the maximum height limit of the zone, whichever is less.

b. The maximum height limit for any portion of a pole sign ~~shall be~~ is 30 feet; except for pole signs for multiple business centers and for business establishments located within 100 feet of a state route right-of-way ~~which~~ that is not designated in Section 23.55.042 as a landscaped or scenic view section, for which ~~shall have~~ a maximum height of 40 feet is permitted.

c. The maximum height for any portion of a wall, marquee, under-marquee or canopy sign ~~shall be~~ is 20 feet or the height of the cornice of the structure to which the sign is attached, whichever is greater.

d. No portion of a roof sign shall:

~~(1)~~ Extend beyond the height limit of the zone;

~~(2)~~ Exceed a height above the roof in excess of the height of the structure on which the sign is located; or

~~(3)~~ Exceed a height of 30 feet above the roof, measured from a point on the roof line directly below the sign or from the nearest adjacent parapet.

* * *

Section 50. Subsection E of Section 23.55.030 of the Seattle Municipal Code, which section was last amended by Ordinance 123020, is amended as follows:

23.55.030 Signs in NC3, C1, C2 and SM zones:

* * *

E. On-premises Signs.

1. The following signs ~~shall be~~ are permitted in addition to the signs permitted by subsections 23.55.030.E.2 and 23.55.030_E.3:

a. Electric, externally illuminated or nonilluminated signs bearing the name of the occupant of a dwelling unit, not exceeding 64 square inches in area;

b. Memorial signs or tablets, and the names of buildings and dates of building erection ~~when~~ if cut into a

masonry surface or constructed of bronze or other noncombustible materials;

c. Signs for public facilities indicating danger and/or providing service or safety information;

d. ~~Properly displayed national~~ National, state and institutional flags;

e. One under-marquee sign ~~which~~ that does not exceed 10 square feet in area;

f. One electric, externally illuminated or nonilluminated sign bearing the name of a home occupation, not to exceed 64 square inches in area.

2. Number and Type of ~~Permitted~~ Signs Allowed for Business Establishments.

a. Each business establishment may have one ground, roof, projecting or combination sign (Type A sign) for each 300 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

b. In addition to the signs permitted by subsection 23.55.030.E.2.a ~~of this section~~, each business establishment may have one wall, awning, canopy, marquee or under-marquee sign (Type B sign) for each 30 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

c. In addition to the signs permitted by subsections 23.55.030.E.2.a and 23.55.030.E.2.b ~~of this section~~, each multiple business center and drive-in business may have one pole sign for each 300 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys. Such pole signs may be for a drive-in business or for an individual business establishment located in a multiple business center, or may identify a multiple business center.

d. Individual businesses ~~which~~ that are not drive-in businesses and ~~which~~ that are not located in multiple business centers may have one pole sign in lieu of another Type A sign permitted by subsection 23.55.030.E.2.a for each 300 lineal feet, or portion thereof, of frontage on public rights-of-way, except alleys.

e. ~~Where~~ If the principal use or activity on the lot is outdoor retail sales, banners and strings of pennants maintained in good condition ~~shall be~~ are permitted in addition to the signs permitted by subsections 23.55.030.E.2.a, 23.55.030.E.2.b and 23.55.030.E.2.c.

3. Maximum Area.

a. NC3 Zones and the SM zone.

†1) The maximum area of each face of a pole, ground, roof, projecting or combination signs ~~shall be~~ is 72 square feet plus 2 square feet for each foot of frontage over 36 feet on public rights-of-way, except alleys, to a maximum area of 300 square feet, provided that:

i. The maximum area for signs for multiple business centers, and signs for business establishments located within 100 feet of a state route right-of-way ~~which that~~ is not designated in Section 23.55.042 as a landscaped or scenic view section, ~~shall be is~~ 600 square feet; and

ii. The maximum area for pole signs for gas stations ~~which that~~ identify the price of motor fuel being offered by numerals of equal size ~~shall be is~~ 96 square feet.

†2) There ~~shall be is~~ no maximum area limit for wall, awning, canopy, marquee or under-marquee signs.

b. C1 and C2 Zones. There ~~shall be is~~ no maximum area limits for on-premises signs for business establishments in C1 and C2 zones.

4. Identification Signs for Multifamily Structures.

a. One identification sign ~~shall be is~~ permitted on each street or alley frontage of a multi-family structure.

b. Identification signs may be wall, ground, awning, canopy, marquee, under-marquee, or projecting signs.

c. The maximum area of each sign ~~shall be~~ is 72 square feet.

5. Sign Height.

a. The maximum height for any portion of a projecting or combination sign ~~shall be is~~ 65 feet above existing grade, or the maximum height limit of the zone, whichever is less.

b. The maximum height limit for any portion of a pole sign ~~shall be is~~ 30 feet; except for pole signs for multiple business centers and for business establishments located within 100 feet of a state route right-of-way ~~which that~~ is not designated in Section 23.55.042 as a landscaped or scenic view section, for which ~~shall have~~ a maximum height of 40 feet is permitted.

c. The maximum height for any portion of a wall, marquee, under-marquee or canopy sign ~~shall be is~~ 20 feet or the height of the cornice of the structure to which the sign is attached, whichever is greater.

d. No portion of a roof sign shall:

†1) Extend beyond the height limit of the zone;

†2) Exceed a height above the roof in excess of the height of the structure on which the sign is located; or

†3) Exceed a height of 30 feet above the roof, measured from a point on the roof line directly below the sign or from the nearest adjacent parapet.

