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under Code provisions prior to the 1996 Major Institutions Ordinance where the institution proposes an increase to the total amount of gross floor area allowed or the total number of parking spaces allowed under the institution's existing development program component within the MIO District.

F. If the Director, after reviewing any Advisory Committee recommendation, determines that a proposed major amendment is of unusual complexity or size, the Director may require that the institution prepare a new master plan subject to Section 23.69.032.

G. If an amendment is determined to be major, the amendment and environmental review process shall be subject to the provisions of Section 23.69.032, Master plan process. However, a concept plan and preliminary draft plan shall not be required. Instead, the Major Institution shall submit a major amendment draft report as part of the application stating which parts of the master plan are proposed to be amended. If an EIS is required for the major amendment, the draft EIS shall be prepared after submittal of the major amendment draft report. After comments are received on the major amendment draft report, the institution shall prepare the major amendment final report and if required, the final EIS. If an EIS is not required for the major amendment, the Director is not required to hold a public hearing on the major amendment draft report.

H. Noncontiguous areas that are included in a MIO District as a result of a previously adopted master plan shall be deleted from the MIO District at the time a major amendment is approved unless the noncontiguous area was a former and separate MIO District. The change to the MIO District boundaries shall be in accordance with the procedures for City-initiated amendments to the Official Land Use Map as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, and shall not be subject to the rezone criteria in the City's Major Institution Policies.

(Ord. 118362 § 23, 1996: Ord. 115165 § 10, 1990; Ord. 115002 § 23(part), 1990.)

23.69.036Master plan renewal.

A. The process for renewal of a master plan's development program component shall follow the procedures provided in Section 23.69.032, Master plan process.

B. Noncontiguous areas which are included in a MIO District as a result of a previously adopted master plan shall be deleted from the MIO District at the time a new master plan development program component is adopted, unless the noncontiguous area was a former and separate MIO District. The change to the MIO District boundaries shall be in accordance with the procedures for City-initiated amendments to the Official Land Use Map as provided in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, and shall not be subject to the rezone criteria in the City's Major Institution Policies.

(Ord. 118362 §§ 24, 25, 1996; Ord. 115002 § 23(part), 1990.)

Chapter 23.71
NORTHGATE OVERLAY DISTRICT

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Subchapter I Establishment of Overlay District

23.71.002Purpose and intent.

The purpose of this chapter is to implement the Northgate Area Comprehensive Plan by regulating land use and development within the Northgate Overlay District in order to:

A. Create an environment in the Northgate Area that is more amenable to pedestrians and supportive of commercial development; and

B. To protect the residential character of residential neighborhoods; and

C. Support the use of Northgate as a regional high-capacity transportation center.

(Ord. 116795 § 2(part), 1993.)

23.71.004Northgate Overlay District established.

There is hereby established pursuant to Chapter 23.59 of the Seattle Municipal Code, the Northgate Overlay District, as shown on the City's Official Land Use Map, Chapter 23.32 and Map A.

(Ord. 118414 § 52, 1996: Ord. 116795 § 2(part), 1993.)

23.71.006Application of regulations.

All land located within the Northgate Overlay District is subject to regulations of the underlying zone unless specifically modified by the provisions of this chapter. Where the boundaries of the Northgate Overlay District overlap with the boundaries of the Major Institution Overlay District, the zoning underlying a major institution shall be as modified by the Northgate Overlay District. In the event of irreconcilable differences between the provisions of the Northgate Overlay District and the underlying zone, the provisions of this chapter apply, except that where a conflict exists between the provisions of this chapter and Chapter 23.69, Major Institution Overlay District, the provisions of Chapter 23.69 take precedence, provided that the major institution may be granted an exception pursuant to SMC Section 23.71.026.

(Ord. 116795 § 2(part), 1993.)

Subchapter II Development Standards

Part 1 Northgate Overlay District General Development Standards

23.71.007Substantial development.

For the purposes of this chapter, "substantial development" means any new development, or expansion or addition to existing development, when the new development, expansion or addition exceeds four thousand (4,000) square feet in gross floor area, excluding accessory parking area.

(Ord. 116795 § 2(part), 1993.)

23.71.008Development along major pedestrian streets.

A. Northeast Northgate Way (from Third Avenue Northeast to 11th Avenue Northeast) and Fifth Avenue Northeast (from Northeast 113th Street to Northeast 105th Street) are designated as Major Pedestrian Streets as shown on Map A. Proposed use and development of property zoned commercial and abutting these streets shall meet the standards of this section.

B. Standards for Required Street-level Uses.

1. A minimum of sixty (60) percent of a commercially zoned lot's frontage on a major pedestrian street shall be occupied by one or more of the following uses, provided that drive-in businesses and outdoor storage are prohibited:

a. Personal and household retail sales and service use;

b. Eating and drinking establishments;

c. Customer service offices;

d. Entertainment uses;

e. Lodging uses.

If a portion of the major pedestrian street frontage is required for access to on-site parking due to limited lot dimension, the Director may permit less than sixty (60) percent of the frontage to be occupied by such uses.

2. A minimum of eighty (80) percent of each structure fronting on a major pedestrian street shall be occupied at street-level by one or more of the uses listed in subsection B1 of this section or a building lobby permitting access to uses above or behind street-front uses. In no case shall pedestrian access to uses above or behind required streetfront uses exceed twenty (20) percent of the structure's major pedestrian street front. The remaining twenty (20) percent of the structure's street frontage may contain other permitted uses or pedestrian entrances (Exhibit 23.71.008 A).

3. Street-level uses shall occupy a minimum of the first ten (10) feet above sidewalk grade.

4. All required street-level uses along major pedestrian streets shall be set back no more than ten (10) feet from the street property line, except as necessary to provide open space as defined in Section 23.71.014 C or for bedrooms in a lodging structure, which may be set back a maximum of fifteen (15) feet. The owner shall design the area subject to this setback to include special pavers, as an extension of the sidewalk or with landscaping.

5. The principal entrances to required street-level uses on major pedestrian streets shall have direct access to the sidewalk and be within three (3) feet of the sidewalk grade elevation.

6. Personal and household retail sales and service uses greater than thirty thousand (30,000) square feet may locate a principal pedestrian entrance on a facade oriented to a parking area or the major pedestrian street. Where a principal pedestrian entrance is oriented to a parking area, an additional pedestrian entrance shall be located along the major pedestrian street. In lieu of

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Exhibit 23.71.008 A
Required Street Level Uses

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the additional entrance, the owner may provide a ten (10) foot wide, landscaped pedestrian walkway from the major pedestrian street to the principal pedestrian entrance, provided that the walkway does not go through other businesses or parking areas.

C. Parking Location and Screening. The following standards apply along major pedestrian streets:

1. Parking, or access to parking, shall not exceed forty (40) percent of a lot's frontage on a major pedestrian street.

2. Parking shall be located to the rear or side of a structure, within or under the structure, or within eight hundred (800) feet of the lot to which it is accessory.

3. Where parking within a structure occupies any portion of the major pedestrian street level of the structure, the parking shall be screened from public view from the major pedestrian street(s) by a street-level facade. The street-level facade shall be enhanced by architectural detailing, artwork, landscaping, or similar treatment that will add visual interest to the facade.

4. The perimeter of each floor of parking which is eight (8) feet or more above sidewalk grade shall have an opaque screen at least three and one-half (3½) feet high at its perimeter.

5. Surface parking areas shall be set back a minimum of fifteen (15) feet from the major pedestrian street lot line. The setback area, excluding driveways, shall be provided as landscaped or usable open space, as defined in Section 23.71.014.

6. Any nonconformity with respect to location, screening and landscaping of an existing parking area shall be eliminated at the time of a substantial development, if the area of the nonconformity is between the substantial development and the major pedestrian street. This requirement shall apply regardless of whether the substantial development increases lot coverage.

D. Parking Access and Curb Cuts.

1. When a lot abuts an alley which meets the standards of Section 23.53.030 C, access to parking shall be from the alley.

2. When a lot does not abut an improved alley, and the lot fronts on more than one (1) street, at least one of which is not a major pedestrian street, access to parking shall be from a street which is not a major pedestrian street.

3. If the lot does not abut an improved alley, and only abuts a major pedestrian street(s), access from the major pedestrian streets shall be limited to one (1), two (2) way curb cut within any three hundred (300) foot segment of that lot. For purposes of this subsection, a segment of a lot shall be measured as a lot's continuous streetside lot line unbroken by streets, alleys or property owned by another. A segment may front on two or more streets around corners.

E. Sidewalks.

1. The owner shall construct a sidewalk no less than twelve (12) feet in width.

2. The owner shall plant street trees adjacent to the major pedestrian street. The trees shall meet criteria prescribed by the Director of Transportation.

3. Planting strips are prohibited along major pedestrian streets.

4. The owner shall install street furniture and planting boxes adjacent to the major pedestrian street. The installation shall conform to the Seattle Street Improvement Manual.

F. Street Facade Standards

1. Transparency Requirements.

a. Sixty (60) percent of the width of the facade of a structure along the major pedestrian street shall be transparent.

b. A facade shall be considered transparent if it has clear or slightly tinted glass in windows, doors or display windows.

c. Transparent areas shall allow views into the structure or into display windows from the outside.

2. Blank Facades.

a. Any portion of a facade which is not transparent shall be considered to be a blank facade.

b. Blank facade segments shall not exceed thirty (30) feet along the major pedestrian street front.

c. Blank facade segments which are separated by transparent areas of at least two (2) feet in width shall be considered separate facade segments for the purposes of this section.

3. Transparent and blank facade standards apply to the area of a facade between two (2) feet and eight (8) feet above the sidewalk.

G. Overhead Weather Protection.

1. Continuous overhead weather protection (i.e., canopies, awnings, marquees, and arcades) is required along at least sixty (60) percent of the street frontage of a commercial structure on a major pedestrian street.

2. The overhead weather protection must be provided over the sidewalk, or over a walking area within ten (10) feet immediately adjacent to the sidewalk. When provided adjacent to the sidewalk, the covered walking area must be at the same grade or within eighteen (18) inches of sidewalk grade and meet Washington state requirements for barrier-free access.

3. The covered area shall have a minimum width of six (6) feet, unless there is a conflict with street trees or utility poles, in which case the width may be adjusted to accommodate such features.

4. The lower edge of the overhead weather protection shall be a minimum of eight (8) feet and a maximum of twelve (12) feet above the sidewalk for projections extending a maximum of six (6) feet. For projections extending more than six (6) feet from the structure, the lower edge of the weather protection shall be a minimum of ten (10) feet and a maximum of fifteen (15) feet above the sidewalk.

(Ord. 118414 § 53, 1996; Ord. 118409 § 210, 1996: Ord. 116795 § 2(part), 1993.)

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23.71.010Green streets.

A. Green streets are identified on Map A.

B. Where an owner proposes substantial development adjacent to a street classified as a green street, the owner shall construct street and pedestrian improvements which meet standards promulgated by the Director and the Director of Transportation.

(Ord. 118409 § 211, 1996: Ord. 116795 § 2(part), 1993.)

23.71.012Special landscaped arterials.

A. Special landscaped arterials are those arterials identified on Map A.

B. When an owner proposes substantial development on lots abutting special landscaped arterials, the owner shall provide the following:

1. Street trees meeting standards established by the Director of Seattle Transportation;

2. A six (6) foot planting strip and six (6) foot sidewalk if the lot is zoned SF, LDT, L1, or L2;

3. A six (6) foot planting strip and a six (6) foot sidewalk, or, at the owner's option, a twelve (12) foot sidewalk without a planting strip, if the lot is zoned NC2, NC3, RC, L4 or MR;

4. Pedestrian improvements, as determined by the Director, such as, but not limited to special pavers, lighting, benches and planting boxes.

(Ord. 118409 § 212, 1996: Ord. 116795 § 2(part), 1993.)

23.71.014Open space.

A. Quantity of Open Space.

1. In all Commercial zones with a permitted height limit of forty (40) feet or less, a minimum of ten (10) percent of lot area shall be provided as landscaped or usable open space for all commercial and mixed use substantial development. A minimum of one-half (1/2) of the required open space shall be landscaped open space and a minimum of one-third (1/3) of the required open space shall be usable open space. The remainder shall be either landscaped or usable open space or may be provided in accordance with subsection A8 of this section.

2. In all Commercial zones with a permitted height limit greater than forty (40) feet, a minimum of fifteen (15) percent of lot area shall be provided as landscaped or usable open space for all commercial and mixed use substantial development. A minimum of one-third (1/3) of the required open space shall be landscaped open space and a minimum of one-fifth (1/5) of the required open space shall be usable open space. The remainder shall be either landscaped or usable open space or may be provided in accordance with subsection A8 of this section.

3. Open space may be provided as interior or exterior open space according to the standards provided in subsections 23.71.014 B and C. Interior open space may be used to satisfy up to twenty (20) percent of the open space requirement.

4. Reductions to Required Open Space. Required open space may be reduced if any of the following open space alternatives are provided:

a. Interior public meeting space or space accommodating a public library, either of which shall be free to the public and credited at two (2) times their actual area;

b. An on-site town square, urban plaza, active park, or passive park which meets the minimum size requirements prescribed in Table 23.71.014 A and which is consistent with the standards for such features contained in subsection 23.71.014 C. Such space shall be credited towards the open space requirement at 1.5 times the actual lot area occupied by such space.

5. Above-ground open space in the form of a publicly accessible terrace may satisfy up to thirty (30) percent of total required open space. Due to the more limited public access to such areas, such above-ground open space shall be credited at seventy-five (75) percent of actual area provided. Above-ground open space in combination with interior open space shall not exceed fifty (50) percent of the total area required for open space.

6. In no case shall required landscaped open space be reduced to less than five (5) percent of lot area. Required landscaping of surface parking areas may count towards the landscaped open space requirement to a maximum of five (5) percent of total lot area. Perimeter screening of a surface parking area may count towards the landscaped open space requirement in excess of five (5) percent.

7. When an owner proposes substantial development on lots forty thousand (40,000) square feet or less and adjacent to a major pedestrian street as designated in Section 23.71.008, the Director may reduce the total amount of required open space if the owner provides open space on the portion of the site abutting the major pedestrian street. The reduction does not apply to open space consisting of landscaping required for surface parking areas, screening, or to improvements provided within the street right-of-way.

8. Northgate Open Space Fund.

a. In lieu of providing the remainder of open space, as defined in subsections A1 and A2 of this

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section, an owner may make a payment to the Northgate Area Open Space fund, if such a fund is established by the City Council. The payment and use thereof shall be consistent with RCW 82.02.020.

b. An in-lieu of payment shall equal the assessed value of the land and improvements which would otherwise have been provided as open space.

c. Funds received from properties within the Northgate Core sub-area as shown on Map A, shall be applied to open space acquisition or improvements in the Northgate Core sub-area. Funds received from properties outside of the Northgate Core sub-area shall be applied to open space acquisition or improvements within one-half (1/2) mile of contributing sites.

B. Open Space Development Standards.

1. Landscaped Open Space.

a. Landscaped open space shall be provided outdoors in the ground or in permanently installed beds, planters, or in large containers which cannot be readily removed.

b. Landscaped open space shall have a minimum horizontal dimension of six feet (6′), except on lots which are ten thousand (10,000) square feet or less in area, where a minimum horizontal dimension of five feet (5′) is allowed. Where screening and landscaping of a surface parking area is counted towards meeting the landscaped open space requirement it shall meet the minimum dimensions as required by the underlying zone.

2. Usable Open Space — General.

a. Usable open space shall be open to the public. The minimum size of usable open space is prescribed in Table 23.71.014 A. The Director may modify the requirements of Section 23.71.014 C, if the owner demonstrates that meeting the requirements is infeasible or the Director determines that the owner's proposal will better achieve the purpose of usable open space than the requirements prescribed herein.

b. Usable open space shall be located within three feet (3′) of the elevation of abutting sidewalks, provide access of at least ten feet (10′) in width and provide barrier-free access according to the Washington State Rules and Regulations for Barrier-Free Design.

c. Where proposed, skybridges shall provide a direct connection to the nearest usable open space at ground level. This connection shall be visible from the skybridge and shall be identified by signage at both entrances to the skybridge.

3. Usable Open Space — Exterior.

a. Usable open space may be provided as on-site exterior open space consisting of an active or passive park, courtyard, public meeting space, terrace, town square, urban garden, urban plaza, landscaped interior block pedestrian connection or urban trail.

b. Exterior usable open space shall meet the minimum standards contained in subsection 23.71.014 C.

c. Exterior usable open space shall be screened from streets and parking areas by landscaping, a fence or a wall, except along a major pedestrian street, in which case usable open space shall be accessible to or integrated into the adjoining sidewalk for at least fifty percent (50%) of its frontage.

4. Usable Open Space — Interior.

a. Usable open space may be provided as on-site interior open space consisting of an atrium/greenhouse, galleria, or public meeting space.

b. Interior usable open space shall provide direct pedestrian connections, with a clear path at least ten feet (10′) wide, to exterior usable open space or public right-of-way. Such pedestrian connections shall not count toward interior usable open space requirements.

c. Interior usable open space shall meet the applicable standards contained in subsection 23.71.014 C.

C. Minimum Standards for Usable Open Space.

Table 23.71.014 A
Minimum Square Footage Requirements
For Usable Open Space

	Minimum Width	Minimum Area
Active park	80′	11,000 square feet
Atrium/greenhouse	40′	2,000 square feet
Courtyard	30′	2,000 square feet
Galleria	20′	2,000 square feet
Landscaped interior — block pedestrian connections	10′	no minimum area
Passive park	100′	22,000 square feet
Public meeting space	30′	1,500 square feet
Terrace	10′	800 square feet
Town square	80′	11,000 square feet
Urban garden	10′	no minimum area
Urban plaza	50′	3,500 square feet

1. Active Park. An active park shall be essentially level, accessible from a public right-of-way and shall include areas for active recreation such as, but not limited to, ball fields, courts and children's play area(s). Public seating shall be provided.

2. Atrium/Greenhouse, Galleria. An atrium/greenhouse or galleria shall provide a large, enclosed, weather-protected space, generally covered by transparent and/or translucent material and meeting the following minimum standards and guidelines:

a. Location and Access. The location of an atrium/greenhouse or galleria shall be highly visible from the street and easily accessible to pedestrians. Pedestrian access should be designed to improve overall pedestrian circulation on the block.

b. Minimum Standards.

i. The minimum height shall be thirty feet (30′).

ii. A minimum of fifteen percent (15%) of an atrium/greenhouse or galleria shall be landscaped.

iii. A minimum of fifteen percent (15%) of an atrium/greenhouse or galleria shall be reserved for public seating at a rate of one lineal foot for every thirty (30) square feet of floor area or one lineal foot of public seating area for every thirty (30) square feet of floor area.

iv. A minimum of thirty-five percent (35%) of the perimeter of an atrium/greenhouse or galleria shall be occupied by retail sales and service uses and sixty

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percent (60%) of every retail frontage on the atrium/greenhouse or galleria shall be transparent.

v. Perimeter walls of an atrium/greenhouse or galleria, excluding the wall of the structure, shall be no more than fifteen percent (15%) blank. All nontransparent perimeter walls shall include measures to reduce the effect of the blank wall including, but not limited to, architectural detailing, landscaping, modulation or art.

3. Courtyard. A courtyard shall meet the following minimum standards and guidelines:

a. Location and Access. A courtyard shall be adjacent to or attached to a structure or public sidewalk and shall be highly visible from adjacent sidewalks and public areas and have direct access to the streets on which it fronts. A courtyard shall be easily accessible and inviting to pedestrians and provide enclosure through use of design elements such as pedestrian walkways, structures containing retail uses, low planters or benches, and seating.

b. Fifty percent (50%) of the courtyard area, outside of areas of major pedestrian traffic, shall be level.

c. Courtyards shall include unit paving; landscaping, which encourages privacy and quiet; and pedestrian-scaled lighting and seating. Public seating shall be provided at a rate of one lineal foot of seating for every fifty (50) square feet of courtyard area

4. Passive Park. Passive parks shall provide landscaped space for unstructured recreational activity such as walking or picnicking.

5. Public Meeting Space. Public meeting spaces shall be enclosed rooms available for use by the public free of charge, designed for the purposes of accommodating meetings, gatherings, or performances with seating capacity for at least fifty (50) people. Public meeting spaces shall be available to the public between the hours of ten a.m. (10:00 a.m.) and ten p.m. (10:00 p.m.) Monday through Friday and shall not count towards minimum parking requirements.

6. Terrace. A terrace is intended to provide additional opportunity for open space in areas of concentrated development.

a. Location and Access.

i. A terrace is a wind-sheltered area above street-level uses in a structure.

ii. A terrace should be easily accessible from the street and access should be plainly identified.

iii. Direct access by stairs, ramps or mechanical assist shall be provided from a public right-of--way or public open space to the terrace.

iv. The path of access must have a minimum width of ten feet (10′).

b. A minimum of eighty percent (80%) of the terrace shall receive solar exposure from eleven a.m. (11:00 a.m.) until two p.m. (2:00 p.m.) PDT between the spring and autumn equinox.

c. Public seating shall be provided in an amount equal to one (1) seat for each thirty (30) square feet of terrace area or one lineal foot of public seating for each thirty (30) square feet of terrace area.

d. Terraces shall be landscaped in a manner which provides for the comfort and enjoyment of people in the space as well as creates a visual amenity for pedestrians and occupants of surrounding buildings.

e. A terrace shall be open to the public from at least seven a.m. (7:00 a.m.) until one (1) hour after sunset seven (7) days a week.

7. Town Square. A town square shall meet the criteria for an urban plaza and in addition, shall meet the following:

a. Location and Access. A town square shall be located adjacent to a major pedestrian street.

b. A large, essentially level, unobstructed area should characterize the center of a town square and be available for public events.

8. Urban Garden. Urban gardens are intended to provide color and visual interest to pedestrians and motorists and are characterized by such amenities as specialized landscaping, paving materials and public seating.

a. Location and Access. Urban gardens shall be located at or near sidewalk grade and adjacent to a public right-of-way or building lobby.

b. One (1) public seating space for each twenty (20) square feet of garden area or one (1) lineal foot of public seating for every twenty (20) square feet of garden area shall be provided.

c. Urban gardens shall be developed with unit paving and plant materials in a garden-like setting. Landscaping shall include a mix of seasonal and permanent plantings, including trees and shrubs. A water feature is encouraged.

d. A minimum of seventy-five percent (75%) of the garden area shall receive solar exposure from eleven a.m. (11:00 a.m.) until two p.m. (2:00 p.m.) PDT, between the spring and autumn equinox.

e. The garden shall be open to the public at least five (5) days a week from eight a.m. (8:00 a.m.) until seven p.m. (7:00 p.m.).

9. Urban Plaza. An urban plaza shall serve as a link between a building and the pedestrian network and/or as a focal point between two (2) or more buildings.

a. Location and Access.

i. An urban plaza shall be one (1) contiguous space, with at least one (1) edge abutting a street at a transit stop or anywhere along a major pedestrian street.

ii. The area within ten feet (10′) of the sidewalk, along a minimum of fifty percent (50%) of each street frontage shall be within three feet (3′) elevation of the adjoining public sidewalk.

b. There shall be no physical obstruction between an urban plaza and the sidewalk. The plaza should be distinguished from the public right-of-way by landscaping and/or a change in paving materials.

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c. The aggregate area of retail kiosks and carts in an urban plaza should not exceed one hundred fifty (150) square feet or one percent (1%) of the total area of the plaza, whichever is greater.

d. Urban plazas shall have retail sales and service uses on frontage equivalent to at least fifty percent (50%) of the perimeter of the plaza. The retail sales and service uses shall have direct access onto the plaza.

e. Urban plazas shall be landscaped and paved in such a way as to provide continuous access to the public right-of-way. A minimum of twenty percent (20%) and a maximum of thirty percent (30%) of the plaza shall be landscaped.

f. A minimum ratio of one (1) tree per seven hundred (700) square feet of plaza area is required. Trees should be arranged in such a manner as to define the perimeter of the space and to maximize solar exposure to the principal space.

g. A minimum of eighty-five percent (85%) of the plaza shall be uncovered and open to the sky, excluding deciduous tree canopies.

h. There shall be one (1) lineal foot of public seating area or one (1) public seat for every thirty-five (35) square feet of plaza area. Up to fifty percent (50%) of the seating may be moveable.

i. An urban plaza shall be open to the public during normal business hours, seven (7) days a week.

D. Reduction of Open Space Deficit. When substantial development is proposed for a site, the open space deficit for the entire site must be eliminated, provided that for sites subject to the General Development Plan provisions of Section 23.71.020, the deficit need not be eliminated but shall be reduced by an amount equal to fifty percent (50%) of the footprint of the substantial development together with fifty percent (50%) of the total footprint of any new parking area provided to meet the demand of the substantial development, together with fifty percent (50%) of any replacement parking provided.
(Ord. 116795 § 2(part), 1993.)

23.71.016Parking and access.

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 23.71.016 A.