* * *

Section 51. Subsection B of Section 23.55.034 of the Seattle Municipal Code, which section was last amended by Ordinance 120466, is amended as follows:

23.55.034 Signs in downtown zones-

* * *

B. The following signs ~~shall be~~ are permitted in all downtown zones regulated by this section:

1. Electric, externally illuminated or nonilluminated signs bearing the name of the occupant of a dwelling unit, not exceeding ~~sixty four (64)~~ square inches in area;
2. Memorial signs or tablets, and the names of buildings and dates of building erection ~~when~~ if cut into a masonry surface or constructed of bronze or other noncombustible materials;
3. Signs for public facilities indicating danger and/or providing service or safety information;
4. ~~Properly displayed national~~ National, state and institutional flags.

* * *

Section 52. Subsection B of Section 23.69.021 of the Seattle Municipal Code, which section was last amended by Ordinance 120466, is amended as follows:

23.69.021 Signs in Major Institution Overlay Districts-

* * *

B. The following signs ~~shall be~~ are permitted in all Major Institution overlay districts, regardless of the facing zone:

1. Electric, externally illuminated or nonilluminated signs bearing the name of the occupant of a dwelling unit, not exceeding ~~sixty four (64)~~ square inches in area;
2. Memorial signs or tablets, and the names of buildings and dates of building erection ~~when~~ if cut into a masonry surface or constructed of bronze or other noncombustible materials;
3. Signs for public facilities indicating danger and/or providing service or safety information;
4. ~~Properly displayed national~~ National, state and institutional flags.

* * *

Section 53. Subsection A of Section 23.71.016 of the Seattle Municipal Code, which section was last amended by Ordinance 122311, is amended as follows:

23.71.016 Parking and access~~er~~

A. Required Parking.

1. Off-street parking requirements are prescribed in Chapter 23.54, except as modified by this chapter. Minimum and maximum parking requirements for specified uses in the Northgate Overlay District are identified in Table A for 23.71.016 ~~A~~.

Table A for 23.71.016 ~~A~~ Minimum and Maximum Parking Requirements

	LONG TERM		SHORT TERM
	Minimum	Maximum	Minimum
Office	0.9/1000	2.6/1000	0.2/1000
General sales and service (Customer service office) *)	1.0/1000	2.4/1000	1.6/1000
General sales and service (other and Major durables Retail sales))*)	0.93/1000	2.4/1000	2.0/1000
Motion picture theaters	N/A	N/A	Min: 1/8 seats Max: 1/4 seats

*Except that the minimum requirements for pet daycare centers is pursuant to Table A for Section 23.54.015.

2. Parking waivers ~~as~~ provided under Section 23.54.015_D apply in the Northgate Overlay District, except that no waiver of parking may be granted to medical service uses.

3. Parking may exceed the maximums ~~when~~ if provided in a structure ~~7~~ pursuant to a joint use parking agreement with the Metro Transit Center, if the spaces are needed only to meet evening and weekend demand or as overflow on less than ten percent ~~(10%)~~ of the weekdays in a year, and will otherwise be available for daytime use by the general public.

4. Short-term parking for motion picture theaters may be increased by ~~ten~~ 10 percent ~~(10%)~~ beyond the maximum requirement, if these additional spaces are not provided as surface parking, will not adversely impact pedestrian circulation and will reduce the potential for overflow parking impacts on surrounding streets.

* * *

Section 54. Section 23.74.004 and Exhibit 23.74.004 A of the Seattle Municipal Code, which section was adopted by Ordinance 119972, is amended and Exhibit 23.74.004 A replaced with a new Map A for Section 23.74.004, as follows:

23.74.004 Stadium Transition Area Overlay District established-

There is established pursuant to Chapter 23.59 of the Seattle Municipal Code, the Stadium Transition Area Overlay District, and the Official Land Use Map, Chapter 23.32, is hereby amended to show such District, as depicted on Exhibit 23.74.004 A as shown on Map A of 23.74.004.

23.74.004 A

New Map A to 23.74.004

Map A for 23.74.004 Stadium Transition Area Overlay District Stadium Transition Area Overlay District

Section 55. Subsection B of Section 23.74.010 and Exhibit 23.74.010 A of the Seattle Municipal Code, which section was last amended by Ordinance 122935, is amended and Exhibit 23.74.010 A is replaced with a new Map A for Section 23.74.010, as follows:

23.74.010 Development standards-

* * *

B. For the areas marked on Exhibit Map A for 23.74.010 A, the following development standards and provisions apply to all uses and structures except for spectator sports facilities:

1. Floor Area Ratio (FAR). The maximum FAR for all uses is 3.0. FAR limits of the underlying zone do not apply, but limits in Section 27.50.027.A.1 on gross floor area of certain uses, including limits based on lot area, do apply.

2. Exemptions. The first ~~seventy-five thousand~~ (75,000) 75,000 square feet of street-level general sales and service, medical services, animal shelters or kennels, automotive sales and services, marine sales and services, eating and drinking establishments, or lodging uses on any lot are exempt from the maximum FAR limit. Exemptions in Section 23.50.028.E also apply.

* * *

23.74.010 A

New Map A for 23.74.010 A

Map A for 23.74.010 Stadium Transition Area Overlay District Development Standards

Section 56. Exhibit 23.76.004 A Land Use Decision Framework, which section was last amended by Ordinance 122816, is amended as follows:

23.76.004 Land use decision framework.

~~Exhibit~~ Table A for 23.76.004A

~~Exhibit~~ Table A for 23.76.004A

LAND USE DECISION FRAMEWORK

DIRECTOR'S AND HEARING EXAMINER'S DECISIONS REQUIRING MASTER USE PERMITS

TYPE I

TYPE II

TYPE III Hearing

Director's Decision (No Administrative Appeal)	Director's Decision (Appealable to Hearing Examiner*)	Examiner's Decision (No Administrative Appeal)
* Compliance with development standards	Temporary uses, more than four weeks, except for temporary relocation of police and fire stations	* Subdivisions (preliminary plats)
* Uses permitted outright	Variances	
* Temporary uses, four weeks or less	* Administrative conditional uses	
* Intermittent uses	Shoreline decisions (*appealable to Shorelines Hearings Board along with all related environmental appeals)	
* Certain street uses		
* Lot boundary adjustments	Short subdivisions	
* Modifications of features bonused under Title 24	Special e Exceptions	
* Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation	Design review	
* Temporary uses for relocation of police and fire stations	* Light rail transit facilities	
* Exemptions from right-of-way improvement requirements	Monorail transit facilities	
* Special accommodation	The following environmental determinations: 1. Determination of nonsignificance (EIS not required)	
* Reasonable accommodation	2. Determination of final EIS adequacy	
* Minor amendment to a Major Phased Development Permit	3. Determination of significance based solely on historic and cultural preservation	
* Determination of public benefit for combined lot FAR	4. A decision by the Director to approve, condition or deny a project based on SEPA Policies	
* <u>Determination of whether an amendment to a Property Use and Development Agreement is major or minor</u>	5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS	
* Other Type 1 decisions		

that are identified as (no threshold
such in the Land Use determination or EIS
Code required)

* Major Phased Development

* Downtown Planned
Community Developments

COUNCIL LAND USE DECISIONS

TYPE IV
(Quasi-Judicial - subject to
Hearing Examiner recommendation)

TYPE V
(Legislative)

* Amendments to the Official Land Use
Map (rezones), except area-wide
amendments, and adjustments pursuant
to Section 23.69.023

* Land Use Code text amendments
* Area-wide amendments to the
Official Land Use Map

* Public project approvals

* Concept approval for City
facilities

* Major Institution master plans,
including major amendments and renewal
of a master plan's development plan
component

* Major Institution designations

* Waiver or modification of
development standards for City
facilities

* Major amendments to Property Use
and Development agreements

* Planned Action Ordinance

* Council conditional uses

Section 57. Subsection D of Section 23.76.024 of the Seattle
Municipal Code, which section was last amended by Ordinance 121477, is
amended as follows:

23.76.024 Hearing Examiner open record hearing and decision for
subdivisions-

* * *

D. Request for Further Consideration and Appeal. Any person
significantly interested in or affected by the proposed subdivision may
request further consideration of the Director's recommendation and may
appeal the Director's procedural environmental determination and other
Type II decisions. Such request for further consideration or appeal:

1. Shall be in writing, shall clearly state specific objections to
the recommendation or environmental determination, and shall state the
relief sought;

2. Shall be submitted to the Hearing Examiner by
~~five (5-00)~~ p.m. of the fourteenth calendar day following
publication of notice of the Director's report, provided that when a
~~fifteen (15)~~ 14 -day DNS comment period is required
pursuant to ~~SAC~~ SAC Chapter 25.05, appeals may be filed until
~~five (5-00)~~ p.m. of the twenty-first calendar day following
publication of notice of the decision. ~~When~~ If the last day
of the appeal period so computed is a Saturday, Sunday or federal or City
holiday, the period ~~shall run~~ runs until
~~five (5-00)~~ p.m. the next business day. The request or appeal

shall be accompanied by payment of any filing fee set forth in ~~SMC~~ Section 3.02.125, Hearing Examiner filing fees, and in form and content shall conform with the rules of the Hearing Examiner.

* * *

Section 58. Subsection B of Section 23.76.058 of the Seattle Municipal Code, which section was last amended by Ordinance 122497, is amended as follows:

23.76.058 Rules for specific decisions~~7~~

* * *

B. Contract Rezones.

1. ~~When~~ If a property use and development agreement is required as a condition to an amendment of the Official Land Use Map, the amendment shall not take effect until the later of:

~~(1)~~ a. the effective date of the ordinance approving the map amendment and accepting the property use and development agreement, as specified in the ordinance or pursuant to Section 1.04.020, or

~~(2)~~ b. the recording in the King County Recorder's Office of the agreement executed by the legal and beneficial owners. The agreement shall be recorded in the real property records of King County and filed with the City Clerk within ~~thirty (30)~~ days after adoption of the ordinance approving the map amendment and accepting the agreement.

2. Amendment of Property Use and Development Agreements. Property use and development agreements recorded as a condition to a map amendment may be amended by agreement between the owner and the City, provided that any such amendment shall be approved by the Council.

a. A request to amend shall be submitted to the Department of Planning and Development and filed with the City Clerk. Notice of a request to amend and an opportunity to comment shall be provided in accordance with the notice requirements of Section 23.76.012.B.~~(1)~~ or B.~~(2)~~, and B.~~(3)~~, and notice and opportunity to comment shall also be provided to the parties of record in the original rezone decision and to those persons who were provided written notice of the Hearing Examiner's recommendation in the original rezone decision.

b. The Director shall determine whether the requested amendment is major or minor. This determination is a Type I decision.