Table 23.71.016 A
Minimum and Maximum Parking Requirements

	LONG TERM		SHORT TERM
	Minimum	Maximum	Minimum
Office, Administrative	0.9/1000	2.6/1000	0.2/1000
Office, Customer Service	1.0/1000	2.4/1000	1.6/1000
Commercial Retail Sales & Service	0.93/1000	2.4/1000	2.0/1000
Motion Picture	N/A	N/A	Min: 1/8 seats Max: 1/4 seats

2. Parking waivers as provided under Section 23.54.015 D shall 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 provided in a structure, 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 theatres may be increased by ten 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.

B. Additional Parking Waivers on Major Pedestrian Streets.

1. When the amount of required parking has been determined pursuant to subsection A of this section, waivers are permitted, as follows:

a. Parking shall not be required for the first one hundred fifty (150) seats of all motion picture theatre uses and the first seven hundred fifty (750) square feet for all eating and drinking establishments.

b. Parking shall not be required for an additional two thousand five hundred (2,500) square feet to a maximum of five thousand (5,000) square feet for all other required street-level personal and household retail sales and service uses.

2. The Director may permit an additional parking waiver up to a maximum of four thousand (4,000) square feet for eating and drinking establishments as a special exception subject to the provisions of Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. The following factors shall be considered by the Director in making a determination whether to allow additional parking waivers for eating and drinking establishments:

a. Anticipated parking demand for the proposed use;

b. The extent to which an additional parking waiver is likely to create or add significantly to spillover parking in adjacent residential neighborhoods;

c. Whether land is available for parking without demolishing an existing commercial structure, displacing a commercial use, or rezoning land to a commercial designation;

d. The availability of shared or joint use parking within eight hundred feet (800′) of the business establishment;

e. The Director may require that a transportation study be submitted for review by the Director;

f. The Director shall determine the content of the transportation study based on the following factors:

i. The size and type of the proposed use;

ii. The size of the requested parking waiver;

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iii. Any anticipated impacts of an additional parking waiver.

3. Parking waivers permitted by this subsection shall apply to each street-level business establishment in a structure.

C. Reductions to minimum parking requirements for nonresidential uses as provided in Section 23.54.020 F shall not apply in the Northgate Overlay District.

D. Shared Parking.

1. Except as provided in subsection D2 of this section, shared parking, as provided in Section 23.54.020 G, is permitted for two (2) or more uses to satisfy all or a portion of minimum off-street parking requirements in the Northgate Overlay District.

2. Multipurpose convenience stores and general retail sales and service uses which are open to the public four (4) days or more a week after seven p.m. (7:00 p.m.) may not have shared parking.

E. Owners shall provide parking for bicycles which is protected from the weather. Owners shall provide bicycle lockers for storage of commuter bicycles.

F. Payment in Lieu of On-site Long-term Parking.

1. In lieu of providing up to twenty percent (20%) of the long-term parking which is otherwise required, the Director may permit an owner to make a payment to a Northgate Parking Commission, if a commission is established by the City Council. The payment shall be used to build a public parking structure for long-term parking within the Northgate Core area. The payment and use thereof shall be consistent with RCW 82.02.020.

2. The amount of the payment shall be based on the construction cost of a parking space in a structured garage in the Northgate Core area, as determined by the Northgate Parking Commission.

3. The Director shall apply the following criteria in determining whether to approve a payment in lieu:

a. Spillover parking would not occur which would significantly impact nearby residential neighborhoods;

b. The parking demand proposed to be met by in-lieu payment will not exceed the capacity provided by the long-term parking structure.

4. If a public parking structure is not constructed within six (6) years of the date of issuance of a certificate of occupancy for a development which made a payment in lieu, the City may use the payments to help reduce vehicle trips in the area. If the owner can show that the long-term parking demand of the site has been reduced enough to eliminate the need for the waived spaces, the amount of payments shall be returned to the property owner.

G. Parking Location and Access.

1. Parking location and access are subject to the provisions of the underlying zone, except as modified by this subsection and Section 23.71.008.

2. The following provisions shall apply to all new parking provided, the reconfiguration of more than two hundred fifty (250) parking spaces, or the replacement of existing surface parking with structured parking. Existing nonconforming parking used to meet the parking requirement for newly developed space or new uses shall not be required to meet these standards.

a. The first two hundred (200) proposed parking spaces located on-site may be located in either a surface parking area, or within or under a structure. In addition, seventy-five percent (75%) of the spaces in excess of two hundred (200) shall be accommodated either below grade or above grade in structures. All parking in excess of two hundred (200) spaces may be located off-site within eight hundred feet (800′) of the site except as provided in subsection E1 of this section. The Director may waive or modify this requirement if site size, shape, or topography makes it infeasible to construct an accessory parking structure.

b. The first two hundred (200) proposed surface parking spaces may be increased to three hundred fifty (350) spaces if 1) the surface parking area does not cover more than thirty-five percent (35%) of the total lot area, and 2) the on-site open space requirement, in excess of the minimum required landscaped open space provided for in Section 23.71.014, is provided as usable open space which is contiguous to other usable open space on the site.

c. For surface parking areas exceeding two hundred fifty (250) parking spaces, a ten foot (10′) wide landscaped pedestrian walkway separating each of these parking areas and connecting to the building is required, or separation of parking areas exceeding two hundred fifty (250) spaces shall be provided by structures on-site. These landscaped pedestrian walkways may be counted towards open space requirements as provided in Section 23.71.014.

3. Surface parking areas shall be screened and landscaped according to the provisions of the underlying zone.

(Ord. 117432 § 41, 1994; Ord. 116795 § 2(part), 1993.)

23.71.018Transportation management program.

A. When substantial development is proposed which is expected to generate twenty-five (25) or more employee or student vehicle trips in any one (1) p.m. hour, the owner of the site upon which the substantial development is proposed shall prepare and implement a Transportation Management Program (TMP). The TMP shall include measures likely to achieve the goals for the proportion of single occupant vehicle (SOV) trips identified below. These goals are a fifteen percent (15%) reduction in the proportion of SOV trips by 1995, twenty-five percent (25%) by 1997, and thirty-five percent (35%) by 1999, from the 1990 SOV baseline rate of eighty-five percent (85%) for commute trips made by all students and employees working in the Northgate area (see Table 23.71.018 A).

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1. For purposes of measuring attainment of the SOV goal, the proportion of SOV trips shall be calculated for the p.m. hour in which an applicant expects the largest number of vehicle trips to be made by employees and students at the site (the p.m. peak hour of the generator). The proportion of SOV trips shall be calculated by dividing the total number of employees and students using an SOV to make a trip during the expected peak hour by the total number of employee and student person trips during the expected peak hour.

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

Table 23.71.018 A

Year/Goals	Commercial/ Institutional	Residential
January 1, 1995	72%	62%
January 1, 1997	64%	59%
January 1, 2000	55%	55%

B. The owner of any site who proposes multifamily substantial development which is expected to generate fifty (50) or more vehicle trips in any one (1) p.m. hour shall prepare and implement a TMP. The TMP shall include measures likely to achieve goals for the proportion of SOV trips. These goals are a ten percent (10%) reduction in the proportion of SOV trips by 1995, fifteen percent (15%) by 1997 and twenty percent (20%) by 1999, from the 1990 SOV baseline rate (sixty-nine percent (69%) SOV) for commute trips by all residents living in the Northgate area (see Table 23.71.018 A).

For purposes of measuring attainment of the SOV goal, the proportion of SOV trips shall be calculated for the p.m. hour in which an applicant expects the largest number of vehicle trips to be made by residents of the site (the p.m. peak hour of the generator). The proportion of SOV trips shall be calculated by dividing the total number of residential trips made by SOV during the expected peak hour by the total number of residential person trips.

C. Each owner subject to the requirements of this section shall prepare a TMP as described in rules promulgated by the Director, as part of the requirements for obtaining a master use permit.

D. The TMP shall be approved by the Director if, after consulting with Seattle Transportation, the Director determines that the TMP measures are likely to achieve the SOV goals.

E. The owner of each property subject to this implementation guideline shall submit an annual progress report to the Director of Transportation, who will advise the Director of DCLU on compliance. The progress report shall contain:

1. The number of full and part-time employees, students and/or residents at a site during the peak hour;

2. A summary of the total p.m. peak hour vehicle trips generated by the site, including employees, students and residents;

3. A description of any programs, incentives, or activities or other measures targeted to reduce vehicle trips, in which employees, students or residents at the site participate;

4. The number of people participating in the TMP measures;

5. The peak hour proportion of SOV trips of the employees, students, and/or residents.

F. Seattle Transportation shall monitor compliance with the requirements of this section. If monitoring shows that the owner has not implemented the TMP measures or has not made sufficient progress toward achieving the TMP goals, the Director of Transportation may recommend that the Director:

1. Require modifications to the TMP program measures; and/or

2. Pursue enforcement action pursuant to the Land Use Code.

G. After approval of a TMP and issuance of a master use permit as prescribed in subsections C and D of this section, if the owner applies for a master use permit for additional development, before approving the new master use permit, the Director, after consulting with the Director of Transportation, shall review the implementation of the TMP. If substantial progress has not been made in achieving the goal for the proportion of SOV trips, the Director may:

1. Require the applicant to revise the TMP to include additional measures in order to achieve compliance with the TMP goal before the issuance of a permit; and/or

2. Require measures in addition to those in the TMP that encourage alternative means of transportation for the proposed new development; and/or

3. Deny the permit if the Director determines that the owner has failed to make a good- faith effort to implement the TMP; or

4. Determine that a revised or new program is not needed, and that the permit can be issued without changes to the existing TMP.

H. Compliance. To comply with this section, the owner of a site subject to the requirement for a TMP, must demonstrate that he or she has an approved TMP, has submitted the required annual reports, and has succeeded in accomplishing one (1) of the two (2) following objectives:

1. That the owner has implemented the measures contained in the TMP for the development project; and/or

2. That the owner has met the goal for SOV trips specified in subsection A of this section.

Failure to comply with the provisions of this section is a violation of the Land Use Code. The penalty for each violation is Two Hundred Fifty Dollars ($250.00) per day.

I. A fund shall be established in the City's General Fund to receive revenue from fines for violations of this section. Revenue from fines shall be allocated to activities or incentives to reduce vehicle trips in the Northgate area. The Director of Transportation shall recommend to the Mayor and City Council how these funds should be allocated.

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J. Seattle Transportation and DCLU shall prepare a Director's Rule explaining how each department shall implement this section.
(Ord. 118409 § 213, 1996: Ord. 117432 § 42, 1994; Ord. 116795 § 2(part), 1993.)

23.71.020General Development Plan requirement.

A. On sites of six (6) acres or more the owner shall submit and obtain approval of a General Development Plan when one (1) or more of the conditions identified in subsection C of this section is met.

B. For the purposes of this section a "site" is all contiguous parcels of property, including parcels separated only by rights-of-way, which are under common ownership, or under the ownership of several individuals or entities who have agreed to common management of all or a portion of the parcels.

C. A General Development Plan shall be prepared when one (1) or more of the following occurs:

1. Development of more than four thousand (4,000) square feet of commercial floor area, or redevelopment of more than four thousand (4,000) square feet of commercial floor area, if the redevelopment includes a change of use; and/or

2. Creation of parking facilities for over forty (40) vehicle spaces; and/or

3. Rezone applications; and/or

4. Conditional use applications; and/or

5. Requests for variance(s) from the requirements of this chapter.

D. The General Development Plan shall be reviewed by the Director as a Type II master use permit decision, as provided in Chapter 23.76, Procedures For Master Use Permits and Council Land Use Decisions.

E. A General Development Plan is not required for that portion of a site for which a Major Institution Master Plan is required pursuant to Chapter 23.69.
(Ord. 116795 § 2(part), 1993.)

23.71.024Contents of a General Development Plan.

A. The General Development Plan is a conceptual plan for site development consisting of the following eight (8) components:

1. The structure layout component shall include the following:

a. The general location of structures and areas of pedestrian and vehicular circulation;

b. Proposed lot coverage, floor area, height and uses anticipated in the structures; and

c. Three (3) dimensional drawings illustrating the height and form of proposed structures.

2. The pedestrian circulation component shall include the following:

a. The location of pedestrian routes providing access to all structures on the site, and an identification of pedestrian connections with adjacent areas; and

b. The location of a clearly marked landscaped pedestrian walkway from all structures to the nearest public sidewalk served by public transit.

3. The vehicular circulation component shall include the following:

a. Vehicular, bicycle, and service access to the site from abutting streets, as well as proposed internal site circulation; and

b. A description of any planned or anticipated street or alley vacations or the abandonment of existing street rights-of-way.

4. The parking and loading component shall include the location, type (surface or within a structure), and amount of parking and loading to meet parking and loading requirements.

5. The transportation management component shall be consistent with the requirements of Section 23.71.018.

6. The landscaping and open space component shall include the following:

a. The location and size of open space areas intended for public use;

b. A general plan indicating the amount, location and type of landscaping to be provided; and

c. A discussion of whether and how off-site open space payments, prescribed by Section 23.71.014, will be met.

7. The phasing component shall include a description of proposed development phases and plans, including development priorities, the probable sequence of development, estimated dates of construction and occupancy, and anticipated interim use of property awaiting development.

8. The topography and drainage component shall include the following:

a. Plans showing the proposed finished grades, drainage patterns, swales, creeks, retention ponds, and wetlands; and

b. The location and description of filtration devices for oil/water separation.
(Ord. 116795 § 2(part), 1993.)

23.71.026Exceptions granted through the General Development Plan process.

A. To meet the intent of the Northgate Area Comprehensive Plan, the Director may authorize specified exceptions to the requirements of the Land Use Code in approving a General Development Plan, as specified below. An exception shall result in a better design solution given specific site conditions than would otherwise be possible through strict adherence to applicable development standards.

B. Approval of a General Development Plan may include granting of the following exceptions:

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1. The DCLU Director may waive or modify provisions of the Land Use Code for mixed use development as follows:

a. Reductions may be permitted to the minimum amount of nonresidential use required in SMC Section 23.47.008, Mixed use structures.

b. For mixed use development in separate structures, as provided for in Section 23.71.038, the residential and nonresidential structures may be constructed at different times, provided that the phasing of the nonresidential portions of the development is specified in the General Development Plan.

2. To grant exceptions to the standards for mixed use development as specified in subsection B1 of this section, an applicant must demonstrate that the project meets the following criteria:

a. The project reinforces or creates pedestrian connections through the site and to the closest transit streets.

b. The project is locating multifamily development within six hundred sixty (660) feet (one-eighth (1/8) mile) of a street served by transit.

c. Sufficient commercial development exists in the immediate vicinity to maintain an active pedestrian environment with uses serving the local population.

3. Modification of Land Use Code requirements for screening and landscaping at the street property line, as provided in Section 23.47.016, may be permitted under the following conditions:

a. The objective of the screening and landscaping is met by a topographic break that makes the screening unnecessary.

b. A portion of the property's usable open space requirement is placed adjacent to the street, eliminating the need for screening and landscaping.

c. The Director determines that a proposed solution better meets the intent of the screening and landscaping requirements or there is no need for screening and landscaping on the site.

4. Exceptions may be granted to the provisions for parking location and access contained in subsections G2 and G3 of Section 23.71.016. An applicant must demonstrate that the project meets the following criteria:

a. The total number of parking spaces on a site does not exceed one hundred seventy-five (175) percent of the minimum Land Use Code requirement.

b. Clearly designated pedestrian walkways are provided between parking areas and buildings. Ten (10) foot wide landscaped pedestrian walkways must be adjacent to any parking area containing two hundred fifty (250) spaces. Two (2) adjacent parking areas of two hundred fifty (250) parking spaces each, may share a walkway.

5. Modifications may be granted to the requirements for sidewalk widths, provided that this exception shall not be granted for sidewalks along pedestrian designated streets. An exception may be granted under the following conditions:

a. Topographic breaks would separate the sidewalk from the site.

b. Topographic breaks would make the costs of increasing the sidewalk widths disproportionate to the benefits derived.

c. An alternate pedestrian route would better serve pedestrian circulation needs.

(Ord. 116795 § 2(part), 1993.)

23.71.028General Development Plan process.

A. To obtain approval, a General Development Plan must be consistent with the Northgate Comprehensive Plan and the provisions of this chapter.

B. An Advisory Committee to the Director shall be established by the Director for each General Development Plan required. The composition of the committee shall be a balanced group representing all interests including the applicant, neighborhoods, the business community, and property owners. The Advisory Committee shall perform the following functions:

1. The Advisory Committee shall review the contents of a Draft General Development Plan; and

2. Within a time period established by the Director, recommend to the Director any suggested changes or additions to the Draft General Development Plan.

(Ord. 116795 § 2(part), 1993.)

23.71.029Effect of General Development Plan approval.

A. After a General Development Plan has been approved, the applicant may develop in accordance with the approved plan.

B. The Director shall not accept any application for nor issue any master use permit for development which has not been included in the approved General Development Plan or which is inconsistent with an approved General Development Plan.

C. Applications for master use permits for development contained in an approved General Development Plan are subject to the requirements of Chapter 25.05, SEPA Policies and Procedures.

(Ord. 116795 § 2(part), 1993.)

23.71.030Development standards for transition areas within the Northgate Overlay District.

A. To promote compatibility between different types and intensities of development located within and along the boundary of the Northgate Overlay District, a transition shall be provided between zones where different intensities of development may occur.

B. The requirements of this section apply to development on lots in the more intensive zones under the following conditions:

1. Where a lot zoned Lowrise 4 (L4), Midrise (MR), Midrise/85 (MR/85) or Highrise (HR) abuts or is across a street or alley from a lot zoned Single Family (SF), Lowrise Duplex-Triplex (LDT), Lowrise 1 (L1), or Lowrise 2 (L2); and

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2. Where a lot zoned Neighborhood Commercial 2 or 3 (NC2, NC3) with a height limit of forty (40) feet or greater abuts or is across a street or alley from a lot zoned Single Family (SF), Lowrise Duplex-Triplex (LDT), Lowrise 1 (L1), or Lowrise 2 (L2).

C. Side Setbacks Abutting or Across an Alley.

1. For multifamily structures an additional side setback of one (1) foot for each two (2) feet of a structure height above twenty (20) feet is required (Exhibit 23.71.032 A).

2. A side setback of ten (10) feet is required for all portions of a commercial or mixed use structure twenty (20) feet or less in height (Exhibit 23.71.032 B).

3. An additional side setback of ten (10) feet is required for all portions of a commercial or mixed use structure exceeding twenty (20) feet (Exhibit 23.71.032 B).

4. Side setbacks shall be landscaped within five (5) feet of the abutting property line, unless the setback is used for parking, in which case the parking area shall be screened as otherwise required by this code.

D. Rear Setbacks Abutting or Across an Alley.

1. For multifamily structures, a rear setback of twenty (20) feet is required or the minimum required by the standards of the underlying zone for multifamily structures, whichever is greater.

2. A rear setback of ten (10) feet is required for all portions of a commercial or mixed use structure twenty (20) feet or less in height (Exhibit 23.71.032 C).

3. An additional rear setback of ten (10) feet is required for all portions of a commercial or mixed use structure exceeding twenty (20) feet (Exhibit 23.71.032 C).

4. Rear setbacks shall be landscaped unless used for parking, in which case the parking area shall be screened and landscaped as otherwise required by this code.

E. Side or Rear Setbacks for Multifamily Structures Abutting a Street. A side or rear setback of eight (8) feet, or the minimum required for multifamily structures by the underlying zone, whichever is greater, is required for portions of a multifamily structure thirty (30) feet or less in height along all street rights-of-way less than eighty (80) feet wide across from the less intensive zone. Portions of a multifamily structure in excess of thirty (30) feet in height shall be set back an additional one (1) foot for each two (2) feet of structure height above thirty (30) feet (Exhibit 23.71.032D).

F. Front Setbacks for Multifamily Structures Abutting a Street. Where the front lot line of the more intensively zoned lot is across a street right-of-way which is less than eighty (80) feet wide from the less intensively zoned lot, the minimum front setback shall be ten (10) feet for all portions of a multifamily structure thirty (30) feet or less in height. For portions of a structure exceeding thirty (30) feet in height, an additional front setback of one (1) foot for every two (2) feet of structure height in excess of thirty (30) feet shall be required (Exhibit 23.71.032E).

G. Setbacks for Commercial or Mixed Use Structures Abutting a Street. No side or rear setback abutting a street is required for the portion of commercial or mixed use structures containing street level retail sales and service uses oriented towards the street. Where blank walls, parking or other nonretail sales and service uses occupy portions of the structure facing the street a five (5) foot setback shall be required and screened and landscaped as required by the underlying zone.

(Ord. 116795 § 2(part), 1993.)

23.71.036Maximum width and depth of structures.

The maximum width and depth requirements of this section shall apply only to portions of a structure within fifty (50) feet of a lot line abutting, or directly across a street right-of-way which is less than eighty (80) feet in width, from a less intensive residential zone as provided in Table 23.71.036 A.

(Ord. 116795 § 2(part), 1993.)

23.71.038Standards for mixed use development in commercial zones within the Northgate Overlay District.

Residential and nonresidential uses in a mixed use development in a commercial zone shall meet the requirements of Section 23.47.008 to qualify as a mixed use development. The minimum standards of Section 23.47.008 may vary on sites subject to the requirements for General Development Plans as provided in Section 23.71.026.

(Ord. 118414 § 54, 1996: Ord. 116795 § 2(part), 1993.)

23.71.040Density limits for residential uses in commercial zones within the Northgate Overlay District.

A. Residential uses in commercial zones with a thirty (30) foot height limit may not exceed a density of one (1) dwelling unit for every eight hundred (800) square feet of lot area.

B. Residential uses in commercial zones with a forty (40) foot height limit may not exceed a density of one (1) dwelling unit for every six hundred (600) square feet of lot area.

C. There is no density limit for residential use in commercial zones with height limits of sixty-five (65) feet or greater.

D. Development meeting the requirements for mixed use as provided in Section 23.71.038 is allowed a twenty (20) percent increase in permitted density over the density permitted by subsections A and B of this section.

(Ord. 116795 § 2(part), 1993.)

23.71.042Standards for commercial-only structures in Residential/ Commercial zones within the Northgate Overlay District.

A. Commercial uses permitted in a mixed use struc-

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Exhibit 23.71.032A
Side Setbacks Multifamily Structures

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Exhibit 23.71.032B
Side Setbacks for Commercial/
Mixed Use Structures
Exhibit 23.71.032C
Rear Setback for Commercial/Mixed Use Structures

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Exhibit 23.71.032D
Side and Rear Setbacks For Multifamily Structures
Across Streets < 80′ From Less
Intense Residentially Zoned Lots
Exhibit 23.71.032E
Front Setbacks for Multifamily Structures
Across Streets < 80′ from Less Intense
Residentially Zoned Lots

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TABLE 23.71.036 A

STRUCTURE WIDTH AND DEPTH STANDARDS
FOR TRANSITION AREAS

Subject Site	Abutting Residential zone (or) zone across a street right-of-way less than eighty (80) feet in width	Maximum Width	Maximum Depth
L4, MR, MR/85 and HR	Single Family, LDT, L1 or L2	Apartments 75 feet	65% depth of lot with no individual structure to exceed 90 feet
		Townhouses 130 feet	
NC2 and NC3 w/40 feet or greater height limits in width.	Single Family, LDT, L1 or L2	Above a height of 30 feet, wall length shall not exceed 80% of abutting lot line, to a maximum of 60 feet.	

ture in Residential/Commercial (RC) zones as provided in Section 23.46.012 are permitted outright in single-purpose commercial structures within the Northgate Overlay District.

B. Single-purpose commercial structures shall not exceed a size limit of .75 FAR or five thousand (5,000) square feet, whichever is less.

C. Single-purpose commercial structures in Residential/Commercial (RC) zones are subject to the development standards of Section 23.71.008 B4 and 23.71.008 F.
(Ord. 116795 § 2(part), 1993.)

23.71.044Standards for single-purpose residential development in Commercial zones within the Northgate Overlay District.

A. Single-purpose residential structures are subject to the conditional use requirements of Section 23.47.006 B and the following development standards within the Northgate Overlay District:

1. In all Commercial zones with a height limit of thirty (30) feet, single-purpose residential structures shall meet the development standards for residential structures in Lowrise 3 zones, except that no front setback is required.

2. In all Commercial zones with a height limit of forty (40) feet, single-purpose residential structures shall meet the development standards for residential structures in Lowrise 4 zones, except that no front setback is required.

3. In all Commercial zones with a height limit of sixty-five (65) feet, single-purpose residential structures shall meet the development standards for residential structures in Midrise zones, except that no front setback is required.

B. Single-purpose residential structures are prohibited in all commercial zones with a height limit of eighty-five (85) feet or greater, except as provided in Section 23.71.026 B for phased mixed use development under a General Development Plan.
(Ord. 116795 § 2(part), 1993.)

Chapter 23.72

SAND POINT OVERLAY DISTRICT

Sections:

Subchapter I Establishment of Overlay District
23.72.002Purpose and intent.
23.72.004Sand Point Overlay District established.
23.72.006Application of regulations.

Subchapter II Use and Development Standards
23.72.008Uses permitted in specified areas within the Sand Point Overlay District.
23.72.010Development standards.
23.72.012Parking location.
23.72.014Nonconforming structures.