~~(1)~~ Minor amendments. A minor amendment is one that is within the spirit and general purpose of the prior decision of the Council, is generally consistent with the uses and development standards approved in the prior decision of the Council, would not result in significant adverse impacts that were not anticipated in the prior decision of the Council, and does not request any additional waivers or changes in the waivers of bulk or off-street parking and loading requirements other than those approved in the prior decision of the Council. If the Director determines that a proposed amendment is minor, the Director shall transmit to Council the request to amend, the

Director's determination that the request is minor, any comments received by the Director on the proposed amendment, the Director's environmental determination, and the Director's recommendation on the amendment. A request to amend that is minor and that complies with the rezone criteria of Chapter 23.34 may be approved by the Council by ordinance after receiving any additional advice that it deems necessary.

(2) Major Amendments. Requests that are not minor are major. The Council shall not approve a major amendment to a property use and development agreement until the Council has received a recommendation from the Hearing Examiner after a public hearing held as provided for rezones in Section 23.76.052, ~~Hearing Examiner open record predecision hearing and recommendation.~~

* * *

Section 59. Subsection D of Section 23.76.060 of the Seattle Municipal Code, which section was last amended by Ordinance 122497, is amended as follows:

23.76.060 Expiration of land use approvals - Extensions-

* * *

D. Extensions. The Council may extend the time limits on Type IV land use approvals for no more than two ~~(2)~~ years, upon an applicant's request for an extension filed with the City Clerk at least ~~thirty (30)~~ 120 days before the approval's expiration. The Council may request a recommendation on the extension request from the Director, but the Hearing Examiner hearing and recommendation requirements of Section 23.76.052 do not apply. Notice ~~for~~ of requests for extensions of Type IV land use decisions and an opportunity to comment shall be provided pursuant to Sections 23.76.012.B.(1) or B.(2), and B.(3), and notice and an opportunity to comment shall also be provided to the parties of record in the Council's original Type IV land use proceeding and to those persons who were provided written notice of the Hearing Examiner's recommendation on the original Type IV application.

1. The Council may not extend the time limits for a Type IV land use approval for a project that is not in conformance with applicable regulations, including land use and environmentally critical areas regulations, in effect at the time an extension is sought.

2. In deciding whether to grant a request for an extension, the Council shall consider:

a. The reason or basis for the request for the extension and whether it is reasonable under the circumstances;

b. Whether changed circumstances in the area support an extension;

c. Whether additional time is reasonably necessary to comply with a condition of approval adopted by the Council that is required to be fulfilled prior to expiration of the land use approval.

Section 60. Section 23.84A.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122411, is amended as

follows:

23.84A.006 "C--"

* * *

Communication Devices and Utilities (and Related Terms).

1. "Antenna, dish" means a round parabolic device for the reception and/or transmission of radiofrequency communication signals. A dish antenna may serve either as a major or minor communication utility or may be an accessory communication device. A dish antenna may be either

a.→ a satellite earth station antenna, which receives signals from and/or transmits signals to satellites, or

b.→ a point-to-consecutive-point antenna, which receive signals from terrestrial sources. Also called "Satellite dish antenna."

2. "Antenna, whip" means an omnidirectional antenna, cylindrical in shape, ~~four~~ (4) inches or less in diameter and ~~twelve~~ (12) feet or less in length.

3. "Candelabra mounting" means a single spreader that supports more than two (2) antennas.

4. "Communication device, accessory" means a device by which radiofrequency communication signals are transmitted and/or received, such as but not limited to whip, horn and dish antennas, and that is accessory to the principal use on the site. Antennas and other equipment associated with major and minor communication utilities are not accessory communication devices.

5. "Communication device, receive-only" means a radio frequency device with the ability to receive signals, but not to transmit them.

6. "Communication utility, major" means a use in which the means for radiofrequency transfer of information are provided by facilities with significant impacts beyond their immediate area. These utilities include, but are not limited to, FM and AM radio and UHF and VHF television transmission towers. A major communication utility use does not include communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

7. "Communication utility, minor" means a use in which the means for radiofrequency transfer of information are provided but do not have significant impacts beyond the immediate area. These utilities are smaller in size than major communication utilities and include two ~~(2)~~ way, land-mobile, personal wireless services and cellular communications facilities; cable TV facilities; point-to-point microwave antennas; FM translators; and FM boosters with under ten ~~(10)~~ watts transmitting power. A minor communication utility does not include wire, cables, or communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be

considered administrative offices even if there is point-to-point transmission to a broadcast tower.

8. "Communication utility, physical expansion of major or minor" means any increase in footprint and/or envelope of transmission towers. Physical expansion does not include an increase in height of the tower resulting from repair, reconstruction, replacement or modification to the antenna that would result in lower radio frequency radiation exposure readings at ground level or in greater public safety, as long as the height above mean sea level does not increase by more than ten ~~(10)~~ percent and in any event does not exceed ~~one thousand one hundred~~ ~~(1,100)~~ feet above mean sea level. Replacement of existing antennas or addition of new antennas is not considered physical expansion, unless such replacement or addition increases the envelope of the transmission tower by such means as utilizing a candelabra mounting. Replacement or expansion of an equipment building is not considered physical expansion.

9. "Reception window obstruction" means a physical barrier that would block the signal between an orbiting satellite and a land-based antenna.

10. "Telecommunication facility, shared-use" means a telecommunication facility used by two ~~(2)~~ or more television stations or five ~~(5)~~ or more FM stations.

11. "Telecommunication facility, single-occupant" means a telecommunication facility used only by one ~~(1)~~ television station or by one ~~(1)~~ television station and one ~~(1)~~ to four ~~(4)~~ FM stations.

12. "Transmission tower" means a tower or monopole on which communication devices are placed. Transmission towers may serve either as a major or minor communication facility.

13. "Wireless service, fixed" means the transmission of commercial non-broadcast communication signals via wireless technology to and/or from a fixed customer location. Fixed wireless service does not include AM radio, FM radio, amateur ("HAM") radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.

14. "Wireless service, personal" means a commercial use offering cellular mobile services, unlicensed wireless services and common carrier wireless exchange access services.

* * *

Section 61. Section 23.84A.024 of the Seattle Municipal Code, which section was adopted by Ordinance 122311, is amended by adding an additional subsection to such section, to be codified in alphabetical order, and amending existing subsections, as follows:

23.84A.024 "L-"

* * *

"Landmark structure" means a structure designated as a landmark pursuant to the Landmark Preservation Ordinance, Chapter 25.12.

* * *

"Lot, parent" means the initial lot from which unit lots are subdivided under Section 23.22.062 or Section 23.24.045.

* * *

"Lot, unit" means one of the individual ~~lots~~ divisions created from the subdivision of a parent lot pursuant to Section 23.22.062 or Section 23.24.045. A unit lot is not a lot.

* * *

Section 62. Section 23.84A.036 of the Seattle Municipal Code, which section was last amended by Ordinance 122935, is amended as follows:

23.84A.036 "S-"

* * *

"Street, arterial" means every street, or portion thereof, designated as an arterial on ~~Exhibit 23.53.015 A~~ the Arterial street map, Section 11.18.010.

~~1. "Collector arterial" means a street or portion thereof designated as such on Exhibit 23.53.015 A.~~

~~2. "Minor arterial" means a street or portion thereof designated as such on Exhibit 23.53.015 A or on Map 1B for Chapter 23.49, or both.~~

~~3. 2. "Principal arterial" or "major arterial" means a street or portion thereof designated as such on Exhibit 23.53.015 A or on Map 1B for Chapter 23.49, or both.~~

* * *

Section 63. Section 23.84A.038 of the Seattle Municipal Code, which section was last amended by Ordinance 122935, is amended as follows:

23.84A.038 "T-"

* * *

"Transportation facility" means a use that supports or provides a means of transporting people and/or goods from one location to another. Transportation facilities include but are not limited to the following:

1. "Cargo terminal" means a transportation facility in which quantities of goods or container cargo are, without undergoing any manufacturing processes, transferred to carriers or stored outdoors in order to transfer them to other locations. Cargo terminals may include accessory warehouses, railroad yards, storage yards, and offices.

2. "Parking and moorage" means the short term or long term storage of automotive vehicles or vessels or both when not in use. Parking and moorage uses include but are not limited to:

a. "Boat moorage" means a use, in which a system of piers, buoys

or floats is used to provide moorage for vessels except barges, for sale or rent usually on a monthly or yearly basis. Minor vessel repair, haul out, dry boat storage, and other services are also often provided. Boat moorage includes, but is not limited to:

†1) "Commercial moorage" means a boat moorage primarily intended for commercial vessels except barges.

†2) "Recreational marina" means a boat moorage primarily intended for pleasure craft. (See also, "Boat moorage, public".)

b. "Dry boat storage" means a use in which space on a lot on dry land, or inside a building over water or on dry land, is rented or sold to the public or to members of a yacht or boating club for the purpose of storing boats. Sometimes referred to as "dry storage."

c. "Parking, principal use" means a use in which an open area or garage is provided for the parking of vehicles by the public, and is not reserved or required to accommodate occupants, clients, customers or employees of a particular establishment or premises. Principal use parking includes but is not limited to the following uses:

†1) "Park and pool lot" means a principal use parking use, operated or approved by a public ridesharing agency, where commuters park private vehicles and join together in carpools or vanpools for the ride to work and back, or board public transit at a stop located outside of the park and pool lot.

†2) "Park and ride lot" means a principal use parking use where commuters park private vehicles and either join together in carpools or vanpools, or board public transit at a stop located in the park and ride lot.

d. "Towing services" means a parking and moorage use in which more than two ~~†2~~ tow trucks are employed in the hauling of motorized vehicles, and where vehicles may be impounded, stored or sold, but not disassembled or junked.

3. "Passenger terminal" means a transportation facility where passengers embark on or disembark from carriers such as ferries, trains, buses or planes that provide transportation to passengers for hire by land, sea or air. Passenger terminals typically include some or all of the following: ticket counters, waiting areas, management offices, baggage handling facilities, restroom facilities, shops and restaurants. A passenger terminal use on the waterfront may include moorage for cruise ships and/or vessels engaged in transporting passengers for hire. Activities commonly found aboard such vessels, whether moored or under way, that are incidental to the transport of passengers shall be considered part of the passenger terminal use and shall not be treated as separate uses. Metro street bus stops, monorail transit stations, and light rail transit stations are not included in this definition. Also excluded is the use of sites where passengers occasionally embark on or disembark from transportation in a manner that is incidental to a different established principal use of the site.