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Subchapter I Establishment of Overlay District

23.72.002Purpose and intent.

The purpose of this chapter is to implement the Sand Point amendments to the Comprehensive Plan by regulating land use and development within the Sand Point Overlay District in order to integrate the property into the city of Seattle as a multi-purpose regional center that provides:

A. Expanded opportunity for recreation, education, arts, cultural and community activities;

B. Increased public access to the shoreline and enhanced open space and natural areas;

C. Opportunities for affordable housing and community and social services with a special priority for addressing the needs of homeless families;

D. Expanded opportunity for low-impact economic development uses which could provide employment and services for residents of the property and for the broader community.

(Ord. 118624 § 3 (part), 1997.)

23.72.004Sand Point Overlay District established.

There is hereby established pursuant to Chapter 23.59 of the Seattle Municipal Code, the Sand Point Overlay District, as shown on the City's Official Land Use Map, Chapter 23.32, and Map A.

(Ord. 118624 § 3 (part), 1997.)

23.72.006Application of regulations.

All land located within the Sand Point Overlay District is subject to the regulations of the underlying zone unless specifically modified by the provisions of this chapter. In the event of irreconcilable differences between the provisions of the Sand Point Overlay District and the underlying zone, the provisions of this chapter shall apply. Portions of the Sand Point Overlay District that lie within the Shoreline District, regulated by the Seattle Shoreline Master Program (SSMP), Chapter 23.60, shall be governed by the provisions of the SSMP in addition to this chapter. In the event of a conflict the provisions of the SSMP shall prevail.

(Ord. 118624 § 3 (part), 1997.)

Subchapter II Use and Development Standards

23.72.008Uses permitted in specified areas within the Sand Point Overlay District.

A. Uses Permitted Within the Area Zoned Single-family.

1. Principal Uses Permitted Outright. In addition to the uses permitted by the provisions of Section 23.44.006, the following principal uses are permitted outright in structures existing as of the effective date of this chapter.[1]

a. Custom and craft work and accessory retail sales and services;

b. Institutions, except hospital;

c. Lecture and meeting halls;

d. Motion picture studio;

e. Participant sports and recreation;

f. Police training facility;

g. Research and development laboratories;

h. Storage of fleet vehicles and accessory service and repair; and

i. Warehouse.

2. When not in use as a motion picture studio, a structure may be used for participant sports and recreation.

3. Within the "park area" depicted on Map A, area not occupied by existing structures, existing paved parking areas and rights-of-way shall be limited to open space uses, such as parks and playgrounds.

B. Uses Permitted Within Areas Zoned Lowrise 3. Principal Uses Permitted Outright. In addition to the uses permitted outright in accordance with Section 23.45.006, the following principal uses are permitted outright within structures existing as of the effective date of this chapter[1]:

1. Food processing for human consumption;
2. Horticultural use;
3. Institutions, except hospital;
4. Lecture and meeting halls;
5. Medical service uses;
6. Office; and
7. Restaurants without cocktail lounges.

(Ord. 118624 § 3 (part), 1997.)

1.Editor's Note: Ordinance 118624, which enacted Chapter 23.72, takes effect July 18, 1997.

23.72.010Development standards.

A. Within areas zoned single-family, new structures shall conform to the development standards for single-family development in Chapter 23.44, Residential, Single-family.

B. Within areas zoned Lowrise 3, new structures shall conform to the development standards of Chapter 23.45 applicable to Lowrise 3 development.

C. Density. A maximum of two hundred (200) dwelling units may be established within the boundaries of the Sand Point Overlay District.

(Ord. 118624 § 3 (part), 1997.)

23.72.012Parking location.

Required parking may be provided anywhere within the Sand Point Overlay District, including public rights-of-way.

(Ord. 118624 § 3 (part), 1997.)

23.72.014Nonconforming structures.

The provisions of the underlying zone pertaining to nonconformity apply except that further subdivision of property may be permitted by the Director even if nonconformity would be created with respect to a structure's relationship to lot lines or lot area. This provision shall only apply to structures in existence on the effective date of this chapter.[1]

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(Ord. 118624 § 3 (part), 1997.)

1.Editor's Note: Ordinance 118624, which enacted Chapter 23.72, takes effect July 18, 1997.

Chapter 23.73
PIKE/PINE OVERLAY DISTRICT

Sections:

Subchapter I Establishment of Overlay District
23.73.002Purpose and intent.
23.73.004Pike/Pine Overlay District established.
23.73.006Application of regulations.

Subchapter II Use and Development Standards
23.73.008Uses.

Subchapter I Establishment of Overlay District

23.73.002Purpose and intent.

The purpose of this chapter is to implement Resolution 28657, calling for development of the Pike/Pine Overlay District in order to preserve and enhance the

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balance of residential and commercial uses, by encouraging residential development and discouraging large, single-purpose commercial development.
(Ord. 117514 § 3 (part), 1995.)

23.73.004Pike/Pine Overlay District established.

There is hereby established pursuant to Chapter 23.59 of the Seattle Municipal Code, the Pike/Pine Overlay District as shown on the Official Land Use Map, Chapter 23.32, and Exhibit 23.73.004 A.
(Ord. 118414 § 55, 1996: Ord. 117514 § 3 (part), 1995.)

23.73.006Application of regulations.

Land which is located within the Pike/Pine Overlay District, as shown on Exhibit 23.73.004 A, is subject to the regulations of the underlying zones unless specifically modified by the provisions of this chapter. In the event of a conflict between the provisions of this chapter and the underlying zone, the provisions of this chapter apply. In the event of a conflict between the provisions of this chapter and Chapter 23.69, Major Institution Overlay District, the provisions of Chapter 23.69 apply.
(Ord. 117514 § 3 (part), 1995.)

Subchapter II Use and Development Standards

23.73.008Uses.

A. In addition to uses otherwise prohibited in zones comprising the Pike/Pine Overlay District, the following use is prohibited:

Drive-in businesses.

B. Required Uses at Street Level.

1. Commercial use is required at street level for all structures fronting on the following streets:

East Pike Street;
East Pine Street;
East Union Street, east of Broadway Ave; and

2. Mixed use structures must meet the standards prescribed by Section 23.47.008.

C. Single-purpose Residential Structures.

1. Single-purpose residential structures are permitted outright where commercial use is not required by subsection B, above, or as provided for in Section 23.47.023 B; and

2. A density of one unit per four hundred (400) square feet of lot area is permitted.

D. Commercial Use Limit. All structures greater than thirty (30) feet in height are limited to no more than fifty (50) percent of the structure's gross floor area in nonresidential use. In no case shall nonresidential use exceed the total gross floor area of the first two (2) floors of the structure.
(Ord. 118414 § 56, 1996; Ord. 117514 § 3 (part), 1995.)

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Subtitle V Administration

Division 1 Land Use Approval Procedures

Chapter 23.76
PROCEDURES FOR MASTER USE PERMITS AND COUNCIL LAND USE DECISIONS

Sections:

Subchapter I General Provisions
23.76.002 Purpose.
23.76.004 Land use decision framework.
23.76.005 Time for decisions.

Subchapter II Master Use Permits
23.76.006 Master Use Permits required.
23.76.008 Preapplication conferences.
23.76.010 Applications for Master Use Permits.
23.76.011 Notice of pre-design public meeting.
23.76.012 Notice of application.
23.76.014 Notice of scoping and draft EIS.
23.76.015 Public meetings.
23.76.016 Public hearings.
23.76.018 Notice of final EIS.
23.76.019 Time required for preparation of an EIS.
23.76.020 Director's decisions.
23.76.022 Administrative appeals.
23.76.023 Report and recommendation of the Director on subdivisions.
23.76.024 Hearing Examiner open record hearing and decision for subdivisions.
23.76.026 Vesting of development rights.
23.76.028 Type I and Type II Master Use Permit issuance.
23.76.032 Expiration and renewal of Type I and II Master Use Permits.
23.76.034 Suspension and revocation of Master Use Permits.

Subchapter III Council Land Use Decisions

Part 1 Application and DCLU Review
23.76.036 Council decisions required.
23.76.038 Pre-application conferences.
23.76.040 Applications for Council land use decisions.
23.76.042 Notice of application.
23.76.044 Notice of scoping and draft EIS.
23.76.046 Public meetings and hearings.
23.76.048 Notice of final EISs.
23.76.049 Time required for preparation of an EIS.
23.76.050 Report of the Director.

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Part 2 Quasi-judicial Decisions (Type IV)
23.76.052Hearing Examiner open record predecision hearing and recommendation.
23.76.054Council consideration of Hearing Examiner recommendation.
23.76.056Council decision on Hearing Examiner recommendation.
23.76.058Rules for specific decisions.
23.76.060Expiration of land use approvals.

Part 3 Legislative Decisions (Type V)
23.76.062Council hearing and decision.
23.76.064Approval of City facilities.
23.76.066Shoreline Master Program amendments.
23.76.068Re-application rule for text amendments.
23.76.070Hearing Examiner reports to Council.

Subchapter I General Provisions

23.76.002Purpose.

The purpose of this chapter is to establish standard procedures for land use decisions made by The City of Seattle. The procedures are designed to promote informed public participation in discretionary land use decisions, eliminate redundancy in the application submittal process, and minimize delays and expense in appeals of land use decisions. As required by RCW 36.70B.060, these procedures provide for an integrated and consolidated land use permit process, integrate the environmental review process with the procedures for review of land use decisions, and provide for the consolidation of appeals for all land use decisions.

(Ord. 118012 § 22, 1996: Ord. 112522 § 2(part), 1985.)

23.76.004Land use decision framework.

A. Land use decisions are classified into five (5) categories based on the amount of discretion and level of impact associated with each decision. Procedures for the five (5) different categories are distinguished according to who makes the decision, the type and amount of public notice required, and whether appeal opportunities are provided. Land use decisions are categorized by type in Exhibit 23.76.004 A.

B. Type I and II decisions are made by the Director and are consolidated in Master Use Permits. **Type I** decisions are nonappealable decisions made by the Director which require the exercise of little or no discretion. **Type II** decisions are discretionary decisions made by the Director which are subject to an administrative open record appeal hearing to the Hearing Examiner; provided that **Type II** decisions enumerated in Section 23.76.006 C2 shall be made by the Council when associated with a Council land use decision and are not subject to administrative appeal. **Type III** decisions are made by the Hearing Examiner after conducting an open record hearing and not subject to administrative appeal.

C. Type IV and V decisions are Council land use decisions. **Type IV** decisions are quasi-judicial decisions made by the Council pursuant to existing legislative standards and based upon the Hearing Examiner's record and recommendation. **Type V** decisions are legislative decisions made by the Council in its capacity to establish policy and manage public lands.

D. For projects requiring both a Master Use Permit and a Council land use decision as described in this chapter, the Council decision must be made prior to issuance of the Master Use Permit. All conditions established by the Council in its decision shall be incorporated in any subsequently issued Master Use Permit for the project.

E. Certain land use decisions are subject to additional procedural requirements beyond the standard procedures established in this chapter. Code references for such additional requirements, where applicable, are provided in Seattle Municipal Code (SMC) Sections 23.76.006 and 23.76.036.

F. Shoreline appeals and appeals of related SEPA determinations shall be filed with the State Shoreline Hearings Board within twenty-one (21) days of the receipt of the decision by the Department of Ecology as set forth in RCW 90.58.180.

G. An applicant for a permit or permits requiring more than one (1) decision contained in the land use decision framework listed in Section 23.76.004 may either:

1. Use the integrated and consolidated process established in this chapter;

2. If the applicant includes a variance, lot boundary adjustment, or short subdivision approval and no environmental review is required for the proposed project pursuant to SMC Chapter 25.05, SEPA Policies and Procedures, file a separate Master Use Permit application for the variance, lot boundary adjustment, or short subdivision sought and use the integrated and consolidated process established in this chapter for all other required decisions; or

3. Proceed with separate applications for each permit decision sought.

(Ord. 118012 § 23, 1996; Ord. 117598, § 3, 1995; Ord. 117263 § 53, 1994; Ord. 117202 § 11, 1994; Ord. 116909 § 5, 1993; Ord. 113079 § 3, 1986; Ord. 112840 § 2, 1986; Ord. 112522 § 2(part), 1985.)

23.76.005Time for decisions.

A. Except as otherwise provided in this section or otherwise agreed to by the applicant, land use decisions on applications filed on or after April 1, 1996 shall be made within the time limits set forth in RCW 36.70B.090.

B. Exclusions pursuant to RCW 36.70B.140 (1).

1. Type III decisions.

a. DCLU shall issue its recommendation within one hundred twenty (120) days as that time period is calculated pursuant to RCW 36.70B.090; and

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Exhibit 23.76.004 A
LAND USE DECISION FRAMEWORK

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

TYPE I
Director's Decision
(No Administrative Appeal)

- Compliance with development standards
- Uses permitted outright
- Temporary uses, four weeks or less
- Certain street uses
- Lot boundary adjustments
- Modifications of features bonused under Title 24
- Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation
- Temporary uses, twelve months or less, for relocation of police and fire protection
- Exemptions from right-of-way improvement requirements
- Special accommodation
- Reasonable accommodation
- Minor amendment to a Major Phased Development Permit

TYPE II
Director's Decision
(Appealable to Hearing Examiner*)

- Temporary uses, more than four weeks
- Certain street uses
- Variances
- Administrative conditional uses
- Shoreline decisions (*Appealable to Shorelines Hearings Board along with all related environmental appeals)
- Short subdivisions
- Special exceptions
- Design review
- Northgate General Development Plan
- The following environmental determinations:

  1. Determination of nonsignificance (EIS not required)
  2. Determination of final EIS adequacy
  3. Determinations of significance based solely on historic and cultural preservation
  4. A decision by the Director to approve, condition or deny a project based on SEPA Policies
- Major Phased Development

TYPE III
Hearing Examiner's Decision
(No Administrative Appeal)

- Subdivisions (preliminary plats)

COUNCIL LAND USE DECISIONS

TYPE IV
(Quasi-Judicial)

- Land use map amendments (Rezones)
- Public project approvals
- Major Institution master plans
- Council conditional uses
- Downtown planned community developments

TYPE V
(Legislative)

- Land Use Code text amendments
- Rezones to implement new City Policies
- Concept approval for City facilities
- Major Institution designations

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b. The Hearing Examiner shall issue his or her decision within ninety (90) days of issuance of the DCLU recommendation.

2. Type IV decisions.

a. There shall be no time limit for decisions on Major Institution Master Plans.

b. All other Type IV Council land use decisions and any associated Type II decisions listed in Section 23.76.006 C2 shall be made within the following time periods:

(1) DCLU shall issue its recommendation within one hundred twenty (120) days as that time period is calculated pursuant to RCW 36.70B.090;

(2) The Hearing Examiner shall issue his or her recommendation within ninety (90) days of issuance of the DCLU recommendation; and

(3) The Council shall issue its decision within ninety (90) days of the issuance of the Hearing Examiner recommendation.

3. Any application for a land use decision that the Hearing Examiner or Council remands for further information or analysis shall be excluded from the time periods of RCW 36.70B.090 for the period of remand. The Hearing Examiner or Council shall set a reasonable period for the remand after consideration of the nature and complexity of the issues and, when practicable, after consultation with the parties about the reasonableness of the remand period.

C. Type V Council land use decisions are legislative decisions to which RCW 36.70B.090 does not apply. (Ord. 118012 § 24, 1996.)

Subchapter II Master Use Permits

23.76.006Master Use Permits required.

A. Type I, II and III decisions are components of Master Use Permits. Master Use Permits shall be required for all projects requiring one (1) or more of these decisions.

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards:

2. Establishment or change of use for uses permitted outright, temporary uses for four (4) weeks or less not otherwise permitted in the zone, and temporary relocation of police and fire stations for twelve (12) months or less;

3. The following street use approvals associated with a development proposal:

a. Curb cut for access to parking,

b. Concept approval of street improvements, such as additional on-street parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving;

4. Lot boundary adjustments;

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

a. Plazas,

b. Shopping plazas,

c. Arcades,

d. Shopping arcades,

e. Voluntary building setbacks;

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

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

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

9. Special accommodation pursuant to Section 23.44.015;

10. Reasonable accommodation; and

11. Minor amendment to Major Phased Development Permit.

C. The following are Type II decisions:

1. The following procedural environmental decisions for Master Use Permits and for building, demolition, grading and other construction permits are subject to appeal to the Hearing Examiner and are not subject to further appeal to the City Council (supplemental procedures for environmental review are established in SMC Chapter 25.05, SEPA Policies and Procedures):

a. Determination of Nonsignificance (DNSs), including mitigated DNSs;

b. Determination that a final Environmental Impact Statement (EIS) is adequate; and

c. Determination of Significance based solely on historic and cultural preservation.

2. The following decisions, including any integrated decisions to approve, condition or deny based on SEPA policies, are subject to appeal to the Hearing Examiner (except shoreline decisions and related environmental determinations which are appealable to the Shorelines Hearing Board):

a. Establishment or change of use for temporary uses more than four (4) weeks not otherwise permitted in the zone or not meeting development standards, except temporary relocation of police and fire stations for twelve (12) months or less;

b. Short subdivisions;

c. Variances, provided that variances sought as part of a Type IV decision may be granted by the Council pursuant to Section 23.76.036;

d. Special exceptions, provided that special exceptions sought as part of a Type IV decision may be granted by the Council pursuant to Section 23.76.036;

e. Design review;

f. The following street use decisions:

(1) Sidewalk cafes,

(2) Structural building overhangs,

(3) Areaways;

g. Administrative conditional uses, provided that administrative conditional uses sought as part of a Type IV decision may be approved by the Council pursuant to Section 23.76.036;

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h. The following shoreline decisions (supplemental procedures for shoreline decisions are established in Chapter 23.60):

(1) Shoreline substantial development permits,

(2) Shoreline variances,

(3) Shoreline conditional uses;

i. Northgate General Development Plan;

j. Major Phased Development.

D. The following decision, including any integrated decision to approve, condition or deny based on SEPA policies, is a Type III decision made by the Hearing Examiner: subdivisions (preliminary plats).

(Ord. 118012 § 25, 1996; Ord. 117598 § 4, 1995; Ord. 117263 § 54, 1994; Ord. 117202 § 12, 1994; Ord. 116909 § 6, 1993; Ord. 115326 § 29, 1990; Ord. 113079 § 4, 1986; Ord. 112840 § 3, 1986; Ord. 112830 § 53, 1986; Ord. 112522 § 2(part), 1985.)

23.76.008Preapplication conferences.

A. Prior to official filing with the Director of an application for a Master Use Permit requiring a Type II or III decision, the applicant may request or the Director may require a preapplication conference. The conference shall be held in a timely manner between a Department representative(s) and the applicant to determine the appropriate procedures and review criteria for the proposed project. Preapplication conferences may be subject to fees as established in Chapters 22.901A—22.901T, Permit Fee Subtitle.

B. Design Review. A preapplication conference between Department representative(s) and an applicant for a structure subject to design review, as provided in Chapter 23.41, shall be required. The Director may waive this preapplication conference requirement if an applicant demonstrates, to the Director's satisfaction, experience with Seattle's design review process which would render a preapplication conference unnecessary.

(Ord. 118012 § 26, 1996; Ord. 116909 § 7, 1993: Ord. 112522 § 2(part), 1985.)

23.76.010Applications for Master Use Permits.

A. Applications for Master Use Permits shall be made by the property owner, lessee, contract purchaser, or a City agency, or by an authorized agent thereof. A Master Use Permit applicant shall designate a single person or entity to receive determinations and notices from the Director.

B. All applications for Master Use Permits shall be made to the Director on a form provided by the Department.

C. Applications shall be accompanied by payment of the applicable filing fees, if any, as established in Chapters 22.901A—22.901T, Permit Fee Subtitle.

D. All applications shall contain the submittal information required by the applicable sections of this Title 23, Land Use Code; SMC Title 15, Street and Sidewalk Use; SMC Chapter 25.05, SEPA Policies and Procedures; SMC Chapter 25.09, Regulations for Environmentally Critical Areas, SMC Chapter 25.12, Landmark Preservation; SMC Chapter 25.16, Ballard Avenue Landmark District; SMC Chapter 25.20, Columbia City Landmark District; SMC Chapter 25.22, Harvard-Belmont Landmark District; SMC Chapter 25.24, Pike Place Market Historical District; and other codes as determined applicable by the Director. The following information shall also be required as further specified in the Director's Rule on Application Submittal Guidelines, unless the Director indicates in writing that specific information is not necessary for a particular application:

1. Property information including, but not limited to, address, legal description, Assessor's Parcel number, and project description;

2. Evidence of ownership or authorization from the property owner to make the application;

3. A signed statement of financial responsibility from the applicant acknowledging financial responsibility for all applicable permit fees. If the application is made, in whole or in part, on behalf of the property's owner, lessee, and/or contract purchaser, then the statement of financial responsibility must also include a signed statement of the owner, lessee, and/or contract purchaser acknowledging financial responsibility for all applicable permit fees;

4. Scale drawings with all dimensions shown that include, but are not limited to, the following information:

a. Existing site conditions showing adjacent streets (by name), alleys or other adjacent public property, existing street uses, such as street trees and sidewalk displays, buildings and structures, open space and landscape, access driveways and parking areas,

b. Elevations and sections of the proposed new features,

c. Floor plans showing the proposed new features,

d. Drainage plan,

e. Landscape plan,

f. Right-of-way information showing any work proposed in the public right-of-way,

g. Identification on the site plan of all easements, deed restrictions, or other encumbrances restricting the use of the property, if applicable,

h. Parking layout and vehicular access,

i. Vicinity map,

j. Topographic map, and

k. Open space plan;

5. A statement whether the site includes or is adjacent to a nominated or designated City of Seattle landmark, or has been listed as eligible for landmark status by the state or federal governments, or is within a City of Seattle landmark or special review district. If the site includes a nominated or designated City of Seattle landmark, or is within a City of Seattle landmark or special review district, then the applicant must provide a copy of any application for any required certificate of approval that has been filed with the Department of Neighborhoods. If the site does not include a landmark and is not within a landmark or special review district, then the applicant must provide the following information:

a. Date the buildings on the site were constructed,

b. Name of the architect(s) or builder(s), and

c. For any building fifty (50) or more years old, clear exterior photos of all elevations of the building;

6. Confirmation that any required notification sign has been installed according to the Director's specifications;

7. Information including technical reports, drawings, models or text, necessary to evaluate the development proposal, project site and potential environmental affects related to the following:

a. Soils and geology,
b. Grading,
c. Drainage,
d. Construction impacts,
e. Air quality,
f. Water quality,
g. Water discharge,
h. View impairment,
i. Energy consumption,
j. Animal habitat impacts,
k. Plant ecology, botany and vegetation,
l. Noise,
m. Release and disposal of toxic and hazardous materials,
n. Soil contamination,
o. Dredging,
p. Land use,
q. Housing,
r. Light and glare,
s. Shadow,
t. Aesthetics,
u. Use and demand on recreation facilities,
v. Vehicular traffic and circulation,
w. Parking,
x. Pedestrian circulation,
y. Circulation and movement of goods,
z. Traffic hazard, and
aa. Demand on public service and utilities.

E. Notice of Complete Application.

1. The Director shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the Director shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the Director does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

2. A Master Use Permit application is complete for purposes of this section when it meets the submittal requirements established by the Director in subsection D of this section and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time the application is determined complete or subsequently, if additional information is required to complete review of the application or substantial changes in the permit application are proposed. A determination under this section that an application is complete for purposes of continued processing is not a determination that the application is vested. A vesting determination shall be made only when needed because of a change in applicable laws and shall entail review of the application for compliance with RCW 19.27.095, RCW 58.17.033, and SMC Section 23.76.026.

F. Failure to supply all required information or data within sixty (60) days of a written request may result in a notice of intent to cancel. When a Master Use Permit application and a building permit application for a project are being reviewed concurrently, and the applications are for a project vested to prior Land Use Code provisions, and the project does not conform with the codes in effect while it is being reviewed, cancellation of the Master Use Permit application under the provisions of this subsection shall cause the concurrent cancellation of the building permit application.

(Ord. 118012 § 27, 1996; Ord. 117570 § 20, 1995; Ord. 117430 § 80, 1994; Ord. 117263 § 55, 1994; Ord. 115751 § 1, 1991; Ord. 114473 § 2, 1989; Ord. 112522 § 2(part), 1985.)

23.76.011Notice of pre-design public meeting.

For projects subject to design review, the Director shall provide notice of the required pre-design public meeting by general mailed release. In addition, the Director shall post four (4) placards on or near the site, and shall provide mailed notice.

(Ord. 116909 § 8, 1993.)

23.76.012Notice of application.

A. Notice. When a Master Use Permit application requiring a Type II or III decision is submitted, the Director shall provide notice of application and an opportunity for public comment as described in this section. Notice of application for Type II and III decisions shall be provided within fourteen (14) days after a determination of completeness. To the extent known by the Director, other agencies of local, state or federal governments that may have jurisdiction over some aspect of the project shall be sent notice. No notice or public comment period shall be required for Type I decisions.

B. Types of Notice Required.

1. For projects subject to design review or environmental review, the applicant shall post a large sign on the site, unless an exemption or alternative posting as set forth in this subsection is applicable. The large sign shall be located so as to be clearly visible from the adjacent street or sidewalk, and shall remain posted until final City action on the application has been completed.

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a. In the case of submerged land, the large sign shall be posted on adjacent dry land, if any, owned or controlled by the applicant. If there is no adjacent dry land owned or controlled by the applicant, notice shall be provided according to subsection B1c.

b. Projects limited to interior remodeling, or which are subject to environmental review only because of location over water or location in an environmentally critical area, are exempt from the large sign requirement.

c. As an alternative to the large sign requirement, the Director shall post ten (10) placards within three hundred feet (300′) of the site and at the closest street intersections when one (1) or more of the following conditions exist:

(1) The project site is over five (5) acres;

(2) The applicant is not the property owner, and the property owner does not consent to the proposal;

(3) The site is subject to physical characteristics such as steep slopes or is located such that the large sign would not be highly visible to neighboring residents and property owners or interested citizens.

d. The Director may require both a large sign and the alternative posting measures described in subsection B1c, or may require that more than one (1) large sign be posted, when necessary to assure that notice is clearly visible to the public.

2. For projects which are categorically exempt from environmental review, the Director shall post four (4) placards on or near the site.

3. For all projects requiring notice of application, the Director shall provide notice by General Mailed Release. For projects subject to the large sign requirement, notice in the General Mailed Release shall be published after certification is received by the department that the large sign has been posted.

4. In addition, for variances, administrative conditional uses, temporary uses for more than four (4) weeks, shoreline variances and shoreline conditional uses, the Director shall provide mailed notice.

5. Mailed notice of application for a project subject to design review shall be provided to all persons establishing themselves as parties of record by attending the pre-design public meeting for the project or by corresponding with the Department about the proposed project before the date of publication.

6. Additional notice for subdivisions shall include mailed notice and publication in at least one (1) community newspaper in the area affected by the subdivision.

C. Contents of Notice.

1. The City's official notice of application shall be the notice placed in the General Mailed Release, which shall include the following required elements as specified in RCW 36.70B.110;

a. Date of application, date of notice of completion for the application, and the date of the notice of application;

b. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested by the Director;

c. The identification of other permits not included in the application to the extent known by the Director;

d. The identification of existing environmental documents that evaluate the proposed project, and the location where the application and any studies can be reviewed;

e. A statement of the public comment period and the right of any person to comment on the application, request an extension of the comment period, receive notice of and participate in any hearings, and request a copy of the decision once made, and a statement of any administrative appeal rights;

f. The date, time, place and type of hearing, if applicable and if scheduled at the date of notice of the application;

g. A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and the proposed project's consistency with development regulations; and

h. Any other information determined appropriate by the Director.

2. All other additional forms of notice, including, but not limited to signs, placards and mailed notice, shall include the following information: the project description, location of the project, date of application, location where the complete application file may be reviewed, and a statement that persons who desire to submit comments on the application or who request notification of the decision may so inform the Director in writing within the comment period specified in subsection D. The Director may, but need not, include other information to the extent known at the time of notice of application. Except for the large sign requirement, each notice shall also include a list of the land use decisions sought. The Director shall specify detailed requirements for large signs.

D. Comment Period. The Director shall provide a fourteen (14) day public comment period prior to making a threshold determination of nonsignificance (DNS) or issuing a decision on the project; provided, that the comment period shall be extended by fourteen (14) days if a written request for extension is submitted within the initial fourteen (14) day comment period; provided further that the comment period shall be thirty (30) days for applications requiring shoreline decisions. The comment period shall begin on the date notice is published in the General Mailed Release. Comments shall be filed with the Director by five p.m. (5:00 p.m.) of the last day of the comment period. When the last day of the comment period is a Saturday, Sunday or federal or City holiday, the comment period shall run until five p.m. (5:00 p.m.) the next business day. Any comments received after the end of the official comment period may be considered if material to review yet to be conducted.

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E. When a Master Use Permit application includes more than one (1) decision component, notice requirements shall be consolidated and the broadest applicable notice requirements imposed.
(Ord. 118181 § 4, 1996; Ord. 118012 § 28, 1996; Ord. 117789 § 9, 1995; Ord. 116909 § 9, 1993; Ord. 115244 § 1, 1990; Ord. 112522 § 2(part), 1985.)

23.76.014Notice of scoping and draft EIS.

When a Determination of Significance (DS) is issued on a Master Use Permit application, the following notice and comment procedures shall apply:

A. Scoping.

1. The Director shall determine the range of proposed actions, alternatives and impacts to be discussed in an EIS, as provided by SMC Section 25.05.408, Scoping, and/or Section 25.05.410, Expanded scoping. A comment period at least twenty-one (21) days from the date of DS issuance shall be provided.

2. Notice of scoping and of the period during which the Director will accept written comments shall be provided by the Director in the following manner:

a. General Mailed Release;

b. Publication in the City official newspaper;

c. Submission of the General Mailed Release to at least one (1) community newspaper in the area affected by the proposal;

d. Mailed notice to those organizations and individuals who have submitted a written request for it;

e. Posting in the Department; and

f. Filing with the SEPA Public Information Center.

3. The Director shall also circulate copies of the DS as required by SMC Section 25.05.360.

B. Draft EISs.

1. Notice of the availability of a draft EIS, of the thirty (30) day period during which the Department will accept comments, of the public hearing on the draft EIS and any other Department public hearing as provided in SMC Section 23.76.016 shall be provided by the Director in the following manner:

a. General Mailed Release;

b. Publication in the City official newspaper;

c. Submission of the General Mailed Release to at least one (1) community newspaper in the area affected by the proposal;

d. Mailed notice, including notice to those organizations and individuals who have submitted a written request for it;

e. Posting notice in the Department; and

f. Filing with the SEPA Public Information Center.

2. Notice of the public hearing shall be given by the Director at least twenty-one (21) days prior to the hearing date.

3. The Director shall also distribute copies of the draft EIS as required by SMC Section 25.05.455.
(Ord. 118012 § 29, 1996: Ord. 112522 § 2(part), 1985.)

23.76.015Public meetings.

A. Type II and III Decisions. The Director may hold a public meeting on Master Use Permit applications requiring Type II or III decisions when:

1. The meeting is otherwise provided for in this title;

2. The proposed development is of broad public significance;

3. Fifty (50) or more persons file a written request for a meeting not later than the fourteenth (14) day after notice of the application is provided; or

4. The proposed development will require a shoreline conditional use or a shoreline variance.

B. The Director may combine a public meeting on a project application with any other public meetings that may be held on the project by another local, state, regional, federal or other agency provided that the meeting is held within The City of Seattle. If requested by an applicant, a joint meeting shall be held, provided that the joint meeting can be held within the time periods specified in RCW 36.70B.090, or the applicant agrees in writing to additional time, if needed, to combine the meeting.
(Ord. 118012 § 30, 1996.)

23.76.016Public hearings.

A. Draft EIS. As required by Chapter 25.05, SEPA Policies and Procedures, a public hearing shall be held by the Director on all draft EISs for which the Department is the Lead Agency. The hearing shall occur no earlier than twenty-one (21) days from the date the draft EIS is issued nor later than fifty (50) days from its issuance. The Director may hold the hearing near the site of the proposed project.

B. The Director may combine a public meeting on a project application with any other public hearings that may be held on the project by another local, state, regional, federal or other agency provided that the hearing is held within The City of Seattle. If requested by an applicant, a joint hearing shall be held, provided that the joint hearing can be held within the time periods specified in RCW 36.70B.090, or the applicant agrees in writing to additional time, if needed, to combine the hearing.
(Ord. 118012 § 31, 1996: Ord. 117570 § 21, 1995; Ord. 112522 § 2(part), 1985.)

23.76.018Notice of final EIS.

A. Notice of the availability of any final EIS on a proposed project shall be provided by the Director in the following manner:

1. General mailed release;

2. Publication in the City official newspaper;

3. Submission of the general mailed release to at least one (1) community newspaper in the area affected by the proposal;

4. Mailed notice to those organizations and individuals who have made a written request for it, and to anyone who received or commented on the draft EIS;

5. Posting in the Department; and

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6. Filing with the SEPA Public Information Center.

B. The Director shall also distribute copies of the final EIS as required by SMC Section 25.05.460.

(Ord. 112522 § 2(part), 1985.)

23.76.019Time required for preparation of an EIS.

The time required to prepare an environmental impact statement associated with a Master Use Permit application shall be agreed to by the Director and applicant in writing. Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the Director within one (1) year following the issuance of a Determination of Significance for the proposal, unless the EIS consultant advises that a longer time period is necessary. In that case, the additional time shall be that recommended by the consultant, not to exceed an additional year.

(Ord. 118012 § 32, 1996: Ord. 117430 § 81, 1994.)

23.76.020Director's decisions.

A. Master Use Permit Review Criteria. The Director shall grant, deny, or conditionally grant approval of a Type II decision based on the applicant's compliance with the City's SEPA Policies pursuant to SMC Section 25.05.660, and with the applicable substantive requirements of the Seattle Municipal Code which are in effect at the time the Director issues a decision. If an EIS is required, the application shall be subject to only those SEPA Policies in effect when the Draft EIS is issued. The Director may also impose conditions in order to mitigate adverse environmental impacts associated with the construction process.

B. Timing of Decisions Subject to Environmental Review.

1. If an EIS has been required, the Director's decision shall not be issued until at least seven (7) days after publication of the final EIS, as provided by Chapter 25.05, SEPA Policies and Procedures.

2. If no EIS is required, the Director's decision shall include issuance of a DNS for the project.

C. Notice of Decisions.

1. Type I. No notice of decision is required for Type I decisions.

2. Type II. The Director shall provide notice of all Type II decisions as follows:

a. A list of all Type II decisions shall be compiled and published in the City official newspaper within seven (7) days of the date the decision is made. This list and the date of its publication shall also be posted in a conspicuous place in the Department and shall be included in the General Mailed Release. Notice shall also be mailed to the applicant and to interested persons who have requested specific notice in a timely manner or who have submitted substantive comments on the proposal, and shall be submitted in a timely manner to at least one (1) community newspaper in the area affected by the proposal.

b. DNSs shall also be filed with the SEPA Public Information Center.

c. If the Director's decision includes a mitigated DNS or other DNS requiring a fifteen (15) day comment period pursuant to SMC Chapter 25.05, SEPA Policies and Procedures, the notice of decision shall include notice of the comment period. The Director shall distribute copies of the DNS as required by SMC Section 25.05.340.

d. Any shoreline decision in a Master Use Permit shall be filed with the Department of Ecology and the State Attorney General.

e. The notice of the Director's decision shall state the nature of the applicant's proposal, a description sufficient to locate the property, and the decision of the Director. The notice shall also state that the decision is subject to appeal and shall describe the appropriate appeal procedure.

(Ord. 118012 § 33, 1996; Ord. 112522 § 2(part), 1985.)

23.76.022Administrative appeals.

A. Appealable Decisions.

1. Type I decisions as listed in SMC Section 23.76.006 B are not subject to appeal.

2. All Type II decisions as listed in SMC Section 23.76.006 C shall be subject to an administrative open record appeal as described in this section.

B. Shoreline Appeal Procedures. Appeal of the Director's decision to issue, condition, or deny a shoreline substantial development permit, shoreline variance, or shoreline conditional use as a part of a Master Use Permit must be filed by the appellant with the Shorelines Hearings Board in accordance with the provisions of the Shoreline Management Act of 1971, RCW Chapter 90.58, and the rules established under its authority, WAC 173-14. Appeals of related environmental actions, including DNS's, determination that an EIS is adequate, and the decision to grant, condition or deny the shoreline proposal based on the City's SEPA Policies pursuant to SMC Section 25.05.660, shall be consolidated in the appeal to the Shorelines Hearing Board.

C. Hearing Examiner Appeal Procedures.

1. Consolidated Appeals. All appeals of Type II Master Use Permit decisions other than shoreline decisions shall be considered together in a consolidated hearing before the Hearing Examiner.

2. Standing. Appeals may be initiated by any person significantly affected by or interested in the permit.

3. Filing of Appeals.

a. Appeals shall be filed with the Hearing Examiner by five p.m. (5:00 p.m.) of the fourteenth calendar day following publication of notice of the decision; provided, that when a fifteen (15) day DNS comment period is required pursuant to SMC Chapter 25.05, appeals may be filed until five p.m. (5:00 p.m.) of the twenty-first calendar day following publication of notice of the decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal shall be in writing and shall clearly identify each component of a Type II Master Use Permit being appealed. The appeal shall be accom-

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panied by payment of the filing fee as set forth in SMC Section 3.02.125, Hearing Examiner filing fees. Specific objections to the Director's decision and the relief sought shall be stated in the written appeal.

b. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

c. The Hearing Examiner shall not accept any request for an interpretation included in the appeal unless it complies with the requirements of Section 23.88.020 C3c.

4. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.

5. Notice of Hearing. Notice of the hearing on the appeal shall be mailed by the Director at least twenty (20) days prior to the scheduled hearing date to parties of record and those requesting notice. Notice shall also be included in the next General Mailed Release.

6. Scope of Review. Appeals shall be considered de novo. The Hearing Examiner shall entertain issues cited in the appeal which relate to compliance with the procedures for Type II decisions as required in this chapter, compliance with substantive criteria, determinations of nonsignificance (DNSs), adequacy of an EIS upon which the decision was made, or failure to properly approve, condition or deny a permit based on disclosed adverse environmental impacts and any requests for an interpretation included in the appeal or consolidated appeal pursuant to subsection 23.88.020 C3.

7. Standard of Review. The Director's decisions made on a Type II Master Use Permit shall be given substantial weight, except for determinations on variances, conditional uses, and special exceptions, which shall be given no deference.

8. The Record. The record shall be established at the hearing before the Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony, written argument or exhibits.

9. Postponement or Continuance of Hearing. The Hearing Examiner shall not grant requests for postponement or continuance of an appeal hearing to allow an applicant to proceed with an alternative development proposal under separate application, unless all parties to the appeal agree in writing to such postponement or continuance.

10. Hearing Examiner's Decision. The Hearing Examiner shall issue a written decision within fifteen (15) days after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made. The Director and all parties of record shall be bound by the terms and conditions of the Hearing Examiner's decision.

11. Notice of Hearing Examiner Decision. The Hearing Examiner's decision shall be mailed by the Hearing Examiner on the day the decision is issued to the parties of record and to all those requesting notice. If environmental issues were raised in the appeal, the decision shall also be filed with the SEPA Public Information Center. The decision shall contain information regarding judicial review. To the extent such information is available to the Hearing Examiner, the decision shall contain the name and address of the owner of the property at issue, of the applicant, and of each person who filed an appeal with the Hearing Examiner, unless such person abandoned the appeal or such person's claims were dismissed before the hearing.

12. Appeal of Hearing Examiner's Decision. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

(Ord. 118012 § 34, 1996; Ord. 117789 § 10, 1995; Ord. 117263 § 56, 1994; Ord. 112522 § 2(part), 1985.)

23.76.023Report and recommendation of the Director on subdivisions.

A. The Director shall prepare a written report on subdivision applications. The report shall include:

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;

2. Responses to written comments submitted by interested citizens;

3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter 23.22, its consistency with the applicable goals and objectives of Seattle's land use policies as referenced in SMC Chapter 23.12, the City's SEPA policies and any other applicable official City policies;

4. All environmental documentation, including any checklist, EIS or DNS; and

5. The Director's recommendation to approve, approve with conditions, or deny the application.

B. A DNS or the Director's determination that an EIS is adequate shall be subject to appeal pursuant to the procedures in subsection C of Section 23.76.022.

C. The Director's report shall be submitted to the Hearing Examiner and made available for public inspection at least thirty (30) days prior to the Hearing Examiner's public hearing described in Section 23.76.024.

(Ord. 118012 § 35, 1996.)

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23.76.024Hearing Examiner open record hearing and decision for subdivisions.

A. Consolidation with Environmental Appeal. The Hearing Examiner shall conduct a public hearing, which shall constitute by the Council on the application for preliminary approval of the subdivision. At the same hearing the Hearing Examiner shall also hear any appeals of the Director's procedural environmental determination (determination of nonsignificance or determination of adequacy of a final environmental impact statement) and other Type II decisions.

B. The Hearing Examiner may combine a public hearing on a project application with any other public hearings that shall be held on the project by another local, state, regional, federal or other agency provided that the hearing is held within The City of Seattle. If requested by an applicant, a joint hearing shall be held, provided that the joint hearing can be held within the time periods specified in RCW 36.70B.090, or the applicant agrees in writing to additional time, if needed, to combine the hearing.

C. Notice. The Director shall give notice of the Hearing Examiner's hearing, the Director's environmental determination, and of the availability of the Director's report at least thirty (30) days prior to the hearing by:

1. General Mailed Release;

2. Publication in the City official newspaper and in at least one (1) community newspaper in the area affected by the proposal;

3. Mailed notice and written notice mailed to:

a. The applicant and each of the recipients of the preliminary plat listed in Section 23.22.024, and

b. All owners of real property located within three hundred feet (300′) of any portion of the boundaries of another parcel or other parcels of real property lying adjacent to the property to be subdivided, if the owner of the property to be subdivided owns such adjacent parcel or parcels;

4. Posting in the Department.

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 p.m. (5:00 p.m.) of the fourteenth calendar day following publication of notice of the Director's report, provided that when a fifteen (15) day DNS comment period is required pursuant to SMC 25.05, appeals may be filed until five p.m. (5:00 p.m.) of the twenty-first calendar day following publication of notice of the decision. When the last day of the appeal period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five p.m. (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.

E. Notice of Appeals and Requests for Further Consideration. The Hearing Examiner promptly shall mail notice of the filing of all requests for further consideration and appeals to all parties of record and to those requesting notice.

F. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may conduct a conference prior to the hearing in order to entertain and act on motions, clarify issues, or consider other relevant matters.

G. Written Comments. Written comments on the proposed subdivision and the Director's report and recommendation may be sent to the Hearing Examiner. Only those received prior to the conclusion of the hearing shall be considered by the Hearing Examiner.

H. Hearing.

1. The Hearing Examiner shall limit the evidence, comments, and argument at the combined hearing to those issues that are fairly raised in any written request for further consideration or appeal, as clarified at any pre-hearing conference, and that are relevant to:

a. The compliance of the proposed subdivision with the procedures and standards of this chapter and SMC Chapter 23.22;

b. The appropriateness of any mitigation or denial pursuant to the City's SEPA policies; and

c. The correctness of the Director's procedural environmental determination and other Type II decisions. Appeals of the Director's decisions shall be considered do novo, but the Director's determination shall be given substantial weight.

2. The Hearing Examiner shall establish the record at the hearing. The Hearing Examiner may either close the record after the hearing or leave it open to a specified date to receive additional testimony, exhibits, or written argument.

I. Decision. From the information gained at the hearing, from timely written comments submitted to the Department or the Hearing Examiner, and from the report and recommendation of the Director, all of which shall be made part of the record, the Hearing Examiner shall issue a decision to approve, approve with conditions, remand, or deny the proposed subdivision. On any appeal, the Hearing Examiner may affirm, reverse, remand or modify the Director's decision. These decisions shall be in writing, include findings and conclusions, and be issued within ten (10) working days of the close of the record, unless a longer period is agreed to among the parties.

J. Effect of the Hearing Examiner Decision. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on appeal or appealed to the Shorelines Hearings Board. Any judicial review of decisions not appealable to the Shorelines Hearings Board must be commenced within twenty-one (21) days of issuance of the decision, as provided by RCW 36.70C-.040. Pursuant to RCW 58.17.330, the Hearing Examiner's

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decision on an application for a subdivision shall have the effect of a final decision of the City Council.

K. Distribution of Decision. On the same date that the Hearing Examiner files its decision with the City Clerk, copies of the decision shall be provided by the Hearing Examiner to the applicant, to the Director, to the Director of Transportation, to all persons testifying or submitting information at the hearing, to all persons who submitted substantive comments on the application to either the Director or the Hearing Examiner, and to all those who request a copy.

(Ord. 118409 § 214, 1996: Ord. 118181 § 5, 1996; Ord. 118012 § 36, 1996: Ord. 117789 § 11, 1995; Ord. 116909 § 10, 1993; Ord. 114041 § 1, 1988: Ord. 112522 § 2(part), 1985.)

23.76.026Vesting of development rights.

A. Master Use Permit Components Other Than Subdivisions and Short Subdivisions. Applications for all Master Use Permit components except subdivisions and short subdivisions shall be considered under the Land Use Code and other land use control ordinances in effect on the date a fully complete building permit application, meeting the requirements of Section 106 of the Seattle Building Code,[1] is filed. Until a complete building permit application is filed, such Master Use Permit applications shall be reviewed subject to any zoning or other land use control ordinances that become effective prior to the date that notice of the Director's decision on the application is published, if the decision can be appealed to the Hearing Examiner, or prior to the date of the Director's decision if no Hearing Examiner appeal is available.

An application for a building permit submitted for part of a building or structure shall be considered a complete building permit application for the purpose of this section only if the partial building permit application is for a highrise structure regulated under Section 403 of the Seattle Building Code,[1] and it includes the complete structural frame of the building or structure and schematic plans for the exterior shell of the building.

B. Subdivision and Short Subdivision Components of Master Use Permits. An application for approval of a subdivision or short subdivision of land, as defined in Section 23.84.036 “S,” shall be considered under the Land Use Code and other land use control ordinances in effect when a fully complete Master Use Permit application for such approval which satisfies the requirements of Section 23.22.020 (subdivision) or Sections 23.24.020 and 23.24.030 (short subdivision) is submitted to the Director.

C. Design Review Component of Master Use Permits.

1. If a complete application for a Master Use Permit is filed prior to the date design review becomes required for that type of project, as provided in Section 23.41.004 B, no design review component shall be required.

2. A complete application for a Master Use Permit that includes a design review component shall be considered under the Land Use Code and other land use control ordinances in effect on the date a complete application for the design review pre-design process is submitted to the Director, provided that such Master Use Permit application is filed within ninety (90) days of the date of the first design review pre-design public meeting. This vested right shall terminate unless a complete application for a building permit meeting the requirements of Section 106 of the Seattle Building code[1] is submitted within one hundred twenty (120) days of the date the Master Use Permit is approved for issuance.

D. Notwithstanding any other provision of this section or this chapter, no application for a permit for development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020 B1a, shall vest during the term of the ordinance codified in this section unless the Director permits the work pursuant to subsections A, B, C, D, or E of Section 25.09.010.

E. Notwithstanding any other provision of this section or this chapter, all development that is subject to Chapter 25.09 and that is proposed for a landslide-prone area as described in Section 25.09.020 B1a, shall have its vested rights suspended as follows during the term of the ordinance codified in this section:

1. No notice of the Director's decision on an application for a Master Use Permit shall be published unless the Director is satisfied that no significant changes in conditions at the site or surrounding area have occurred that render invalid or out-of-date the analysis and recommendations contained in the technical reports and other application materials previously submitted to DCLU as part of the application for the Master Use Permit;

2. No building permit shall issue; and

3. No approval of the foundation and site of a building or structure, as required by Section 108.5.2 of the Seattle Building Code,[1] shall be granted.

This suspension of vested rights shall not apply to the extent that development is permitted by the Director pursuant to subsections A, B, C, D, or E of Section 25.09.010.

(Ord. 118539 § 7, 1997; Ord. 118466 § 3, 1997; Ord. 118012 § 37, 1996: Ord. 117598 § 5, 1995; Ord. 115751 § 2, 1991; Ord. 113977 § 1, 1988: Ord. 112522 § 2(part), 1985.)

1.Editor's Note: The Seattle Building Code, adopted by Section 22.100.010, is on file in the City Clerk's office.

23.76.028Type I and II Master Use Permit issuance.

A. When a Type I or II Master Use Permit is approved for issuance, the applicant shall be so notified. Type I Master Use Permits shall be approved for issuance at the time of the Director's decision that the application conforms to all applicable laws (Section 23.76.020). A Type II Master Use Permit may be approved for issuance on the day following expiration of the applicable appeal period or, if appealed, on the fourth day following a final appeal decision to grant or conditionally grant the permit. Master Use Permits shall not be issued to the applicant until all outstanding fees are paid.

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B. When a Master Use Permit is approved for issuance according to subsection A, and a condition of approval requires revisions of the Master Use Permit plans, the revised documents shall be submitted within sixty (60) days of the date the permit is approved for issuance. The Director may extend the period for submittal of the revised documents if it is determined that there are good reasons for the delay which are satisfactory to the Director, or if a different schedule is agreed upon.

C. Once a Master Use Permit is approved for issuance according to subsection A, and any required revisions have been submitted and approved according to subsection B, the applicant shall pay any required fees and pick up the Master Use Permit within sixty (60) days of notice that the permit is ready to be issued. Failure to pick up the permit within sixty (60) days may result in a written notice of intent to cancel. If the Master Use Permit is not picked up within thirty (30) days from the date of written notice of intent to cancel, the approval shall be revoked and the Master Use Permit application shall be canceled. When a Master Use Permit is for a project vested to prior Land Use Code provisions because of an associated building permit application, and the project does not conform with the codes in effect at the time it is ready to issue, then no notice that the Master Use Permit is ready to issue shall be given until the building permit associated with the project is also ready to issue.