4. "Rail transit facility" means a transportation facility used for public transit by rail. Rail transit facilities include but are not limited to the following:

a. "Light rail transit facility" means a structure, rail track, equipment, maintenance base or other improvement of a light rail transit system, including but not limited to ventilation structures, traction power substations, light rail transit stations and related passenger amenities, bus layover and intermodal passenger transfer facilities, and transit station access facilities.

b. "Light rail transit station" means a light rail transit facility whether at grade, above grade or below grade that provides pedestrian access to light rail transit vehicles and facilitates transfer from light rail to other modes of transportation. A light rail transit station may include mechanical devices such as elevators and escalators to move passengers and may also include such passenger amenities as informational signage, seating, weather protection, fountains, artwork or concessions.

c. "Light rail transit system" means a public rail transit line that operates at grade level, above grade level, or in a tunnel and that provides high-capacity, regional transit service, owned or operated by a regional transit authority authorized under Chapter 81.112 RCW. A light rail transit system may be designed to share a street right-of-way although it may also use a separate right-of-way. Commuter rail, and low capacity, or excursion rail transit service, such as the Waterfront Streetcar or ~~Seattle Monorail~~, are not included.

~~d. "Monorail guideway" means the beams, with their foundations and all supporting columns and structures, including incidental elements for access and safety, along which a city transportation authority monorail train runs.~~

~~e. "Monorail transit facility" means a structure, guideway, equipment, or other improvement of a monorail transit system, including but not limited to monorail transit stations and related passenger amenities, power substations, maintenance and/or operations centers.~~

~~f. "Monorail transit station" means a monorail transit facility, whether at grade or above grade, that provides pedestrian access to monorail transit trains and facilitates transfer from monorail to other modes of transportation. A monorail transit station may include mechanical devices such as elevators and escalators to move passengers, and may also include such passenger amenities as informational signage, seating, weather protection, fountains, artwork or concessions.~~

~~g. "Monorail transit system" means a transportation system that uses train cars running on a guideway, along with related facilities, owned or operated by a city transportation authority.~~

65. "Transportation facility, air" means one of the following transportation facilities:

a. "Airport, land-based" means a transportation facility used for the takeoff and landing of airplanes.

b. "Airport, water-based" means a transportation facility used exclusively by aircraft that take off and land directly on the water.

c. "Heliport" means a transportation facility in which an area on a roof or on the ground is used for the takeoff and landing

of helicopters or other steep- gradient aircraft, and one ~~(1)~~ or more of the following services are provided: cargo facilities, maintenance and overhaul, fueling service, tie-down space, ~~hangars~~ and other accessory buildings and open spaces.

d. "Helistop" means a transportation facility in which an area on a roof or on the ground is used for the takeoff and landing of helicopters or other steep- gradient aircraft, but not including fueling service, hangars, maintenance, overhaul or tie-down space for more than one ~~(1)~~ aircraft.

~~76.~~ "Vehicle storage and maintenance" means a use in which facilities for vehicle storage and maintenance are provided. Vehicle storage and maintenance uses include but are not limited to:

a. "Bus base" means a transportation facility in which a fleet of buses is stored, maintained, and repaired.

b. "Railroad switchyard" means a vehicle storage and maintenance use in which:

~~(1)~~ Rail cars and engines are serviced and repaired; and

~~(2)~~ Rail cars and engines are transferred between tracks and coupled to provide a new train configuration.

c. "Railroad switchyard with a mechanized hump" means a railroad switchyard that includes a mechanized classification system operating over an incline.

d. "Streetcar maintenance base" means a transportation facility in which a fleet of streetcars is stored, maintained, and repaired.

e. "Transportation services, personal" means a vehicle storage and maintenance use in which either emergency transportation to hospitals, or general transportation by car, van, or limousine for a fee is provided. Such uses generally include dispatching offices and facilities for vehicle storage and maintenance.

* * *

Section 64. Subsection B of Section 23.86.010 of the Seattle Municipal Code, which section was last amended by Ordinance 118414, is amended as follows:

23.86.010 Yards~~-~~

* * *

B. Front Yards.

1. Determining Front Yard Requirements. Front yard requirements are presented in the development standards for each zone. Where the minimum required front yard is to be determined by averaging the setbacks of structures on either side of a lot, the following provisions ~~shall~~ apply:

a. The required depth of the front yard shall be the average of the distance between single-family structures and front lot lines of the nearest single-family structures on each side of the lot (Exhibit B for 23.86.010~~B. WhenIf~~ the front facade of the single-family structure is not parallel to the front lot line, the shortest distance from the front lot line to the structure shall be used for averaging purposes (Exhibit C for 23.86.010
e.

b. The yards used for front yard averaging shall be on the same block front as the lot, and shall be the front yards of the nearest single-family structures within ~~one hundred (100)~~ feet of the side lot lines of the lot.

c. For averaging purposes, front yard depth shall be measured from the front lot lines to the wall nearest to the street or, where there is no wall, the plane between supports, which comprises ~~twenty (20)~~ percent or more of the width of the front facade of the single-family structure. Enclosed porches shall be considered part of the single-family structure for measurement purposes. Attached garages or carports permitted in front yards under ~~either Sections 23.44.014 D7 or 23.44.016 ED~~, decks, uncovered porches, eaves, attached solar collectors, and other similar parts of the structure shall not be considered part of the structure for measurement purposes.