(Ord. 118012 § 38, 1996: Ord. 117570 § 22, 1995; Ord. 115751 § 3, 1991: Ord. 112522 § 2(part), 1985.)

Cases: Under an earlier ordinance, no rights may vest where either the application submitted or the permit issued fails to conform to the zoning or building code. **Eastlake Community Council v. Roanoke Associates, Inc.**, 82 Wn.2d 475, 513 P.2d 36 (1973).

A hotel is distinguished from a home for the retired in that the latter provides domiciliary care for persons who are unable or do not desire to provide such care for themselves. **State ex rel. Meany Hotel, Inc. v. Seattle**, 66 Wn.2d 329, 402 P.2d 486 (1965).

A building permit issued in violation of law or under a mistake of fact confers no rights. **Steele v. Queen City Broadcasting Co.**, 54 Wn.2d 402, 341 P.2d 499 (1950), **Nolan v. Blackwell**, 123 Wash. 504, 212 P. 1048 (1923).

23.76.032 Expiration and renewal of Type I and II Master Use Permits.

A. Expiration.

1. A Type I or II Master Use Permit shall expire eighteen (18) months from the date a permit is approved for issuance as described in Section 23.76.028, except as follows:

a. Expiration of a Master Use Permit with a shoreline component shall be governed by WAC 173-14-060.

b. Expiration of a variance component of a Master Use Permit shall be governed by the following:

(1) Variances for access, yards, setback, open space, or lot area minimums granted as part of short plat or lot boundary adjustment shall run with the land in perpetuity as recorded with the Director of the King County Department of Records and Elections.

(2) Variances granted as separate Master Use Permits pursuant to Section 23.76.010 D shall expire eighteen (18) months from the date the permit is approved for issuance as described in Section 23.76.028 or on the effective date of any text amendment making more stringent the development standard from which the variance was granted, whichever is sooner. If a Master Use Permit to establish the use is granted within this period, the variance's expiration date shall be extended until the expiration date established for the use approval.

c. The time during which pendency of litigation related to the Master Use Permit made it reasonable not to submit an application for a building permit, or to establish a use where a building permit is not required, shall not be included in the eighteen (18) month term of the Master Use Permit.

d. Master Use Permits entered in the competition for office space downtown established under Section 23.49.011 shall expire as follows:

(1) Eighteen (18) months from the date that the project is chosen to receive an office space allocation; or

(2) If the project is not chosen to receive an office space allocation in the first year that it is entered in the competition, it shall expire either:

(a) On the date that the opportunity to enter the next competition has passed, and the project has not been entered, or

(b) If it is chosen in the next competition to receive an office space allocation, eighteen (18) months from the date that the project is chosen, or

(c) On the date that it is not chosen to receive an office allocation in the next competition, or

(d) Eighteen (18) months from the date that the permit is approved for issuance as described in Section 23.76.028, whichever is greater;

(3) Master Use Permits entered in the competition for office space downtown may be renewed pursuant to subsection B.

e. Expiration of use approval to legalize previously unauthorized accessory dwelling units when final inspection approval for modifications required for Building or Housing Code compliance is not obtained within two (2) years from the date of application for the Master Use Permit is governed by Section 23.44.041 B.

f. Master Use Permits with a Major Phased Development component established under Section 23.47.007 or 23.50.015 shall expire as follows:

(1) For the first phase, twenty-four (24) months from the date the permit is approved for issuance, except as provided in subsection B;

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(2) For subsequent phases, expiration shall be determined at the time of permit issuance.

g. Master Use Permits with a Design Review Component are subject to Section 23.76.026 C2. If the Land Use Code or other land use control ordinances change prior to publication of the Director's decision on a Master Use Permit that contains a design review component and qualifies for vesting pursuant to Section 23.76.026 C2, such Master Use Permit shall expire one hundred twenty (120) days from the date the Master Use Permit is approved for issuance, unless a complete application for a building permit meeting the requirements of Section 106 of the Seattle Building Code[1] is submitted within one hundred twenty (120) days of the date the Master Use Permit is approved for issuance.

2. At the end of the eighteen (18) month term, Master Use Permits shall expire unless:

a. A building permit is issued before the end of the eighteen (18) month term, or an application for a building permit is: (1) submitted at least sixty (60) days before the end of the eighteen (18) month term; (2) made sufficiently complete to meet the requirements of Section 106 of the Seattle Building Code[1] before the end of the eighteen (18) month term; and (3) subsequently issued. In such cases, the Master Use Permit shall be extended for the same term as the building permit is issued. For highrise structures regulated under Section 403 of the Seattle Building Code,[1] the building permit application may be a partial one, provided that it includes the complete structural frame of the building, and schematic plans for the exterior shell of the building. If a building permit is issued and renewed within the original eighteen (18) month term of a Master Use Permit, the Master Use Permit shall be extended in the same manner; or

b. For projects which do not require a building permit, the use has been established prior to the expiration date of the Master Use Permit and is not terminated by abandonment or otherwise. In such cases the Master Use Permit shall not expire; or

c. The Master Use Permit is extended pursuant to subsection A3; or

d. The Master Use Permit is renewed as provided in subsection B; or

e. A Major Phased Development component is part of the Master Use Permit, in which case subsection A1f shall apply.

3. When a building permit has been issued and the conditions of Section 106.9.2 of the Seattle Building Code[1] are met, the Master Use Permit shall be automatically extended for the life of the building permit and no Master Use Permit renewal shall be required.

B. Renewal.

1. The Director shall renew Master Use Permits for projects which are in conformance with applicable regulations, including land use and environmentally critical areas regulations, and SEPA policies in effect at the time renewal is sought. The Director shall not renew Master Use Permits for projects which are not in conformance with applicable regulations, including land use and environmentally critical areas regulations, or SEPA policies in effect at the time renewal is sought, except for second and subsequent phases of an approved Master Use Permit with a Major Phased Development component for which this subsection B does not apply.

2. If a building permit has been issued for a project, any subsequent Master Use Permit renewals as permitted by this section shall be concurrent with and for the same term as renewal of the building permit.

3. If no building permit has been issued, Master Use Permit renewal shall be for a period of one (1) year. A Master Use Permit shall not be renewed beyond a period of five (5) years from the original date of permit issuance without an issued building permit, except for second and subsequent phases of a Master Use Permit with a major phased development (MPD) component, for which this subsection B does not apply; the permit deadlines for these MPD projects shall be governed by the MPD decision.

(Ord. 118472 § 6, 1997; Ord. 118181 § 6, 1996; Ord. 118012 § 40, 1996; Ord. 117598 § 6, 1995: Ord. 117203 § 5, 1994; Ord. 116262 § 20, 1992; Ord. 115751 § 4, 1991; Ord. 114473 § 3, 1989; Ord. 112522 § 2(part), 1985.)

1.Editor's Note: The Seattle Building Code, adopted by Section 22.100.010, is on file in the City Clerk's office.

23.76.034Suspension and revocation of Master Use Permits.

A. A Master Use Permit may be revoked or suspended by the Director if any of the following conditions are found:

1. The permittee has developed the site in a manner not authorized by the permit; or

2. The permittee has not complied with the conditions of the permit; or

3. The permittee has secured the permit with false or misleading information; or

4. The permit was issued in error.

B. Whenever the Director determines upon inspection of the site that there are grounds for suspending or revoking a permit, the Director may order the work stopped; provided that any shoreline component of a Master Use Permit shall not be revoked until a public hearing has been held pursuant to the procedures set forth in SMC Section 23.60.078. A written stop work order shall be served on the person(s) doing or causing the work to be done. All work shall then be stopped until the Director finds that the violations and deficiencies have been rectified. Written notice of the stop work order shall be mailed to all persons who have expressed a complaint leading to the stop work order.

C. The procedures for appealing a stop work order for all Master Use Permit components other than shoreline components shall be as follows:

1. Persons who receive a stop work order issued under subsection B above may appeal the order to the Hearing Examiner. Appeals shall be filed with the Hearing Examiner by five (5:00) p.m. of the fifteenth calendar day following service of the stop work order. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the appeal

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period shall run until five (5:00) p.m. on the next business day.

2. The Hearing Examiner shall hold a public hearing on the appeal of the Director's decision in order to review the facts and determine whether grounds for revocation or suspension exist.

3. Notice of hearing shall be provided at least twenty (20) days prior to hearing by written notice to the permittee and to any persons who have expressed a complaint leading to the stop work order.

4. The Hearing Examiner's decision shall be issued within fifteen (15) days following the hearing.

5. The Hearing Examiner shall give notice of the decision in writing to the permittee, the Director and to persons who have made a request in a timely manner.

(Ord. 117263 § 57, 1994; Ord. 112522 § 2(part), 1985.)

Subchapter III Council Land Use Decisions

Part 1 Application and DCLU Review

23.76.036Council decisions required.

A. The Council shall make the following Type IV Council land use decisions, including any integrated decisions to approve, condition or deny based on SEPA Policies, and any associated Type II decisions listed in Section 23.76.006 C2:

1. Amendments to the Official Land Use Map, including changes in overlay districts and shoreline environment redesignations, except those initiated by the City to implement new land use policies adopted by ordinance, and except boundary adjustments caused by the acquisition, merger or consolidation of two (2) Major Institutions pursuant to Section 23.69.023;

2. Public projects proposed by applicants other than The City of Seattle that require Council approval;

3. Major Institution master plans (supplemental procedures for master plans are established in SMC Chapter 23.69);

4. Council conditional uses; and

5. Downtown planned community developments.

B. Council action shall be required for the following Type V land use decisions:

1. City-initiated amendments to the Official Land Use Map to implement new land use policies;

2. Amendments to the text of SMC Title 23, Land Use Code;

3. Concept approval for the location or expansion of City facilities requiring Council land use approval by SMC Title 23, Land Use Code; and

4. Major Institution designations and revocations of Major Institution designations.

(Ord. 118012 § 41, 1996; Ord. 117570 § 23, 1995: Ord. 115165 § 11, 1990; Ord. 115002 § 15, 1990; Ord. 112522 § 2(part), 1985.)

4. Scale drawings with all dimensions shown that include, but are not limited to, the following information:

23.76.038Pre-application conferences.

Prior to official filing with the Director of an application for a Type IV decision, the applicant may request or the Director may require a pre-application conference. The conference shall be held in a timely manner between a Department representative(s) and the applicant to determine the appropriate procedures and review criteria for the proposed project. Pre-application conferences may be subject to fees as established in SMC Chapters 22.901A—22.901T, Permit Fee Subtitle.

(Ord. 118012 § 42, 1996: Ord. 112522 § 2(part), 1985.)

23.76.040Applications for Council land use decisions.

A. Applications for Type IV and V decisions shall be made by the property owner, lessee, contract purchaser, City agency, or an authorized agent thereof; provided that any interested person may make application for an amendment to the Official Land Use Map or an amendment to the text of Title 23, Land Use Code.

B. All applications for Council land use decisions shall be made to the Director on a form provided by the Department. The Director shall promptly transmit applications for Council land use decisions to the City Clerk for filing with the Council.

C. Applications shall be accompanied by payment of the applicable filing fees, if any, as established in SMC Chapters 22.901A—22.901T, Permit Fee Subtitle.

D. All applications shall contain the submittal information required by the applicable sections of this Title 23, Land Use Code; SMC Title 15, Street and Sidewalk Use; SMC Chapter 25.05, SEPA Policies and Procedures; SMC Chapter 25.09, Regulations for Environmentally Critical Areas; SMC Chapter 25.12, Landmark Preservation; SMC Chapter 25.16, Ballard Avenue Landmark District; SMC Chapter 25.20, Columbia City Landmark District; SMC Chapter 25.22, Harvard-Belmont Landmark District; SMC Chapter 25.24, Pike Place Market Historical District; and other codes as determined applicable by the Director. The following information shall also be required as further specified in the Director's Rule on Application Submittal Guidelines, unless the Director indicates in writing that specific information is not necessary for a particular application:

1. Property information including, but not limited to, address, legal description, Assessor's Parcel number, and project description;

2. Evidence of ownership or authorization from the property owner for Council Conditional Uses and Downtown Planned Community Developments;

3. A signed statement of financial responsibility from the applicant acknowledging financial responsibility for all applicable permit fees. If the application is made, in whole or in part, on behalf of the property's owner, lessee, and/or contract purchaser, then the statement of financial responsibility must also include a signed statement of the owner, lessee, and/or contract purchaser acknowledging financial responsibility for all applicable permit fees;

a. Existing site conditions showing adjacent streets (by name), alleys or other adjacent public property, existing street uses, such as street trees and

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sidewalk displays, buildings and structures, open space and landscape, access driveways and parking areas,

b. Elevations and sections of the proposed new features,

c. Floor plans showing the proposed new features,

d. Drainage plan,

e. Landscape plan,

f. Right-of-way information showing any work proposed in the public right-of-way,

g. Identification on the site plan of all easements, deed restrictions, or other encumbrances restricting the use of the property, if applicable,

h. Parking layout and vehicular access,

i. Vicinity map,

j. Topographic map, and

k. Open space plan;

5. A statement whether the site includes or is adjacent to a nominated or designated City of Seattle landmark, or has been listed as eligible for landmark status by the state or federal governments, or is within a City of Seattle landmark or special review district. If the site includes a nominated or designated City of Seattle landmark, or is within a City of Seattle landmark or special review district, then the applicant must provide a copy of any application for any required certificate of approval that has been filed with the Department of Neighborhoods. If the site does not include a landmark

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and is not within a landmark or special review district, then the applicant must provide the following information:

a. Date the buildings on the site were constructed,

b. Name of the architect(s) or builder(s), and

c. For any building fifty (50) or more years old, clear exterior photos of all elevations of the building;

6. Confirmation that any required notification sign has been installed according to the Director's specifications;

7. Information, including technical reports, drawings, models or text, necessary to evaluate the development proposal, project site and potential environmental affects related to the following:

a. Soils and geology,
b. Grading,
c. Drainage,
d. Construction impacts,
e. Air quality,
f. Water quality,
g. Water discharge,
h. View impairment,
i. Energy consumption,
j. Animal habitat impacts,
k. Plant ecology, botany and vegetation,
l. Noise,
m. Release and disposal of toxic and hazardous materials,
n. Soil contamination,
o. Dredging,
p. Land use,
q. Housing,
r. Light and glare,
s. Shadow,
t. Aesthetics,
u. Use and demand on recreation facilities,
v. Vehicular traffic and circulation,
w. Parking,
x. Pedestrian circulation,
y. Circulation and movement of goods,
z. Traffic hazard, and
aa. Demand on public service and utilities.

E. Notice of Complete Application.

1. The Director shall determine whether an application is complete and shall notify the applicant in writing within twenty-eight (28) days of the application being filed whether the application is complete or that the application is incomplete and what additional information is required before the application will be complete. Within fourteen (14) days of receiving the additional information, the Director shall notify the applicant in writing whether the application is now complete or what additional information is necessary. An application shall be deemed to be complete if the Director does not notify the applicant in writing by the deadlines in this section that the application is incomplete. A determination that the application is complete is not a determination that the application is vested.

2. An application for a Council land use decision is complete for purposes of this section when it meets the submittal requirements established by the Director in subsection D of this section and is sufficient for continued processing even though additional information may be required or project modifications are under-

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taken subsequently. The determination of completeness shall not preclude the Director from requesting additional information or studies either at the time of the notice of completeness or subsequently, if additional information is required to complete review of the application or if substantial changes in the permit application are proposed. A determination under this section that an application is complete for purposes of continued processing is not a determination that the application is vested. A vesting determination shall be made only when needed because of a change in applicable laws and shall entail review of the application for compliance with RCW 19.27.095 and SMC Section 23.76.026.

F. Failure to supply all required information or data within sixty (60) days of a written request may result in a notice of intent to cancel. When a Council land use application and a building permit application for a project are being reviewed concurrently, and the applications are for a project vested to prior Land Use Code provisions, and the project does not conform with the codes in effect while it is being reviewed, cancellation of the Council land use application under the provision of this subsection shall cause the concurrent cancellation of the building permit application.

(Ord. 118012 § 43, 1996; Ord. 117570 § 24, 1995: Ord. 117430 § 82, 1994; Ord. 112522 § 2(part), 1985.)

23.76.042Notice of application.

A. Notice Required. For all Type IV decisions, for Major Institution designations, and for City facilities requiring Council approval, notice of application shall be provided in the manner prescribed by Section 23.76.012 for Master Use Permits.

B. Additional Notice for Major Institutions. The Director shall provide the following additional notice for Major Institution master plans and designations.

1. For Major Institution master plans, notice of intent to file a master plan application shall be published in the general mailed release and the City official newspaper and mailed notice shall also be provided. The notice of intent to file a master plan application shall indicate that an advisory committee is to be formed as provided in Section 23.69.032.

2. Mailed notice shall be provided for Major Institution designations and for revocation of Major Institution designations, and notice shall also be published in the City official newspaper once a week for two (2) consecutive weeks.

C. Additional Notice in the Southeast Seattle Reinvestment Area. The Director shall provide additional notice for Type IV decisions in the Southeast Seattle Reinvestment Area overlay district, by publishing the notice of application in at least one (1) community newspaper in the area affected by the proposal.

(Ord. 116145 § 4, 1992; Ord. 115002 § 16, 1990; Ord. 112522 § 2(part), 1985.)

23.76.044Notice of scoping and draft EIS.

Notice of Scoping and of Draft EISs for Type IV decisions shall be as provided for Master Use Permits in Section 23.76.014.

(Ord. 112522 § 2(part), 1985.)

23.76.046Public meetings and hearings.

A. Preliminary Council Meeting on City Facilities Requiring Council Approval. When a City agency proposing a new City facility or expansion of an existing City facility determines that an EIS is required for the project, the Council shall hold an early public meeting to determine the need for and functions of the proposed facility, identify the source of funding, and establish site selection criteria. The meeting shall be held as part of the scoping process as required by SMC Chapter 25.05, SEPA Policies and Procedures.

B. Draft EISs on Type IV and V Decisions. A public hearing shall be held by the Director on all draft EIS's for which the Department is the lead agency, pursuant to SMC Chapter 25.05. The hearing shall occur no earlier than twenty-one (21) days from the date the draft EIS is issued nor later than fifty (50) days from its issuance. The Director may hold the hearing near the site of the proposed project. For Major Institution master plans, the draft EIS hearing shall be combined with a hearing on the draft master plan as required by Section 23.69.032.

(Ord. 118012 § 44, 1996; Ord. 115002 § 17, 1990; Ord. 112522 § 2(part), 1985.)

23.76.048Notice of final EISs.

Notice of the availability of a final EIS for a Type IV or V decision shall be as provided for Master Use Permits in Section 23.76.018.

(Ord. 112522 § 2(part), 1985.)

23.76.049Time required for preparation of an EIS.

The time required to prepare an environmental impact statement associated with a Council land use decision shall be agreed to by the Director and applicant in writing. Unless otherwise agreed to by the applicant, a final environmental impact statement shall be issued by the Director within one (1) year following the issuance of a Determination of Significance for the proposal, unless the EIS consultant advises that a longer time period is necessary. In that case, the additional time shall be that recommended by the consultant, not to exceed an additional year.

(Ord. 118012 § 45, 1996: Ord. 117430 § 83, 1994.)

23.76.050Report of the Director.

A. The Director shall prepare a written report on applications for Type IV and V decisions and any associated Type II Master Use Permits listed in Section 23.76.006 C2, provided that in the case of a text amendment sponsored by a member of the City Council, the Director shall prepare a written report only if such report is requested by a member of the City Council. The report shall include:

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1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;

2. Responses to written comments submitted by interested citizens;

3. An evaluation of the proposal based on the standards and criteria for the approval sought and consistency with the applicable goals and objectives of Seattle's land use policies as referenced in SMC Chapter 23.12, the City's SEPA policies and any other applicable official City policies;

4. All environmental documentation, including any checklist, EIS or DNS;

5. The Director's recommendation to approve, approve with conditions, or deny a proposal.

B. A DNS or the Director's determination that an EIS is adequate shall be subject to appeal pursuant to the procedures in subsection C of Section 23.76.022.

C. For Type IV Decisions, the Director's report shall be submitted to the Hearing Examiner and made available for public inspection at least twenty-one (21) days prior to the Hearing Examiner's open record predecision public hearing described in Section 23.76.052.

D. For Type V decisions, the Director's report shall be submitted to the Council and shall be available to the public at least fifteen (15) days before the Council hearing described in Section 23.76.062.

(Ord. 118012 § 46, 1996; Ord. 117929 § 9, 1995; Ord. 112522 § 2(part), 1985.)

Part 2 Quasi-judicial Decisions (Type IV)

23.76.052 Hearing Examiner open record predecision hearing and recommendation.

A. General — Consolidation With Environmental Appeal. The Hearing Examiner shall conduct a public hearing, which shall constitute a hearing by the Council, on all applications for Type IV (quasi-judicial) Council land use decisions and any associated variances, special exceptions and administrative conditional uses. At the same hearing, the Hearing Examiner shall also hear any appeals of the Director's Type II decisions and any interpretations.

B. The Hearing Examiner may combine a public hearing on a project application with any other public hearing that may be held on the project by another local, state, regional, federal or other agency. If requested by an applicant, a joint hearing shall be held, provided that the joint hearing can be held within the time periods specified in RCW 36.70B.090, or the applicant agrees in writing to additional time, if needed, to combine the hearing.

C. Notice.

1. The Director shall give notice of the Hearing Examiner's hearing, the Director's environmental determination, and of the availability of the Director's report at least fifteen (15) days prior to the hearing by:

a. General Mailed Release;

b. Publication in the City official newspaper;

c. Submission of the General Mailed Release to at least one (1) community newspaper in the area affected by the proposal;

d. At least four (4) placards posted at places visible to the public, including street intersections, within three hundred feet (300′) of the boundaries of the project. For hearings on Major Institution Master Plans, a minimum of ten (10) placards shall be posted;

e. Mailed notice; and

f. Posting in the Department.

2. DNSs shall also be filed with the SEPA Public Information Center. If the Director's decision includes a mitigated DNS or other DNS requiring a fifteen (15) day comment period pursuant to SMC Section 25.05.340, the notice of DNS shall include notice of the comment period. The Director shall distribute copies of such DNSs as required by SMC Section 25.05.340.

3. The notice shall state the project description, type of land use decision under consideration, a description sufficient to locate the subject property, where the complete application file may be reviewed, and the Director's recommendation and environmental determination. The notice shall also state that the environmental determination is subject to appeal and shall describe the appeal procedure.

D. Appeal of Environmental Determination. Any person significantly interested in or affected by the Type IV decision under consideration may appeal the Director's procedural environmental determination subject to the following provisions:

1. Filing of Appeals. Appeals shall be submitted in writing to the Hearing Examiner by five p.m. (5:00 p.m.) of the fourteenth calendar day following publication of notice of the determination, provided that when a fifteen (15) day DNS comment period is required pursuant to SMC Section 25.05.340, appeals may be filed until five p.m. (5:00 p.m.) of the twenty-first calendar day following publication of the notice of the determination. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal shall be in writing and shall state specific objections to the environmental determination and the relief sought. The appeal shall be accompanied by payment of the filing fee as set forth in the Seattle Municipal Code Section 3.02.125, Hearing Examiner filing fees. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

2. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior

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to the hearing in order to entertain and act on motions, clarify issues, or consider other relevant matters.

3. Notice of Appeal. Notice of filing of the appeal and of the date of the consolidated hearing on the appeal and the Type IV land use decision recommendation shall be promptly mailed by the Hearing Examiner to parties of record and those requesting notice.

4. Scope of Review. Appeals shall be considered de novo. The Hearing Examiner shall entertain only those issues cited in the written appeal which relate to compliance with the procedures for Type IV decisions as required in this chapter and the adequacy of the environmental documentation upon which the determination was made.

5. Standard of Review. The Director's environmental determination shall be given substantial weight.

E. Conduct of Hearing. The Hearing Examiner at the public hearing will accept evidence and comments regarding:

1. The Director's report, including an evaluation of the project based on applicable City ordinances and policies and the Director's recommendation to approve, approve with conditions, or deny the application; and

2. Specific issues related to the Director's environmental determination, if appealed.

F. The Record. The record shall be established at the hearing before the Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony, written argument, or exhibits.

G. Written Comments. Written comments on the application for a Type IV land use decision and the Director's report and recommendation may be sent to the Department or the Hearing Examiner. Only those received prior to the conclusion of the hearing shall be considered by the Hearing Examiner.

H. Recommendation. From the information gained at the hearing, from timely written comments submitted to the Department or the Hearing Examiner, and from the report and recommendation of the Director, the Hearing Examiner shall submit a recommendation to the Council by filing it together with the record with the City Clerk within fifteen (15) days after the close of the hearing record provided, that the Hearing Examiner's report on a Major Institution Master Plan shall be submitted within thirty (30) days. The recommendation to approve, approve with conditions, or deny an application shall be based on the written findings and conclusions.