d. ~~WhenIf~~ there is a dedication of street right-of-way to bring the street abutting the lot closer to the minimum widths established in Section 23.53.015, for averaging purposes the amount of the dedication shall be subtracted from the front yard depth of the structures on either side.

e. ~~WhenIf~~ the first single-family structure within ~~one hundred (100)~~ feet of a side lot line of the lot is not on the same block front, or does not provide its front yard on the same street, or ~~whenif~~ there is no single-family structure within ~~one hundred (100)~~ feet of the side lot line, the yard depth used for averaging purposes on that side shall be ~~twenty (20)~~ feet (Exhibits D and E for 23.86.010 ~~D and 23.86.010 E~~.

f. ~~WhenIf~~ the front yard of the first single-family structure within ~~one hundred (100)~~ feet of the side lot line of the lot exceeds ~~twenty (20)~~ feet, the yard depth used for averaging purposes on that side shall be ~~twenty (20)~~ feet (Exhibit F for 23.86.010~~F~~.

g. In cases where the street is very steep or winding, the Director shall determine which adjacent single-family structures should be used for averaging purposes.

2. Sloped Lots in Single-family Zones. For a lot in a single-family zone, reduction of the required front yard is permitted at a rate of ~~one (1)~~ foot for every percent of slope in excess of ~~thirty five (35)~~ percent. For the purpose of this provision the slope shall be measured along the centerline of the lot. In the case of irregularly shaped lots, the Director shall determine the line along which slope is calculated.

* * *

Section 65. The Code Reviser is authorized to amend all sections of Title 23 of the Seattle Municipal Code that contain the word "chart" by changing the word "chart" to "table" and is directed to do so over time as the Code Reviser deems appropriate.

Section 66. 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 _____, 2009, and signed by me in open session in authentication of its passage this ____ day of _____, 2009.

President _____ of the City Council

Approved by me this ____ day of _____, 2009.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2009.

City Clerk

July 22, 2009

Version 24

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Fiscal Note





City of Seattle Legislative Information Service

Seattle Municipal Code

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Title 6 - BUSINESS REGULATIONS
Subtitle IV New License Code
Chapter 6.270 - **Adult Entertainment**

SMC 6.270.100 Standards of conduct and operation.

A. The following standards of conduct must be adhered to by employees of any **adult entertainment** premises:

1. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest patron.

2. No employee or entertainer shall perform acts of or acts which simulate:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;

b. The touching, caressing or fondling of the breasts, buttocks or genitals; or

c. The displaying of the pubic region, anus, vulva or genitals; except as provided for in subdivision 1 of this subsection.

3. No employee or entertainer mingling with the patrons shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection.

4. No employee or entertainer shall knowingly:

a. Touch, caress or fondle the breast, buttocks, anus, genitals or pubic region of another person; or

b. Permit the touching, caressing or fondling of his or her own breasts, buttocks, anus, genitals or pubic region by another person; or

c. Permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.

APPENDIX 7

5. No manager or operator shall knowingly permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, genitals or pubic region of another person.
6. No employee or entertainer shall wear or use any device or covering exposed to view which simulates the breast below the top of the areola, vulva or genitals, anus, buttocks, or any portion of the pubic region.
7. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.
8. No entertainer of any **adult entertainment** premises shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, on the premises.
9. No entertainer shall solicit, demand or receive any payment or gratuity from any patron for any act prohibited by this chapter.
10. No entertainer shall demand or collect any payment or gratuity from any patron for **entertainment** before its completion.
11. A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

**THIS ADULT ENTERTAINMENT
ESTABLISHMENT IS REGULATED
BY THE CITY OF SEATTLE.
ENTERTAINERS ARE:**

- a. Not permitted to engage in any type of sexual conduct;
 - b. No employee or entertainer shall be unclothed, clothed in less than opaque attire, or shall move or remove such attire, or allow such attire to be moved or removed so as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, except upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest patron.
 - c. Not permitted to demand or collect any payment or gratuity from any patron for **entertainment** before its completion.
12. No manager or operator shall knowingly or recklessly permit or allow any employee or entertainer to violate any provision of this chapter.
- B. At any **adult entertainment** premises, the following are required:
1. Neither the performance nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any portion of the breasts below the top of the areola or any portion of the pubic hair, buttocks, genitals and/or anus may be visible outside of the **adult entertainment** premises.
 2. Sufficient lighting shall be provided in and about the parts of the premises which are open to and used by the public so that all objects are plainly visible at all times.

3. No **entertainment** shall be provided in any areas from which any other person may be prevented from entering, whether by a locking door or in any other manner.

C. This chapter shall not be construed to prohibit protected expression, such as:

1. Plays, operas, musicals, or other dramatic works that are not obscene;
2. Classes, seminars and lectures held for serious scientific or educational purposes that are not obscene; or
3. Exhibitions, performances, expressions or dances that are not obscene.

D. For purposes of this chapter, an activity is "obscene" if:

1. Taken as a whole by an average person applying contemporary community standards the activity appeals to a prurient interest in sex;
2. The activity depicts patently offensive representations, as measured against community standards, of:
 - a. Ultimate sexual acts, normal or perverted, actual or simulated, or
 - b. Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and
3. The activity taken as a whole lacks serious literary, artistic, political, or scientific value.