I. Environmental Appeal Decision. If the Director's environmental determination is appealed, the Hearing Examiner shall affirm, reverse, remand or modify the Director's determination that an EIS is not required (DNS) or that an EIS is adequate, based on written findings and conclusions. The Director shall be bound by the terms and conditions of the Hearing Examiner's decision. If the environmental determination is remanded, the Hearing Examiner shall also remand the Director's recommendation for reconsideration. The Hearing Examiner's decision on a DNS or EIS adequacy appeal shall not be subject to Council appeal. The time period for requesting judicial review of the environmental determination shall not commence until the Council has completed action on the Type IV decision for which the DNS or EIS was issued.

J. Distribution of Decision and Recommendation. On the same date that the Hearing Examiner files a recommendation with the City Clerk, copies of the recommendation and environmental appeal decision, if any, shall be mailed by the Hearing Examiner to the applicant, to the Director, to all persons testifying or submitting information at the hearing, to all persons who submitted substantive comments on the application to either the Director or the Hearing examiner, and to all those who request a copy in a timely manner. Notice of the Hearing Examiner's recommendation to the Council shall include instructions for requesting the Council to further consider the recommendation on the Type IV decision.

K. File to Council. The City Clerk shall file the recommendation and record with the original application and transmit the same to the Council.

(Ord. 118012 § 47, 1996: Ord. 112522 § 2(part), 1985.)

23.76.054 Council consideration of Hearing Examiner recommendation.

A. Any person substantially affected by or interested in the Hearing Examiner's recommendation regarding a Type IV land use decision may submit in writing to the Council a request for further consideration of the recommendation. No requests for further consideration of a DNS or the determination that an EIS is adequate will be accepted.

B. Requests for further consideration shall be filed with the Council by five p.m. (5:00 p.m.) of the fourteenth calendar day following the date of issuance of the Hearing Examiner's recommendation. When the last day of the request period so computed is a Saturday, Sunday or federal or City holiday, the request period shall run until five p.m. (5:00 p.m.) on the next business day. The request shall clearly identify specific objections to the Hearing Examiner's recommendation, facts missing from the record, and the relief sought.

C. After Council receipt of the request for further consideration, the Council shall mail a copy of the request for further consideration and instructions for responding to the request to those individuals who were provided written notice of the Hearing Examiner's action. Such notice shall be mailed at least seven (7) days prior to the date of the Council's public meeting to consider the request for further consideration.

D. Council action shall be based on the record established by the Hearing Examiner; provided, however, that if a request for further consideration includes a request to supplement the record, the Council may supplement the record with new evidence or information if the Council determines that the new evidence or information was not available or could not reasonably have been produced at the time of the open record hearing before the Hearing Examiner. The Council may remand an application for a Type IV land use decision only when the Council has voted to supplement the record and the

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Council determines that it is necessary for the Director or the Hearing Examiner to receive the new evidence and reconsider the application in light of it. The Council may allow oral or written arguments based on the record.
(Ord. 118012 § 48, 1996; Ord. 112522 § 2(part), 1985.)

23.76.056Council decision on Hearing Examiner recommendation.

A. The Council's decision to approve, approve with conditions, remand, or deny the application for a Type IV land use decision shall be based on the record established pursuant to SMC Section 23.76.054.

B. The Council shall adopt written findings and conclusions in support of its decision regarding Type IV land use decisions.

C. To the extent such information is available to the Council, the decision should contain the name and address of the owner of the property at issue, of the applicant, and of each person who filed a request for further consideration with the Council, unless such person abandoned the request or such person's claims were dismissed before the hearing.

D. Any Type IV decision shall be final and conclusive unless Council retains jurisdiction or the decision is reversed or remanded on judicial appeal or appeal to the Shorelines Hearings Board. Any judicial review of a decision not appealable to the Shorelines Hearings Board must be commenced within twenty-one (21) days of issuance of the Council's decision, as provided by RCW 36.70C.040.

E. A copy of the Council's findings, conclusions and decision shall be transmitted to the City Clerk who shall promptly send a copy to the Director and the Hearing Examiner, and shall promptly mail copies to all parties of record and to any person who has submitted substantive comments to the Director, Hearing Examiner or City Council on the proposal. The Clerk's transmittal letter shall include official notice of the time and place for seeking judicial review. The Director shall be bound by and incorporate the terms and conditions of the Council's decision in permits issued to the applicant or on approved plans.

F. Re-application Rules. If an application for a Type IV decision is denied with prejudice by the Council, no application for the same or substantially the same decision shall be considered until twelve (12) consecutive months have passed since the filing of the denial of the application. After twelve (12) months, the Council shall consider an application for the same decision only if the applicant establishes that there has been a substantial change of circumstances pertaining to a material issue.
(Ord. 118181 § 7, 1996; Ord. 118012 § 49, 1996; Ord. 117789 § 12, 1995; Ord. 112522 § 2(part), 1985.)

23.76.058Rules for specific decisions.

A. Shoreline Decisions. For shoreline environment reclassifications, a copy of the Council's findings, conclusions and decision shall also be filed with the Department of Ecology. Shoreline environment reclassifications shall not become effective until approved by the Department of Ecology.

B. Contract Rezones.

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1. When a property use and development agreement is required as a condition to an amendment of the Official Land Use Map, the ordinance rezoning the property shall provide for acceptance of the agreement and shall not be passed by the Council until the agreement has been executed by the owner. The executed agreement shall be recorded in the real property records of King County and filed with the City Clerk within one hundred twenty (120) days of adoption of the ordinance accepting the agreement.

2. Amendment of Contract Rezone. Agreements required as a condition to map amendments may be amended by agreement between the owner and the City, provided the amended agreement shall be approved by the Council. Amendments which are within the spirit and general purpose of the prior decision of the Council may be approved by the Council by ordinance after receiving any advice which it deems necessary. Written notice and an opportunity to comment shall be provided by the Council at least fourteen (14) days prior to Council consideration of the requested amendment to persons who submitted written or oral comments on the original rezone decision. Amendments which in the judgment of the Council represent a major departure from the terms of the agreement shall not be approved 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.

C. Downtown Planned Community Developments.

1. Council Action. Approval of an application for a planned community development shall be by ordinance. The ordinance shall also amend the Official Land Use Map to indicate:

a. The boundaries of the approved planned community development;

b. The number of the ordinance approving the preliminary plans for the planned community development; and

c. The number of the Clerk's File containing the approved preliminary plans.

2. Final Plans. If the Council approves the application for a planned community development it shall authorize the applicant to prepare final plans which, together with any required covenants, shall be filed with the Director within one (1) year of the date of Council authorization, unless a longer period is authorized by the Council.

a. If the Director finds that the final plans conform substantially to the Council authorization, the Director shall approve the plans.

b. If in the Director's judgment the final plans do not conform to the Council's authorization, the application shall be denied.

c. Following action on the final plans, the Director shall file a report with the Council indicating how the plans did or did not meet the conditions of Council approval and whether or not the plans were approved.

d. No building or use permit shall be issued for a planned community development prior to final plan approval by the Director.

(Ord. 118012 § 50, 1996; Ord. 117242 § 27, 1994; Ord. 112522 § 2(part), 1985.)

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23.76.060Expiration of land use approvals.

A. Approvals Granted Under Title 24. Expiration of Council land use approvals granted under SMC Title 24, Zoning and Subdivisions, shall be governed by the applicable provisions of SMC Title 24, Zoning and Subdivisions, and SMC Section 23.04.010, Transition to the Land Use Code.

B. Contract Rezones, Council Conditional Uses, Public Projects and Planned Community Developments.

1. Contract rezones, Council conditional uses, public projects and planned community developments approved under Title 23 shall expire two (2) years from the effective date of approval unless:

a. Within the two (2) year period, an application is filed for a Master Use Permit which is subsequently issued; or

b. Another time is specified in the Council's decision.

2. If a Master Use Permit is issued for the contract rezone, Council conditional use, public project or planned community development, the Council's approval of the contract rezone. Council conditional use, public project or planned community development, the Council's approval of the contract rezone. Council conditional use, public project or planned community development shall remain in effect until the Master Use Permit expires pursuant to the provisions of Section 23.76.032, or until the time specified by the Council, whichever is longer.

3. When a contract rezone or planned community development expires, the Director shall file a certificate of expiration with the City Clerk and a notation shall be placed on the Official Land Use Map showing the reversion to the former classification.

C. Variances. Variances granted as part of a Council land use approval shall remain in effect for the same period as the land use approval granted, except those variances granted as part of a rezone which shall expire on the date the rezone expires or the effective date of any text amendment making more stringent the development standard from which the variance was granted, whichever is sooner.

D. Extensions. The Council may extend the time limits on Type IV land use approvals upon an applicant's request for an extension filed with the Council at least thirty (30) days before the approval's expiration. The Council may request a recommendation on the extension request from the Director.

(Ord. 118012 § 51, 1996; Ord. 114473 § 4, 1989; Ord. 112522 § 2(part), 1985.)

Part 3 Legislative Decisions (Type V)

23.76.062Council hearing and decision.

A. Public Hearing. The Council shall itself conduct a public hearing for each Type V (legislative) land use decision. The Council may also appoint a hearing officer to conduct an additional fact-finding hearing to assist the Council in gathering information. Any hearing officer so appointed shall transmit written Findings of Fact to the Council within ten (10) days of the additional hearing.

B. Notice of Hearings.

1. Notice of the Council hearing on a Type V decision shall be provided by the Director at least thirty (30) days prior to the hearing in the following manner:

a. Inclusion in the General Mailed Release;

b. Posting in the Department; and

c. Publication in the City's official newspaper.

2. Additional notice shall be provided by the Director for public hearings on City facilities, Major Institution designations and revocation of Major Institution designations, as follows:

a. Mailed notice; and

b. At least four (4) placards posted on or near the site.

C. Council Decision. In making a Type V land use decision, the Council shall consider the oral and written testimony presented at the public hearing, as well as any required report of the Director. The City Council shall not act on any Type V decision until the end of the appeal period for the applicable DNS or Final EIS or, if an appeal is filed, until the Hearing Examiner issues a decision affirming the Director's DNS or EIS decision.

(Ord. 115002 § 18, 1990; Ord. 112522 § 2(part), 1985.)

23.76.064Approval of City facilities.

A. In acting on the proposed siting or expansion of a City facility, the Council shall decide whether to approve in concept the facility. If concept approval is granted, the Council may impose terms and conditions, including but not limited to design criteria and conditions relating to the size and configuration of the proposed facility.

B. Following Council approval, final plans for a City facility shall be submitted to the Director. If the Director determines that the project is consistent with the Council's concept approval, the Director shall issue the necessary permits for the facility.

C. No further Council action is required for a City facility unless the Director determines that the final plans represent a major departure from the terms of the original Council concept approval, in which case the final plan shall be submitted to the Council for approval in the same manner as the original application.

(Ord. 112522 § 2(part), 1985.)

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23.76.066Shoreline Master Program amendments.

Council decisions approving an amendment to the text of SMC Chapter 23.60, Shoreline Master Program Regulations, shall be sent to the Director of the Department of Ecology. Such amendments shall become effective only upon approval of the amendment by the State Department of Ecology pursuant to WAC 173-19-060.

(Ord. 118012 § 52, 1996: Ord. 112522 § 2(part), 1985.)

23.76.068Re-application rule for text amendments.

If an application for an amendment to the text of SMC Title 23, Land Use Code is denied by the Council, no application for the same or substantially the same amendment shall be considered until twelve (12) months have passed since the filing of the application, provided that this rule shall not apply to City-initiated amendments.

(Ord. 117570 § 25, 1995: Ord. 112522 § 2(part), 1985.)

23.76.070Hearing Examiner reports to Council.

The Hearing Examiner shall compile and file with the Council a semi-annual report on issues of Code or policy interpretation arising in the Hearing Examiner's review of contested land use cases. The Hearing Examiner should report on all issues of general applicability which resulted in disagreement between the Director and the Hearing Examiner as to interpretation of Council intent. The Council will review the report and consider the need for code amendments to clarify its intent.

(Ord. 112522 § 2(part), 1985.)

Chapter 23.78
ESTABLISHMENT OF CRITERIA FOR JOINT USE OR REUSE OF SCHOOLS

Sections:

23.78.002Application for establishment of criteria.
23.78.006Notice provided.
23.78.010SUAC responsibilities.
23.78.012Duties of Director of the Department of Neighborhoods.
23.78.014Appeal of use criteria.
23.78.016Criteria to serve as regulations.

23.78.002Application for establishment of criteria.

A. The Seattle School District or other owner of a public school structure may apply for the establishment of criteria for nonschool use of an existing or former public school structure. Applications shall be made to the Director of the Department of Neighborhoods.

B. On receipt of an application, the Director of the Department of Neighborhoods shall convene a School Use Advisory Committee (SUAC) to secure the comments of the public and make recommendations for school use criteria for the school. The committee shall operate pursuant to rules promulgated by the Director of the Department of Neighborhoods. The committee shall consist of the following:

1. A representative of the City selected by the Director of the Department of Neighborhoods, to act as chairperson;

2. A representative of the Seattle School District, or if the structure is no longer owned by the Seattle School District, a representative of the structure owner;

3. Two (2) persons residing or owning property within three hundred feet (300′) of the school site, selected by the Director of the Department of Neighborhoods in cooperation with the community organization(s) representing the area;

4. A representative of the PTSA or parents' group, selected by the appropriate organization, if "joint use" (both public school classrooms and nonschool uses) is contemplated by the application; or a representative of the neighborhood, selected by the Director of the Department of Neighborhoods, in cooperation with the community organization(s) representing the area, if joint use is not contemplated in the application;

5. A representative of the neighborhood, selected by the Director of the Department of Neighborhoods;

6. A representative at large selected by the Joint Advisory Commission on Education (JACE); and

7. A representative of the Department shall be invited to sit as a nonvoting member.

(Ord. 115906 § 2, 1991: Ord. 110381 § 1(part), 1982.)

23.78.006Notice provided.

Notification of the application and formation of a SUAC and the first meeting of the SUAC shall be provided by mailed notice, general mailed release, four (4) placards posted on or near the site and publishing in a newspaper of substantial local circulation. If there is an existing parents' organization, notice shall be given through their regular processes.

(Ord. 110381 § 1(part), 1982.)

23.78.010SUAC responsibilities.

The SUAC shall:

A. Conduct a minimum of three (3) public meetings within a ninety (90) day period from formation of the SUAC;

B. Gather and evaluate public comment;

C. Develop criteria for structure and grounds use which are compatible with the surrounding community, including but not limited to: benefits to the community and public; population to be served; community access; use of the school grounds within the context of recreational and aesthetic resources of the neighborhood; mitigation of large structure bulk; traffic impacts: generation, circulation and parking; landscaping and maintenance of grounds; exterior appearance of the structure, including signing; noise; hazards and other potential nuisances; and

D. Recommend criteria to the Director of the Department of Neighborhoods no later than ninety (90) days after its first meeting unless a ten (10) day extension is requested, in writing, by a majority of the SUAC and

granted by the Director of the Department of Neighborhoods.
(Ord. 115906 § 3, 1991; Ord. 110793 § 60, 1982: Ord. 110381 § 1(part), 1982.)

23.78.012Duties of Director of the Department of Neighborhoods.

A. The Director of DON shall establish final use criteria and permitted uses for the school structures and grounds based on the SUAC's recommendations within ten (10) days of the receipt of the recommendations. If the Director of DON modifies the recommendations of the SUAC, the reasons for the modification shall be put forth in writing.

B. Notification of the Director of DON's decision shall be published in the City official newspaper within seven (7) days of the date the decision is made. Notice, including the date of its publication, shall also be posted in a conspicuous place in the Department of Neighborhoods and shall be included in the general mailed release. Notice of the decision shall also be mailed on the date of the decision to the applicant, and to persons who have requested specific notice in a timely manner.

The notice of the decision shall state the address of the school and briefly state the decision made by the Director of DON. The notice shall also state that the school use criteria are subject to appeal and shall describe the appropriate appeal procedure.
(Ord. 115906 § 4, 1991: Ord. 110381 § 1(part), 1982.)

23.78.014Appeal of use criteria.

A. Any person substantially affected by or interested in the use criteria may appeal the decision to the Hearing Examiner within a period extending to five p.m. (5:00 p.m.) of the fifteenth calendar day following the date of publication of the use criteria decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run until five p.m. (5:00 p.m.) the next business day.

The appeal shall be in writing and shall state specifically why the appellant finds the criteria inappropriate or incorrect.

B. Appeals of school use criteria shall be accompanied by payment of a filing fee as established in the Permit Fee Ordinance, Chapter 22.900.

C. The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases in the Administrative Code, Chapter 3.02. Notice shall be given not less than twenty (20) days prior to hearing.

D. Appeals shall be considered de novo. The decision on the evidence before the Hearing Examiner shall be made upon the same basis as was required of the Director of DON. The interpretation of the Director of DON shall be given substantial weight, and the burden of establishing the contrary shall be upon the appellant. The Hearing Examiner shall summarily dismiss an appeal without hearing which is determined to be without merit on its face, frivolous or brought merely to secure a delay.

E. The Hearing Examiner shall issue a decision within fourteen (14) days after closing the record.

Notice of the Hearing Examiner's decision shall be mailed on the date of the decision to the parties of record and to all those requesting notice.

F. The decision of the Hearing Examiner may affirm, reverse or modify the Director of DON's decision either in whole or in part. The Hearing Examiner may also remand the decision to the Director of DON for further consideration.

The decision of the Hearing Examiner shall be final and the applicant, appellant and Director of DON shall be bound by it.
(Ord. 117263 § 58, 1994; Ord. 115906 § 5, 1991; Ord. 110381 § 1(part), 1982.)

23.78.016Criteria to serve as regulations.

Once the school use criteria are established for a public school structure, they shall be used by the Director as the substantive criteria applicable to applications filed under the Master Use Permit process, Chapter 23.76, for uses locating in the public school structures and grounds. If the public school structure is demolished, the permitted uses and development standards of the underlying zone shall apply.
(Ord. 110381 § 1(part), 1982.)

Chapter 23.79
ESTABLISHMENT OF DEVELOPMENT STANDARD DEPARTURE FOR PUBLIC SCHOOLS

Sections:

23.79.002Initiation of development standard departure procedure.
23.79.004Application for development standard departure.
23.79.006Notice provided for development standard departure.
23.79.008Advisory committee responsibilities.
23.79.010Duties of Director.
23.79.012Appeal of development standard departure.

23.79.002Initiation of development standard departure procedure.

A. The Seattle School District may apply for development standard departure for public school structures. Applications shall be made to the Director.

B. When demolition of residential structures is proposed, and the public school site includes land acquired for public school use after the effective date of the amendatory ordinance codified in this chapter,[1] the Director shall initiate the process for development standard departures and the School District shall be bound by the development standard departures which are required in order to reduce demolition of residential structures.
(Ord. 112539 § 10(part), 1985.)

1.Editor's Note: Ordinance 112539, codified in this chapter, was adopted on November 12, 1985.

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23.79.004Application for development standard departure.

On receipt of an application for development standard departure or upon initiation of the process by the Director, the Director shall forward an application to the Director of DON who shall convene a Development Standard Advisory Committee, hereinafter called the advisory committee, to secure the comments of the public and make recommendations for modifications of development standards. The advisory committee shall operate pursuant to rules promulgated by the Director of DON. To the extent that members of the following groups are available, the advisory committee shall consist of:

A. A representative of the City selected by the Director of DON, to act as nonvoting chairperson;

B. A representative of the Seattle School District;

C. A person residing within three hundred feet (300′) of the school site and a person owning property or a business within three hundred feet (300′) of the school site, selected by the Director of DON in cooperation with the community organization(s) representing the area;

D. Two (2) representatives of the neighborhood, selected by the Director of DON in cooperation with the community organization(s) representing the area;

E. A representative at large selected by the Joint Advisory Commission on Education (JACE);

F. A nonvoting representative of the Department; and

G. Two (2) representatives of the parents of the school to be replaced, expanded or remodeled, selected by the Director of DON in cooperation with the school's PTSA or other school parent organization; and

H. A person, to be selected by the Director, who resides in a housing unit which will be demolished and who will be adversely affected by the demolition, when demolition of housing is necessitated by the District's proposal.

(Ord. 115906 § 6, 1991; Ord. 112799 § 1, 1986: Ord. 112539 § 10(part), 1985.)

23.79.006Notice provided for development standard departure.

Notification of the application and formation of a Development Standard Advisory Committee and the first meeting of the advisory committee shall be provided by mailed notice, general mailed release, four (4) placards posted on or near the site and publishing in a newspaper of substantial local circulation and any relevant ethnic publications having substantial local circulation. If there is an existing parents' organization, notice shall be given through its regular processes. Notice shall also be given to community organizations known to the Department as representing the local area and to other related organizations who have requested notice.

(Ord. 112539 § 10(part), 1985.)

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23.79.008Advisory committee responsibilities.

The advisory committee shall perform the following functions:

A. It shall conduct a minimum of three (3) public meetings within a ninety (90) day period from formation of the advisory committee, provided that if the advisory committee deems the requested departure from development standards to be minor in nature, it shall conduct a minimum of one (1) public meeting within a thirty (30) day period from formation of the advisory committee.

B. It shall gather and evaluate public comment.

C. It shall recommend the maximum departure which may be allowed for each development standard from which a departure has been requested. Minority reports shall be permitted. The advisory committee may not recommend that a standard be made more restrictive unless the restriction is necessary as a condition to mitigate the impacts of granting a development standard departure.

1. Departures shall be evaluated for consistency with the objectives and intent of the City's Land Use Policies to ensure that the proposed facility is compatible with the character and use of its surroundings. In reaching recommendations, the advisory committee shall consider and balance the interrelationships among the following factors:

a. Relationship to Surrounding Areas. The advisory committee shall evaluate the acceptable or necessary level of departure according to:

(1) Appropriateness in relation to the character and scale of the surrounding area;

(2) Presence of edges (significant setbacks, major arterials, topographic breaks, and similar features) which provide a transition in scale;

(3) Location and design of structures to reduce the appearance of bulk;

(4) Impacts on traffic, noise, circulation and parking in the area; and

(5) Impacts on housing and open space.

More flexibility in the development standards may be allowed if the impacts on the surrounding community are anticipated to be negligible or are reduced by mitigation; whereas, a minimal amount or no departure from development standards may be allowed if the anticipated impacts are significant and cannot be satisfactorily mitigated.

b. Need for Departure. The physical requirements of the specific proposal and the project's relationship to educational needs shall be balanced with the level of impacts on the surrounding area. Greater departure may be allowed for special facilities, such as a gymnasium, which are unique and/or an integral and necessary part of the educational process; whereas, a lesser or no departure may be granted for a facility which can be accommodated within the established development standards.

2. When the departure process is required because of proposed demolition of housing, the desirability of minimizing the effects of demolition must be weighed against the educational objectives to be served in addition to the evaluation required in subsection C1.

3. Following the evaluation set out in subsections C1 or C2, departures may be recommended as set forth in the regulations for the applicable zone and in Chapter 23.54. Recommendations must include consideration of the interrelationship among height, setback and landscaping standards when departures from height or setback are proposed.

D. The advisory committee shall recommend departure limits to the Director no later than ninety (90) days after its first meeting. Such recommendation shall be made after a majority or plurality vote. If only one (1) meeting is held, departure limits shall be recommended no later than thirty (30) days after the meeting. A ten (10) day extension may be granted by the Director if requested, in writing, by a majority of the advisory committee.

(Ord. 112799 § 2, 1986; Ord. 112539 § 10(part), 1985.)

23.79.010Duties of Director.

A. The Director shall determine the amount of departure from established development standards which may be allowed for required, as well as mitigating measures which may be required. The Director's decision shall be based on an evaluation of the factors set forth in subsection C of Section 23.79.014, the majority recommendations and minority reports of the advisory committee, comment at the public hearings and other comments from the public. If the Director modifies the recommendations of the advisory committee, the reasons for the modification shall be put forth in writing.

B. 1. Notification of the Director's decision shall be published in the City official newspaper within seven (7) days of the date the decision is made. Notice, including the date of its publication, shall also be posted in a conspicuous place in DCLU and shall be included in the general mailed release. Notice of the decision shall also be mailed on the date of the decision to the applicant, to all members of the advisory committee, and to persons who have requested specific notice in a timely manner.

2. The notice of the decision shall state the address of the school and briefly state the decision made by the Director. The notice shall also state that the departure from development standards is subject to appeal and shall describe the appropriate appeal procedure.

(Ord. 112539 § 10(part), 1985.)

23.79.012Appeal of development standard departure.

A. Any person substantially affected by or interested in the development standard departure may appeal the decision to the Hearing Examiner within a period extending to five p.m. (5:00 p.m.) of the fifteenth calendar day following the date of publication of the decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the appeal period shall run until five p.m. (5:00 p.m.) the next business day. The appeal shall be in writing and shall state specifically why the appellant finds the departure inappropriate or incorrect.

B. Appeals of development standard departure shall be accompanied by payment of a filing fee as established in the Seattle Municipal Code, Chapter 22.900, Permit Fees.

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C. The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases in the Seattle Municipal Code, Chapter 3.02, Administrative Code. Notice shall be given not less than twenty (20) days prior to hearing.

D. Appeals shall be considered de novo. The decision on the evidence before the Hearing Examiner shall be made upon the same basis as was required of the Director. The decision of the Director shall be given substantial weight, and the burden of establishing the contrary shall be upon the appellant. The Hearing Examiner shall summarily dismiss an appeal without hearing which is determined to be without merit on its face, frivolous, or brought merely to secure a delay.

E. The Hearing Examiner shall issue a decision within fourteen (14) days after closing the record. Notice of the Hearing Examiner's decision shall be mailed on the date of the decision to the parties of record and to all those requesting notice.

F. The decision of the Hearing Examiner may affirm, reverse or modify the Director's decision either in whole or in part. The Hearing Examiner may also remand the decision to the Director for further consideration.

G. The decision of the Hearing Examiner shall be final, and the applicant, appellant and Director shall be bound by it.

(Ord. 117263 § 59, 1994; Ord. 112539 § 10(part), 1985.)

Chapter 23.80
ESSENTIAL PUBLIC FACILITIES

Sections:

23.80.002Application submittal requirements.
23.80.004Review criteria.

23.80.002Application submittal requirements.

In addition to the application submittal requirements specified in other chapters and codes, applicants for essential public facilities shall address each of the review criteria of this chapter in their application materials, and provide additional information as required by the Director to complete review of the project.

(Ord. 117430 § 84(part), 1994.)

23.80.004Review criteria.

A. In reviewing an application for a proposed essential public facility, the decisionmaker shall consider the following:

1. Interjurisdictional Analysis. A review to determine the extent to which an interjurisdictional approach may be appropriate, including consideration of possible alternative sites for the facility in other jurisdictions and an analysis of the extent to which the proposed facility is of a county-wide, regional or state-wide nature, and whether uniformity among jurisdictions should be considered.

2. Financial Analysis. A review to determine if the financial impact upon the City of Seattle can be reduced or avoided by intergovernmental agreement.

3. Special Purpose Districts. When the public facility is being proposed by a special purpose district, the City should consider the facility in the context of the district's overall plan and the extent to which the plan and facility are consistent with this Comprehensive Plan.

4. Measures to Facilitate Siting. The factors that make a particular facility difficult to site should be considered when a facility is proposed, and measures should be taken to facilitate siting of the facility in light of those factors (such as the availability of land, access to transportation, compatibility with neighboring uses, and the impact on the physical environment).

B. If the decisionmaker determines that attaching conditions to the permit approval will facilitate project siting in light of the considerations identified above, the decisionmaker may establish conditions for the project for that purpose.

(Ord. 117430 § 84(part), 1994.)

Division 2 General Terms

Chapter 23.84
DEFINITIONS

Sections:

23.84.002"A."
23.84.004"B."
23.84.006"C."
23.84.008"D."
23.84.010"E."
23.84.012"F."
23.84.014"G."
23.84.016"H."
23.84.018"I."
23.84.020"J."
23.84.022"K."
23.84.024"L."
23.84.025"M."
23.84.026"N."
23.84.028"O."
23.84.030"P."
23.84.032"R."

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23.84.036"S."
23.84.038"T."
23.84.040"U."
23.84.042"V."
23.84.044"W."
23.84.046"Y."
23.84.048"Z."

Editor's Note: In the construction of this Land Use Code, the definitions contained in this chapter shall pertain, unless the context clearly indicates otherwise. Words used in the present tense shall include the future, words used in the singular number shall include the plural number, and the plural the singular.
(Ord. 110381 § 1(part), 1982.)

23.84.002"A."

"Abut" means to border upon.

"Access bridge" means a structure which is designed and necessary for pedestrian access from an alley, street or easement to a principal structure or accessory structure.

"Accessory conditional use." See "Conditional accessory use."

"Accessory parking." See "Parking, accessory."

"Accessory structure" means a structure which is incidental to the principal structure.

"Accessory use" means a use that is incidental to the principal use.

"Addition to existing public school structures" means any extension of an existing public school structure or rebuilding of an existing public school structure any portion of which remains intact. Building of an entirely new public school structure when part of an existing public school complex shall be considered an addition to an existing public school structure when the proposed new structure is on an existing public school site.

"Adjacent" means near but not necessarily touching.

"Administrative conditional use." See "Conditional use."

"Administrative office." See "Office."

"Adult family home." See "Residential use."

"Advertising sign." See "Billboard."

"Affordable housing." See "Housing, affordable."

"Agricultural use" means a business establishment in which crops are raised or animals are reared or kept, but not including kennels. Agricultural uses include animal husbandry uses such as poultry farms and rabbitries, and horticultural uses such as nurseries and orchards.

1. "Animal husbandry" means an agricultural use in which animals are reared or kept in order to sell the products they produce, such as meat, fur or eggs. Raising animals to sell as pets shall be considered an animal service use rather than animal husbandry.

2. "Aquaculture" means an agricultural use in which food fish, shellfish or other marine foods, aquatic plants, or animals are cultured or grown in fresh or salt waters.

3. "Horticultural use" means an agricultural use in which plants are raised outdoors or in greenhouses for sale either as food or for use in landscaping. Examples include but are not limited to nurseries, flower raising, orchards, vineyards, and truck farms.

"Airport." See "Transportation facilities."

"Airport Height Overlay District" means land so designated and shown on the Land Use Map entitled "Official Airport Height Map," adopted pursuant to the provisions of Chapter 23.32.

"Aisle" means a passageway for vehicles within a parking garage or area, other than a driveway.

"Alley" means a public right-of-way not designed for general travel and primarily used as a means of vehicular and pedestrian access to the rear of abutting properties. An alley may or may not be named.

"Alley, existing" means any alley which is not a new alley.

"Alley, new" means an alley proposed to be created through the platting process.

"Animal control shelter." See "Animal service."

"Animal husbandry." See "Agricultural use."

"Animal service" means a retail sales and service use in which health care, pet grooming, or boarding services for animals are provided, or animals are raised for sale to others as pets.

1. "Animal health services" means an animal service use in which health care or pet grooming for animals on an inpatient or outpatient basis is provided indoors.

2. "Kennel" means an animal service use in which four (4) or more small animals are boarded, or are bred for sale as pets.

3. "Animal control shelter" means an animal service use maintained and operated primarily for the impounding, holding and/or disposal of lost, stray, unwanted, dead or injured animals.

"Apartment" means a multi-family structure in which one (1) or more of the dwelling units is not ground-related.

"Appeal, open record." See "Hearing, open record."

"Application, fully complete, for preliminary plat approval of a subdivision," is defined as an application meeting the requirements of Section 23.20.020.

"Application, fully complete, for short plat approval" is defined as an application meeting the requirements of Sections 23.24.020 and 23.24.030.

"Aquaculture." See "Agricultural use."

"Arbor" means a landscape structure consisting of an open frame with horizontal and/or vertical latticework often used as a support for climbing plants. An arbor may be freestanding or attached to another structure.

"Areaway" means a space or court, either covered or uncovered, which affords room, access or light to a structure.

"Arterial." See "Street, arterial."

"Artist studio/dwelling." See "Residential use."

"Atrium, public." See "Public atrium."

"Atrium, shopping." See "Shopping atrium."

"Automobile wrecking yard." See "Salvage yard."

"Automotive parts and accessory sales." See "Automotive retail sales and service."

"Automotive retail sales and service" means a retail sales and service use which includes one (1) or more of the following uses:

1. "Automotive parts and accessories sales" means an automotive retail sales and service use in which

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goods are rented or sold primarily for use in motorized vehicles, but excluding gas stations.

2. "Car wash" means an automotive retail sales and service use in which facilities are provided for washing motorized vehicles.

3. "Gas station" means an automotive retail sales and service use in which fuel for motorized vehicles is sold, and in which accessory uses including but not limited to towing by no more than two (2) tow trucks, minor automobile repair, or rental of vehicles under ten thousand (10,000) pounds gross vehicle weight may also be provided. Facilities for washing no more than one (1) car at a time or for the collection of used motor oil shall also be considered accessory to a gas station.

4. "Sales and rental of motorized vehicles" means an automotive retail sales and service use in which operable motorized vehicles, such as cars, trucks, buses, recreational vehicles or motorcycles, or related nonmotorized vehicles, such as trailers, are rented or sold.

5. "Towing service" means an automotive retail sales and service 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.

6. "Vehicle repair, major" means an automotive retail sales and service use in which one (1) or more of the following activities are carried out:

a. Reconditioning of any type of motorized vehicle, including any repairs made to vehicles over ten thousand (10,000) pounds gross vehicle weight;

b. Collision services, including body, frame or fender straightening or repair;

c. Overall painting of vehicles or painting of vehicles in a paint shop;

d. Dismantling of motorized vehicles in an enclosed structure.

7. "Vehicle repair, minor" means an automotive retail sales and service use in which general motor repair work is done as well as the replacement of new or reconditioned parts in motorized vehicles of ten thousand (10,000) pounds or less gross vehicle weight; but not including any operation included in the definition of "major vehicle repair."

"Avenue" means the following public rights-of-way when located in a downtown zone: Elliott, Western, First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Terry, Boren, Minor and Yale Avenues and Occidental and Maynard Avenue South.

"Average daily outpatients" means a number equal to the annual number of outpatients divided by the number of days the hospital receiving them is open.

"Awning, fixed" means a protective covering of fixed, noncollapsible, rigid construction, attached to a structure, the upper surface of which has a pitch of at least thirty (30) degrees from the horizontal. See "Canopy."

(Ord. 118012 § 53, 1996; Ord. 117263 § 60, 1994; Ord. 117202 § 13, 1994; Ord. 115326 § 30, 1990; Ord. 114561 § 2, 1989; Ord. 113977 § 2, 1988; Ord. 113263 § 30, 1986; Ord. 112777 § 36, 1986; Ord. 112830 § 11, 1986; Ord. 112539 § 11, 1985; Ord. 112303 § 11, 1985; Ord. 112134 § 6, 1985; Ord. 111926 § 5, 1984; Ord. 111100 § 7, 1983; Ord. 110669 § 23, 1982; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective on June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.004"B."

"Balcony." See "Deck" and "Ledge."

"Bay window" means a window feature comprising three (3) or more wall planes that projects beyond a structure face.

"Bed and breakfast." See "Lodging."

"Billboard." See "Sign, advertising."

"Block." In areas outside downtown zones, a block consists of two (2) facing block fronts bounded on two (2) sides by alleys or rear property lines and on two (2) sides by the centerline of platted streets, with no other intersecting streets intervening, as depicted in Exhibit 23.84.004 A1.

In downtown zones, a block consists of the area bounded by street property lines, Exhibit 23.84.004 A2.

"Block face." See "Block front."

"Block front" means the frontage of property along one (1) side of a street bound on three (3) sides by the centerline of platted streets and on the fourth side by an alley or rear property lines (Exhibit 23.84.004 B).

"Boarder" means a person who rents a room or rooms for lodging purposes within a dwelling unit on not less than a monthly basis.

"Brewpub." See "Eating and drinking establishment."

"Bridge, access." See "Access bridge."

"Building." See "Structure."

"Bus base." See "Transportation facility."

"Business district identification sign" means an off-premises sign which gives the name of a business district or industrial park and which may list the names of individual businesses within the district or park.

"Business establishment" means an economic or institutional unit organized for the purposes of conducting business and/or providing a service. In order to be considered a separate business establishment, a business shall be physically separated from other businesses. Businesses which share common facilities, such as reception areas, checkout stands, and similar features (except shared building lobbies and bathrooms) shall be considered one (1) business establishment, except when they are located in a business incubator. A business establishment may be located in more than one (1) structure provided that the uses in the structures are

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Exhibit 23.84.004 A1
Block
Exhibit 23.84.004 A2
Downtown Block
Exhibit 23.84.004 B
Block Front

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functionally related. The structures may be located on a single lot or on adjacent lots. A business establishment may be a commercial, manufacturing, institutional, or any other type of nonresidential use.

"Business incubator." See "Non-household sales and services."

"Business sign." See "Sign, business."

"Business support service." See "Non-household sales and services."

(Ord. 118414 § 57, 1996; Ord. 117202 § 14, 1994; Ord. 113263 § 31, 1986; Ord. 112777 § 37, 1986; Ord. 112830 § 12, 1986; Ord. 112303 § 12, 1985; Ord. 111926 § 6, 1984; Ord. 111390 § 42, 1983; Ord. 110570 § 13, 1982; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective on June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.006"C."

"Canopy" means a nonrigid, retractable or nonretractable, protective covering located at the entrance to a structure.

"Caretaker's quarters." See "Residential use."

"Cargo terminals." See "Transportation facility."

"Carpool" means a highway vehicle with a seating capacity of less than eight (8) persons, including the driver, which is used primarily to convey a group of two (2) or more employees between home and work.

"Carport" means a private garage which is open to the weather on at least forty (40) percent of the total area of its sides. (See also "Garage.")

"Car wash." See "Automotive retail sales and service."

"Church." See "Religious facility."

"Cinema." See "Motion picture theater."

"City facility" means a public facility owned and/or operated for public purposes by The City of Seattle.

"Clerestory" means an outside wall of a building which rises above an adjacent roof and contains vertical windows.

"Club, private." See "Private club."

"Cluster development" means a development containing two (2) or more principal structures on one (1) lot, except that cottage housing developments shall not be considered a cluster development. In Highrise zones, two (2) or more towers on one (1) base structure shall also be considered a cluster development.

"College." See "Institution."

"Commercial laundry." See "Heavy commercial services."

"Commercial moorage." See "Marine retail sales and service."

"Commercial pickup and delivery" means the pickup and delivery of goods or merchandise by, or for, a business operated on the lot.

"Commercial use" means one (1) of the following categories of uses, carried out in a business establishment:

Retail sales and services;
Offices;
Entertainment;
Warehouses;
Transportation facilities;
Food processing and craft work;
Mini-warehouse;
Nonhousehold sales and service;
Outdoor storage;
Parking principal use;
Research and development laboratory;
Wholesale showroom.

Communication Devices and Utilities (and Related Terms).

1. "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 which is accessory to the principal use on the site. Receive-only television and radio antennas and amateur radio towers are not included in this definition. Communication equipment such as Citizen Band radios, telephones which depend upon wires and cables or hand-held telephones are exempt from the Land Use Code regulations.

2. "Communication utility, major" means a business use in which the means for radiofrequency transfer of information are provided by facilities with significant impacts beyond their immediate area. These utilities are FM and AM radio, UHF and VHF television transmission towers, and earth stations. 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.

3. "Communication utility, minor" means a business use in which the means for radiofrequency transfer of information are provided but which generally does not have significant impacts beyond the immediate area. These facilities are smaller in size than major communication utilities and include two-way, land-mobile, 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.

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

5. "Earth station" means a major communication utility which transmits and receives signals to and from an orbiting satellite and is twenty-five (25) feet in diameter or larger.

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6. "Physical expansion of communication utilities" 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, accessory telecommunication devices, transmission tower or accessory building that would result in lower radio frequency radiation exposure readings at ground level or 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 utilizing a candelabra mounting.

7. "Receive-only communication devices" means a radio frequency device with the ability to receive signals, but not to transmit them.

8. "Reception window obstruction" means a physical barrier which would block the signal between an orbiting satellite and a land-based antenna.

9. "Shared-use facility" means a telecommunication facility used by two (2) or more television stations or five (5) or more FM stations.

10. "Single-occupant facility" means a telecommunication facility used by only one (1) television station or by one (1) television station and one (1) to four (4) FM stations.

11. "Transmission tower" means a tower on which communication devices are placed. Transmission towers may serve either as a major or minor communication facility.

12. "Candelabra mounting" means a single spreader which supports more than two (2) antennas.

"Community center." See "Institution."

"Community club." See "Institution."

"Conditional accessory use" means uses which are accessory to the principal use where the principal use is allowed only as a conditional use.

"Conditional use" means uses which may be permitted as principal or accessory uses when authorized by the Director of the Department of Construction and Land Use ("administrative conditional use") or by the Council ("Council conditional use") pursuant to specified standards.

"Congregate residence." See "Residential use."

"Construction services." See "Heavy commercial services."

"Control of access" means the condition where the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with a public street is fully or partially controlled by public authority.

"Control of access, full" means the condition where the authority to control access is exercised to give preference to through traffic by providing access connections with selected public streets only and by prohibiting crossings at grade and direct driveway connections.

"Control of access, partial" means the condition where the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public streets, there may be some crossings at grade and some direct connections.

"Convalescent home." See "Nursing home."

"Cottage housing development" means a development comprised of at least four (4) cottages (single family dwelling units) arranged on at least two (2) sides of a common open space with a maximum of twelve (12) cottages per development.

"Council" means the City Council of The City of Seattle.

"Council conditional use." See "Conditional use."

"Cul-de-sac" means a street closed at one (1) end by a widened pavement of sufficient size for automotive vehicles to be turned around.

"Curb" means a physical curb constructed from cement concrete, asphalt concrete, or granite.

"Curbcut" means a depression in the curb for the purpose of accommodating a driveway, which provides vehicular access between private property and the street or easement. Where there is no curb, the point at which the driveway meets the roadway pavement shall be considered the curbcut.

"Curbline" means the edge of a roadway, whether marked by a curb or not. When there is not a curb, the curbline shall be established by the Director of Engineering.

"Custom and craft work." See "Food processing and craft work."

"Customer service office." See "Office."

(Ord. 117263 § 61, 1994; Ord. 117202 § 15, 1994; Ord. 117173 § 9, 1994; Ord. 116744 § 58, 1993; Ord. 115326 § 31, 1990; Ord. 113387 § 7, 1987; Ord. 112777 § 38, 1986; Ord. 112830 § 13, 1986; Ord. 112522 § 16(part), 1985; Ord. 112303 § 12, 1985; Ord. 111926 § 7, 1984; Ord. 111100 § 8, 1983; Ord. 110793 § 61, 1982; Ord. 110570 § 14, 1982; Ord. 110381 § 1(part), 1982.)[1]

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23.84.008"D."

"Deck" means a platform extending more than eighteen (18) inches from a structure, or an unattached platform. A deck may be cantilevered or connected to the ground by posts and may have steps or ramps to the ground and a door to the structure. (See also "Porch.")

"Dedication" means an appropriation or giving up of property to public use that precludes the owner or others claiming under the owner from asserting any right of ownership inconsistent with the use for which the property is dedicated.

"Department" means the Department of Construction and Land Use.

"Depth." See "Structure depth."

"Development regulations." See RCW 36.70A.030.

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"Director" means the Director of the Department of Construction and Land Use, or the Director's designee.

"Dispersion criteria" means standards regulating the maximum concentration of and/or minimum distance between particular uses in an area.

"Display of rental equipment, outdoor." See "Outdoor display of rental equipment."

"Doctor, hospital-based" means a physician having an office and/or principal practice based in and/or salaried by a major institution.

"Doctor, staff" means a physician with staff privileges at a hospital who has an office outside the boundaries of the major institution.

"Domestic violence shelter." See "Residential use."

"Dormer" means a minor gable in a pitched roof, usually bearing a window on its vertical face. A dormer is part of the roof system.

"Drive-in business" means a business or a portion of a business where a customer is permitted or encouraged either by the design of physical facilities or by service and/or packaging procedures, to carry on business in the off-street parking or paved area accessory to the business, while seated in a motor vehicle. In some instances, customers may need to get out of the vehicle to obtain the product or service. This definition shall include but not be limited to gas stations, car washes, and drive-in restaurants or banks.

"Drive-in lane" means an aisle which gives vehicle access to a drive-in window or other drive-in facility such as a gasoline pump or car wash bay.

"Driveway" means that portion of street, alley or private property which provides access to, but not within, an off-street parking facility from a curbcut. Portions of the area defined as a driveway may also be defined as a sidewalk.

"Dry storage of boats." See "Marine retail sales and service."

"Duplex" means a single structure containing two (2) dwelling units, neither of which is an accessory dwelling unit authorized under Section 23.44.041.

"Dwelling unit" means a room or rooms located within a structure, designed, arranged, occupied or intended to be occupied by not more than one (1) household and permitted roomers or boarders, as living accommodations independent from any other household. The existence of a food preparation area within the room or rooms shall be evidence of the existence of a dwelling unit.

"Dwelling unit, accessory" means an additional room or set of rooms located within an owner-occupied single-family structure meeting the standards of Section 23.44.041 and designed, arranged, occupied or intended to be occupied by not more than one (1) household as living accommodations independent from any other household.

(Ord. 118472 § 7, 1997; Ord. 118012 § 54, 1996; Ord. 117263 § 62, 1994; Ord. 117203 § 6, 1994; Ord. 117202 § 16, 1994; Ord. 116744 § 59, 1993; Ord. 115326 § 32, 1990; Ord. 114875 § 15, 1989: Ord. 112777 § 39, 1986; Ord. 111926 § 8, 1984; Ord. 111100 § 9, 1983; Ord. 110793 § 62, 1982; Ord. 110381 § 1(part), 1982.)

23.84.010"E."

"Easement" means a grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes.

"Eating and drinking establishment" means a retail sales and service use in which food and/or beverages are prepared and sold at retail for immediate consumption.

1. "Brewpub" means an eating and drinking establishment which produces on the premises a maximum of two thousand (2,000) barrels per year of beer, ale or other malt beverage, as determined by the brewpub's filings of barrelage tax reports to the Washington State Liquor Control Board, for sale only on the premises.

2. "Fast-food restaurant" means an eating and drinking establishment, in which the manner of preparation, packaging, and service of the product enables and/or encourages its consumption outside the restaurant, and which has most of the following characteristics: Quick food service is offered and sales transactions are completed within a very short time period; food is already prepared and held for service, or able to be prepared quickly; the menu is limited, but usually includes a main course and beverages; food is generally served in disposable wrappings or containers, with disposable utensils; and/or orders are not generally taken at a customer's table.

3. "Restaurant" means an eating and drinking establishment which has most of the following characteristics: Products sold are generally consumed within an enclosed structure at tables and/or at a counter; taking food and drink from the restaurant is purely incidental, except for limited take-out service which uses the same kitchen as the main restaurant and has a similar menu; food is served using nondisposable containers and utensils; and consumption of food in vehicles on the premises is discouraged by the nature of the service. A restaurant may or may not have a separate area, or cocktail lounge, where alcoholic beverages are served without full food service.

4. "Tavern" means an eating and drinking establishment in which the serving of food is incidental to the serving of beer and/or wine.

"Edge" means the boundary between two (2) kinds of areas that are identified by the uses within them, degree of activity, topography or other special characteristics.

"EIS" means an environmental impact statement required by the State Environmental Policy Act. As used in this title, the term refers to a draft, final or supplemental EIS.

"Elevated walkway" means a pedestrian walkway connecting structures within a cluster development and located above existing grade.

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"Entertainment use" means a commercial use in which recreational, athletic, and/or cultural opportunities are provided for the general public, either as participants or spectators. Examples include but are not limited to theaters, live music, dancing, lecture halls, and indoor or outdoor sports and games. Entertainment uses accessory

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to institutions or to public parks or playgrounds shall not be considered commercial uses.

"Entrance ramp" means any public road or turning roadway, including acceleration lanes, by which traffic enters the main traveled way of a limited-access facility from the general street system; such designation applying to that portion of the roadway along which there is full control of access.

"Environmentally critical area" means those areas designated by the City of Seattle Environmentally Critical Areas Policies and regulated and mapped in SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and other city codes.

"Environmentally sensitive area" means an area designated and mapped by the City as such pursuant to the State Environmental Policy Act and Section 25.05.070.

"Essential public facilities" means airports, sewage treatment plants, jails, and power plants.

"Existing lot grade." See "Lot grade, existing."

"Exit ramp" means any public road or turning roadway, including deceleration lanes, by which traffic leaves the main traveled way of a freeway to reach the general street system within the city; such designation applying to that portion of the roadway along which there is full control of access.

"Expressway" means a divided arterial street for through traffic with full or partial control of access and generally with grade separations at intersections.

(Ord. 117430 § 85, 1994; Ord. 116262 § 21, 1993; Ord. 112777 § 40, 1986; Ord. 112830 § 14, 1986; Ord. 112522 § 16(part), 1985; Ord. 111926 § 9, 1984; Ord. 110793 § 63, 1983; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.012"F."

"Facade" means any exterior wall of a structure including projections from and attachments to the wall. Projections and attachments include balconies, decks, porches, chimneys, unenclosed corridors and similar projections.

"Facade, front" means the facade extending the full width of the structure, including modulations, which is closest to and most nearly parallels the front lot line. An interior facade shall not be considered a front facade.

"Facade, interior" means any facade of a structure within a cluster development, which faces, or portions of which face, the facade(s) of another structure(s) within the same development.

"Facade, perimeter" means any facade of a structure within a cluster development, which is either a front, rear or side facade.

"Facade, rear" means the facade extending the full width of the structure, including modulations, that is closest to and most nearly parallels the rear lot line. An interior facade shall not be considered a rear facade.