E. No manager, owner, entertainer or employee shall operate or maintain any warning procedures or device, of any nature or kind, for the purpose of warning any other person that police officers or City health, fire, licensing or building inspectors are approaching or have entered the **adult entertainment** premises.

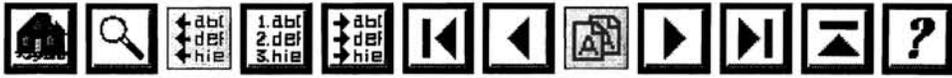
F. It is unlawful for any person to violate any of the provisions of this Section 6.270.100.

(Ord. 116541 Section 4, 1993; Ord. 114225 Section 1(part), 1988.)

Search for ordinances passed since since the last SMC update (05/31/2008) that may amend Section 6.270.100 .

Note: this feature is provided as an aid to users, but is not guaranteed to provide comprehensive information about related recent ordinances. See also [Recent Legislation and Council Bills and Ordinances](#).

For research assistance, contact the Seattle City Clerk's Office at 206-684-8344, or by e-mail at clerk@seattle.gov. For interpretation or explanation of a particular SMC section, please contact the relevant City department.





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Title 6 - BUSINESS REGULATIONS
 Subtitle IV New License Code
 Chapter 6.270 - **Adult Entertainment**

SMC 6.270.120 Manager on premises.

A. A licensed manager shall be on duty at an **adult entertainment** premises during the **adult entertainment** premises' hours of operation. The name of the manager on duty shall be prominently posted during business hours.

B. Any **adult entertainment** premises found to be operating without a manager on duty shall be immediately closed until a licensed manager arrives for duty at the **adult entertainment** premises pursuant to Section 6.270.120 A.

C. The manager shall verify that each entertainer performing while the manager is on duty possesses a current and valid entertainer's license, as required by this chapter. The manager shall verify that such **adult entertainment** license is posted in the manner required by Section 6.270.110 .

(Ord. 116541 Section 6, 1993; Ord. 114225 Section 1(part), 1988.)

Search for ordinances passed since since the last SMC update (05/31/2008) that may amend Section 6.270.120 .

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Title 6 - BUSINESS REGULATIONS
Subtitle IV New License Code
Chapter 6.270 - **Adult Entertainment**

SMC 6.270.130 Hours of operation.

It is unlawful for any **adult entertainment** premises to be conducted, operated, or otherwise open to the public between the hours of two-thirty a.m. (2:30 a.m.) and ten a.m. (10:00 a.m.).

(Ord. 114225 Section 1(part), 1988.)

Search for ordinances passed since since the last SMC update (05/31/2008) that may amend Section 6.270.130 .

Note: this feature is provided as an aid to users, but is not guaranteed to provide comprehensive information about related recent ordinances. See also [Recent Legislation and Council Bills and Ordinances](#).

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Title 6 - BUSINESS REGULATIONS
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Chapter 6.270 - **Adult Entertainment**

SMC 6.270.140 Persons under eighteen (18) years of age prohibited.

A. It is unlawful for any person under the age of eighteen (18) years to be in or upon any premises for which an **adult entertainment** premises license is required. Only the following types of identification will be accepted as proof of age:

1. A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
2. A state-issued identification card bearing the applicant's photograph and date of birth;
3. An official passport issued by the United States of America;
4. An immigration card issued by the United States of America;
5. Any other picture identification bearing the applicant's photograph and date of birth by a governmental agency.

B. It is unlawful for any owner, operator, manager, or other person in charge of a premises for which an **adult entertainment** premises license is required, to knowingly permit or allow any person under the age of eighteen (18) years to be in or upon such premises.

(Ord. 116541 Section 7, 1993; Ord. 114225 Section 1(part), 1988.)

Search for ordinances passed since since the last SMC update (05/31/2008) that may amend Section 6.270.140 .

Note: this feature is provided as an aid to users, but is not guaranteed to provide comprehensive information about related recent ordinances. See also Recent Legislation and Council Bills and Ordinances.

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NO. 66852-8-1

COURT OF APPEALS
DIVISION ONE
OF THE STATE OF WASHINGTON

CITY OF SEATTLE,

Respondent,

vs.

ROBERT D. DAVIS and ASF, INC.,

Appellants.

PROOF OF
SERVICE

I, Irene Norse, declare that I am a person over eighteen years of age, competent to be a witness and not a party to the above-entitled and enumerated cause.

On January 17, 2012 I caused to be served via legal messenger an original, one copy of Reply Brief of Appellant and this Proof of Service herein addressed to:

Court of Appeals Division I
One Union Square
600 University Street
Seattle, WA 98101

PROOF OF SERVICE
Page 1 of 2

10440/111811

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2012 JAN 19 AM 9:29

On January 17, 2012 I caused to be served via legal messenger service, true and correct copies of Reply Brief of Appellant and this Proof of Service herein addressed to:

Robert D. Tobin
Assistant City Attorney
Seattle City Attorney's Office
600 4th Ave Floor 4
PO Box 94769
Seattle, WA 98124-4769

Carlton Seu
Assistant City Attorney
Seattle City Attorney's Office
600 4th Ave Floor 4
PO Box 94769

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Bellevue this 17 day of January, 2012.



Irene Norse