"Facade, side" means the facade extending the full width of the structure, including modulations, that is closest to and most nearly parallels the side lot line. An interior facade shall not be considered a side facade.

"Facility." See "Public facility."

"FAR." See "Floor area ratio."

"Fast-food restaurant." See "Eating and drinking establishment."

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"Flat" means a dwelling unit in a multi-family structure which is located entirely on one (1) level.

"Fleet vehicles" means more than three (3) vehicles having a gross vehicle weight (gvw) not exceeding ten thousand (10,000) pounds, or more than one (1) vehicle having a gvw exceeding ten thousand (10,000) pounds permanently located at a business establishment or operated on a daily basis in connection with business activities. This definition shall not include vehicles which are available for rent to the public.

"Floating homes." See "Residential use."

"Floor area, gross." See "Gross floor area."

"Floor area ratio" means a ratio expressing the relationship between the amount of gross floor area permitted in a structure and the area of the lot on which the structure is located as depicted in Exhibit 23.84.012 A.

"Florist" means a retail sales and service use in which cut flowers and other plants are sold.

"Food preparation area" means a room or portion of a room designed, arranged, intended or used for cooking or otherwise making food ready for consumption.

"Food processing and craft work" means one (1) of the following commercial uses:

1. "Custom and craft work" means a food processing and craft work use in which nonfood, finished, personal or household items, which are either made to order or which involve considerable handwork, are produced. Examples include but are not limited to pottery and candlemaking, production of orthopedic devices, printing, creation of sculpture and other art work, and glassblowing. The use of products or processes defined as high-impact uses shall not be considered custom and craft work.

2. "Food processing for human consumption" means a food processing and craft work use in which food for human consumption in its final form, such as candy, baked goods, seafood, sausage, tofu, pasta, etc., is produced, when the food is distributed to retailers or wholesalers for resale off the premises. Food or beverage processing using mechanized assembly line production of canned or bottled goods is not included in this definition, but shall be considered to be light manufacturing.

"Freeway" means an expressway with full control of access.

"Fuel sales" means a nonhousehold sales and service use in which heating fuel, such as wood, oil, or coal, is sold.

(Ord. 118302 § 17, 1996; Ord. 117202 § 12, 1994; Ord. 114875 § 16, 1989; Ord. 112970 § 2, 1986; Ord. 112777 § 41, 1986; Ord. 112830 § 15, 1986; Ord. 112303 § 14, 1985; Ord. 111926 § 10, 1984; Ord. 111390 § 43, 1983; Ord. 110793 § 64, 1982; Ord. 110381 § 1(part), 1982.)[1]

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Exhibit 23.84.012 A
Floor Area Ratio

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1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.014"G."

"Garage, private" means an accessory structure or an accessory portion of a principal structure, designed or used for the shelter or storage of vehicles owned or operated by the occupants of the principal structure. (See "Carport.")

"Garage, terraced" means a private garage which is partially below existing and/or finished grade.

"Gas station." See "Automotive retail sales and service."

"General mailed release" means an information mailing to the individuals and groups on a master mailing list as may be established by the Department.

"General retail sales and services." See "Personal and house retail sales and services."

"Grade." See "Lot grade."

"Green street" means a street right-of-way which is part of the street circulation pattern, that through a variety of treatments, such as sidewalk widening, landscaping, traffic calming, and pedestrian-oriented features, is enhanced for pedestrian circulation and open space use.

"Gross floor area" means the number of square feet of total floor area bounded by the inside surface of the exterior wall of the structure as measured at the floor line.

"Ground-related dwelling unit" means a dwelling unit with direct access to private ground-level usable open space. The open space may be located at the front, sides or rear of the structure, and not more than ten (10) feet above or below the unit. Access to the open space shall not go through or over common circulation areas, common or public open spaces, or the open space of another unit.

"Ground-related structure" means a structure containing only ground-related dwelling units.

(Ord. 118414 § 58, 1996; Ord. 117570 § 26, 1995; Ord. 117263 § 63, 1994; Ord. 117202 § 18, 1994; Ord. 113263 § 32, 1986; Ord. 113079 § 2 (part), 1986; Ord. 112777 § 42, 1986; Ord. 111926 § 11, 1984; Ord. 111568 § 3, 1984; Ord. 111390 § 44, 1983; Ord. 110381 § 1(part), 1982.)

1.Editor's Note: Resolution 25670 is on file in the office of the City Clerk.

23.84.016"H."

"Hard-surfaced street" means a street that has been surfaced with a material other than crushed rock so that a hard, smooth, strong surface exists.

"Hazardous materials" means substances that are capable of posing severe risk to health, safety or property. "Hazardous materials" are categorized into three (3) groups based on the degree of danger posed by their use, as follows:

"Group A hazardous materials" means substances that generally pose physical hazards such as explosion or which are highly toxic. "Group A hazardous materials" shall include but not be limited to the following:

— Explosives and blasting agents (except Class C explosives as defined by the Fire Code);[1]

— Reactive materials (includes alkali metals, metallic carbides, metallic hydrides, organo-metallic compounds, and other similar substances). Those materials that are rated with a reactivity (instability) rating of three (3) or four (4) when rated in accordance with Uniform Fire Code Standard 79-3 are considered reactive materials. Combinations of materials listed in NFPA Standard 491M — Manual of Hazardous Chemical Reactions, are considered reactive materials.

— Unstable materials (materials with a reactivity rating of three (3) or four (4) in accordance with Uniform Fire Code Standard 79-3); materials that vigorously decompose; materials that vigorously polymerize; and peroxide-forming chemicals.

— Radioactive materials (common radiation source materials), except those used in medical and industrial test and measuring situations.

— Oxidizers — Class Three (3) or Four (4) from NFPA Standard No. 43A as follows:

— Class Three (3) — an oxidizing material that will cause a severe increase in the burning rate of combustible material with which it comes in contact;

— Class Four (4) — an oxidizing material that can undergo an explosive reaction when catalyzed or exposed to heat, shock or friction;

— Highly toxic materials including Class A poisons, as defined by the Fire Code[1] — etiologic and biological agents that cause disease or abnormal conditions, carcinogens, mutagens and teratogens.

— Corrosive, highly toxic or poisonous, and unstable gases.

"Group B hazardous materials" means substances that generally are either flammable or corrosive. "Group B hazardous material" shall include, but not be limited to, the following:

— Class C explosives as defined by the Fire Code;[1]

— Class B poisons as defined by the Fire Code[1];

— Class I-A and I-B flammable liquids as defined by the Fire Code:[1]

— Class I-A shall include those having flashpoints below seventy-three (73) degrees Fahrenheit and having a boiling point below one hundred (100) degrees Fahrenheit;

— Class I-B shall include those having flashpoints below seventy-three (73) degrees Fahrenheit and having a boiling point at or above one hundred (100) degrees Fahrenheit.

— Flammable Solids — organic and inorganic solids, and combustible metals.

— Oxidizing Materials — Class One (1) and Two (2) as listed in NFPA Standard No. 43A, as follows:

— Class One (1) — An oxidizing material whose primary hazard is that it may increase the

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burning rate of combustible material with which it comes in contact;

— Class Two (2) — An oxidizing material that will moderately increase the burning rate or which may cause spontaneous ignition of combustible material with which it comes in contact.

— Flammable and oxidizing gases.

— Corrosives — acids, bases, and other corrosives.

"Group C hazardous materials" means the following listed materials and other similar substances which may present severe risk to health, safety or property but which are generally more common and present less severe hazards than Group A and B materials:

— Class I-C flammable liquids as defined in the Fire Code[1] (flashpoints below one hundred (100) degrees Fahrenheit;

— Combustible liquids — Class II and III as defined in the Fire Code[1] as follows:

— Class II liquids include those having flashpoints at or about one hundred (100) degrees Fahrenheit and below one hundred forty (140) degrees Fahrenheit;

— Class III-A liquids include those having flashpoints at or above one hundred forty (140) degrees Fahrenheit and below two hundred (200) degrees Fahrenheit.

— Inert or chemically unreactive, and liquified gases.

— Other regulated materials including irritants.

"Hearing Examiner" means the official appointed by the Council and designated as the Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro Tem, etc.).

"Hearing, open record." See RCW 36.70B.020.

"Heat recovery incinerator" means an accessory facility designed for the conversion of at least one (1) ton per day of solid waste into useful energy, together with storage and handling bins and machinery required for its operation.

"Heavy commercial services." See "Non-household sales and services."

"Heavy traffic generators" means any use which generates more than seventy-five (75) trips per hour per one thousand (1,000) square feet of gross floor area at peak hour, according to the Institute of Transportation Engineers' (ITE) Trip Generation Manual.

"Heliport." See "Transportation facility."

"Helistop." See "Transportation facility."

"High-impact use" means a business establishment that is considered to be dangerous and/or noxious due to the probability and/or magnitude of its effects on the environment; and/or has the potential for causing major community or health impacts, including but not limited to nuisance, odors, noise, and/or vibrations; and/or is so chemically intensive as to preclude site selection without careful assessment of potential impacts and impact mitigation. For the purposes of this definition, mixing, compounding and blending of chemicals shall not be considered a high-impact use if the result is not a Group A hazardous material, or Group B hazardous materials in quantities greater than the amounts listed in the definition of High-impact One (1) uses as defined below. High-impact uses are classified as either "High-impact One (1)" or "High-impact Two (2)" as set forth below.

"High-impact One (1)" use means the following or other substantially similar activities:

— Battery manufacture and reprocessing for reuse;

— Crude petroleum refinery and storage;

— Manufacture of wood preservatives;

— Distillation of wood, coal or bones, or manufacture of by-products; animal black or bone black manufacturing;

— Gas (illuminating or heating) manufacture or storage;

— Rendering of fat, tallow, lard; extraction of animal or fish fats and oils;

— Smelting of ore;

— Stockyards, hog farms, slaughterhouses except poultry, including packing and freezing;

— Tanneries;

— Wood pulp manufacture;

— Manufacture of Group A hazardous materials, except Class A or Class B explosives;

— Storage of Class A or Class B explosives;

— Manufacture of Group B hazardous materials when the hazardous materials are present in quantities greater than two thousand five hundred (2,500) pounds of solids, two hundred seventy-five (275) gallons of liquid, or one thousand (1,000) cubic feet of gas at any time.

"High-impact Two (2)" use means the following or other substantially similar activities:

— Manufacture of Class A or B explosives;

— Manufacture, use or storage of fissile materials.

"Hillclimb assist" means a public benefit feature consisting of a pedestrian corridor that incorporates a mechanical device or combination of mechanical and nonmechanical features to connect avenues across lots with slopes of ten (10) percent or more to aid pedestrian movement up and down the slopes.

"Hillside terrace" means a public benefit feature consisting of an extension of the public sidewalk on lots

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with slopes of ten (10) percent or more, which through design features provides public street space, helps integrate street level uses along the sidewalk, and makes pedestrian movement up and down steep slopes easier and more pleasant.

"Hipped roof." See "Pitched Roof."

"Home for the retired." See "Group home."

"Home occupation" means a nonresidential use which is clearly incidental and secondary to the use of a dwelling for residential purposes and does not change the character of the dwelling.

"Horticultural use." See "Agricultural use."

"Hospital." See "Institution."

"Hotel." See "Lodging."

"Household" means a housekeeping unit consisting of any number of related persons; eight (8) or fewer non-related, nontransient persons; or eight (8) or fewer related and non-related nontransient persons, unless a grant of special or reasonable accommodation allows an additional number of persons.

"Housing, affordable" means low, low-moderate, or moderate income housing.

"Housing, low-income." See "Low-income housing."

"Housing, low-moderate." See "Low-moderate income housing."

"Housing, moderate-income." See "Moderate-income housing."

"Housing unit" means any dwelling unit, housekeeping unit, guest room, dormitory, or single occupancy unit.

"Human service use" means public or nonprofit agencies organized and operated exclusively for charitable purposes, which provide at least one (1) of the following services: emergency food, medical or shelter services; health care, mental health care, alcohol or drug abuse services; information and referral services for housing, employment or education; or day care services for adults. Human service uses shall provide at least one (1) of the listed services directly to a client group on the premises, rather than serve only administrative functions.

(Ord. 118012 § 55, 1996; Ord. 117202 § 19, 1994; Ord. 115326 § 33, 1990; Ord. 115058 § 1, 1990; Ord. 114866 § 1, 1989; Ord. 114680 § 1, 1989; Ord. 114623 § 18, 1989; Ord. 114486 § 5, 1989; Ord. 113658 § 12, 1987; Ord. 113263 § 33, 1986; Ord. 112777 § 43, 1986; Ord. 112303 § 15, 1985; Ord. 112134 § 7, 1985; Ord. 111926 § 12, 1984; Ord. 110381 § 1(part), 1982.)

1.Editor's Note: The Fire Code is set out at Subchapter IV of Title 22 of this Code.

23.84.018"I."

"Infill development" means development consisting of either: (1) construction on one (1) or more lots in an area which is mostly developed, or (2) new construction between two (2) existing structures.

"Institute for advanced study." See "Institution."

"Institution" means structure(s) and related grounds used by organizations providing educational, medical, social and recreational services to the community, such as hospitals; vocational or fine arts schools; adult care centers and child care centers, whether operated for nonprofit or profit-making purposes; and nonprofit organizations such as colleges and universities, elementary and secondary schools, community centers and clubs, private clubs, religious facilities, museums, and institutes for advanced study.

1. "Adult care center" means an institution which regularly provides care to a group of adults for less than twenty-four (24) hours a day, whether for compensation or not.

2. "College" means a post-secondary educational institution, operated by a nonprofit organization, granting associate, bachelor and/or graduate degrees.

3. "Community center" means an institution used for civic or recreational purposes, operated by a nonprofit organization providing direct services to people on the premises rather than carrying out only administrative functions, and open to the general public on an equal basis. Activities in a community center may include classes and events sponsored by nonprofit organizations, community programs for the elderly, and other similar uses.

4. "Community club" means an institution used for athletic, social, civic or recreational purposes operated by a nonprofit organization, membership to which is open to the general public on an equal basis.

5. "Child care center" means an institution which regularly provides care to a group of children for less than twenty-four (24) hours a day, whether for compensation or not. Preschools shall be considered to be child care centers.

6. "Family support center" means an institution that offers support services and instruction to families, such as parenting classes and family counseling, and is co-located with a Department of Parks and Recreation community center.

7. "Hospital" means an institution which provides accommodations, facilities and services over a continuous period of twenty-four (24) hours or more, for observation, diagnosis and care of individuals who are suffering from illness, injury, deformity or abnormality or from any condition requiring obstetrical, medical or surgical services, or alcohol or drug detoxification. This definition excludes nursing homes.

8. "Institute for advanced study" means an institution operated by a nonprofit organization for the advancement of knowledge through research, including the offering of seminars and courses, and technological and/or scientific laboratory research.

9. "Museum" means an institution operated by a nonprofit organization as a repository of natural, scientific, historical, cultural or literary objects of interest or works of art, and where the collection of such items is systematically managed for the purpose of exhibiting them to the public.

10. "Private club" means an institution used for athletic, social or recreational purposes and operated by a private nonprofit organization, membership to which is by written invitation and election according to qualifications in the club's charter or bylaws and the use of which is generally restricted to members and their guests.

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11. "Religious facility" means an institution, such as a church, temple, mosque, synagogue or other structure, together with its accessory structures, used primarily for religious worship.

12. "School, elementary or secondary" means an institution operated by a nonprofit organization primarily used for systematic academic or vocational instruction through the twelfth grade.

13. "Vocational or fine arts school" means an institution which teaches trades, business courses, hairdressing and similar skills on a post-secondary level, or which teaches fine arts such as music, dance or painting to any age group, whether operated for nonprofit or profit-making purposes.

14. "University." See "College."

(Ord. 118624 § 4, 1997; Ord. 117869 § 3, 1995; Ord. 115043 § 16, 1990; Ord. 115002 § 19, 1990; Ord. 114875 § 17, 1989; Ord. 112777 § 44, 1986; Ord. 112519 § 46, 1985; Ord. 111926 § 13, 1984; Ord. 110570 § 15, 1982: Ord. 110381 § 1(part), 1982.)

23.84.020"J."

"Jail" means a public facility for the incarceration of persons under warrant, awaiting trial on felony or misdemeanor charges, convicted but not yet sentenced, or serving a sentence upon conviction. This definition does not include facilities for programs providing alternatives to imprisonment such as prerelease, work release or probationary programs.

"Junk storage" means the temporary or permanent storage outdoors of junk, waste, discarded, salvaged or used materials or inoperable vehicles or vehicle parts. This definition shall include but not be limited to the storage of used lumber, scrap metal, tires, household garbage, furniture, and inoperable machinery.

"Junkyard." See "Salvage and recycling."

(Ord. 114623 § 19, 1989; Ord. 113263 § 34, 1986; Ord. 112777 § 45, 1986; Ord. 111926 § 14, 1984; Ord. 110570 § 16, 1982: Ord. 110381 § 1(part), 1982.)

23.84.022"K."

"Kennel." See "Animal service."

"Kitchen." See "Food preparation area."

(Ord. 112777 § 46, 1986; Ord. 110381 § 1(part), 1982.)

23.84.024"L."

"Landmark performing arts theater" means a structure that:

1. Contains space that was designed for use primarily as, or is suitable for use as, a performing arts theater;

2. Is located in one (1) of the following Downtown zones: DOC1, DOC2, DRC, or DMC;

3. Is a designated Landmark under Chapter 25.12;

4. Is subject to an ordinance establishing incentives and controls, or the owner of which shall agree, prior to the approval of any landmark theater priority TDR under Section 23.49.033 and prior to the issuance of any building permit for any structure receiving TDRs or a FAR bonus under any agreement with respect to such theater, to an incentives and controls agreement approved by the City Landmarks Preservation Board, which agreement may be conditioned, with the approval of such Board, on the approval of a specified amount of priority landmark TDR for the lot on which such theater is located and/or on the purchase, lease, or option by the City or a third party of a certain amount of development rights from such lot on specified terms;

5. Has, or will have upon completion of a proposed plan or rehabilitation, a minimum floor area devoted to performing arts theater space and accessory uses of at least twenty thousand (20,000) square feet; and

6. Will be available, for the duration of any commitment made to qualify for a FAR bonus or to transfer development rights from the lot, for live theater performances no fewer than one hundred eighty (180) days per year.

"Landmark structure" means a structure designated as a landmark, pursuant to the Landmark Preservation Ordinance, Chapter 25.12.

"Landmark TDR" means development rights eligible for transfer from one lot to another based on the landmark status of the improvements on the sending lot, under Sections 23.49.052, 23.49.072, 23.49.102, or 23.49.128, but does not include development rights that would be eligible for transfer based upon the status of the sending lot as a low-income housing TDR site or Pioneer Square infill site.

"Landmark theater/housing TDR site" means any lot meeting the requirements of paragraphs 1, 2, and 3 below:

1. There is located on the lot a landmark performing arts theater as defined in this section; and

2. The owner of the lot satisfies all requirements for the transfer of landmark TDR; and

3. One (1) of the following conditions (a) or (b) is met, as applicable:

a. If one (1) or more housing units on the lot were occupied or habitable on January 1, 1990, then either:

(i)

The equivalent of all floor area on such lot that was in use as housing or habitable at any time since January 1, 1990 is committed to low-income housing use on the terms required for the transfer of development rights from low-income housing TDR sites by Chapter 23.49 and the Public Benefit Features Rule; or

(ii)

The owner of such lot enters into a voluntary agreement satisfactory to the Director of Housing and Human Services that guarantees the provision of low-income housing in an amount equivalent to the difference between (A) all floor area on such lot in use as housing or habitable at any time since January 1, 1990 and (B) the floor area on the lot that is committed to low-income housing use as described in subsection 3a(i) above. The provision of

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low-income housing may include new construction, substantial rehabilitation, or preservation of housing that the Director determines would otherwise be converted to uses other than low-income housing. In each case there shall be recorded covenants limiting the rents and occupancy of the housing for a period of at least twenty (20) years. The housing shall be provided in a Downtown zone, except

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that the Director may approve housing elsewhere in the downtown Special Objectives Area (SOA) in the City's Comprehensive Housing Affordability Strategy (CHAS), consistent with the goals and policies of the CHAS (or successor document).

b. If no housing units were occupied or habitable on the lot on January 1, 1990, then at least one (1) FAR of the sending site shall be committed to low-income housing use on the terms required for transfer of development rights from low-income housing TDR sites by Chapter 23.49 and the Public Benefit Features Rules.

"Landscape section" means a section of the right-of-way of a freeway, expressway, parkway or scenic route, at least one (1) side of which is improved by the planting, for other than the sole purpose of soil erosion control, of ornamental trees, shrubs, lawn or other vegetation, or at least one (1) side of which is endowed by nature with native trees and shrubs that are reasonably maintained, and which has been so designated by this Code.

"Land Use and Transportation Plan for Downtown." See "Land use policies, Downtown."

"Land use policies" means those policies set forth or incorporated by reference in Chapter 23.12, as such chapter is now in effect and as it may be hereafter amended, as the same may be amended from time to time.

"Land use policies, Downtown," or "Land Use and Transportation Plan for Downtown" means the portions of the Land Use and Transportation Plan for Downtown Seattle, as amended, that are incorporated by reference in SMC Chapter 23.12, as such section is now in effect or hereafter amended.

"Large sign." See "Sign, large."

"Ledge" means a cantilevered or posted platform extending no more than eighteen inches (18″) from a structure.

"Loading berth" means an off-street space for the temporary parking of a vehicle while loading or unloading merchandise or materials and which abuts on a street, alley or easement.

"Lodger." See "Boarder."

"Lodging" means a retail sales and service use in which the primary activity is the provision of rooms to transients.

"Lodging uses" means and includes bed and breakfasts, hotels and motels.

1. "Bed and breakfast" means a lodging use, where rooms within a single dwelling unit are provided to transients by a resident operator for a fee by prearrangement on a daily or short-term basis. A breakfast and/or light snacks may be served to those renting rooms in the bed and breakfast.

2. "Hotel" means a lodging use, located in a structure in which access to individual units is predominantly by means of common interior hallways, and in which a majority of the rooms are provided to transients for a fee on a daily or short-term basis.

3. "Motel" means a lodging use, located in a structure in which access to individual units is predominantly by means of common exterior corridors, and in which a majority of the rooms are provided to transients on a daily or short-term basis, and in which off-street parking is provided on the lot.

"Lot" means a platted or unplatted parcel or parcels of land abutting upon and accessible from a private or public street sufficiently improved for vehicle travel or abutting upon and accessible from an exclusive, unobstructed permanent access easement. A lot may not be divided by a street or alley (Exhibit 23.84.024 A).

"Lot area" means the total area of the horizontal plane within the lot lines of a lot.

"Lot coverage" means that portion of a lot occupied by the principal structure and its accessory structures, expressed as a percentage of the total lot area (Exhibit 23.84.024 B).

"Lot depth" means the horizontal distance between the front and rear lot lines.

"Lot grade, existing" means the natural surface contour of a lot, including minor adjustments to the surface of the lot in preparation for construction.

"Lot line, front" means, in the case of an interior lot, the lot line separating the lot from the street, and in the case of a corner lot, the lot line separating the lot from either street, provided the other is considered to be a side street lot line.

"Lot line, rear" means a lot line which is opposite and most distant from the front lot line.

"Lot line, side" means any lot line not a front lot line or a rear lot line.

"Lot line, side street" means a lot line, other than the front lot line, abutting upon a street.

"Lot lines" means the property lines bounding a lot.

"Lot width" means the mean horizontal distance between side lot lines measured at right angles to the lot depth.

"Lot, corner" means a lot situated at the intersection of two (2) streets, or bounded on two (2) or more adjacent sides by street lot lines, provided that the angle of intersection of the street lot lines does not exceed one hundred thirty-five degrees (135°).

"Lot, interior" means a lot other than a corner lot.

"Lot, key" means the first lot to the rear of a reversed corner lot whether or not separated by an alley.

"Lot, reversed corner" means a corner lot, the side street lot line of which is substantially a continuation of the front lot line of the lot to its rear, whether or not separated by an alley.

"Lot, through" means a lot abutting on two (2) streets which are parallel or within fifteen degrees (15°) of parallel with each other.

"Lot, waterfront" means a lot or parcel any portion of which is offshore of or abuts upon the ordinary high water mark or mean high water mark and any other lot or parcel partially or entirely within the Shoreline District which is not separated from the water by a street, arterial, highway or railroad right-of-way, which was a legal right-of-way as of March 17, 1977. No portion of any legally dedicated right-of-way shall be included in any lot.

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Exhibit 23.84.024 A
Lot Types

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Exhibit 23.84.024 B
Lot Coverage

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"Low-income disabled housing" means a multifamily structure in which at least ninety percent (90%) of the dwelling units are occupied by one (1) or more persons who qualify as disabled under the definition of handicapped pursuant to the Federal Fair Housing Amendment Act and who have incomes not exceeding income limits for low-rent public housing as defined by Resolution 27472.

"Low-income elderly multifamily structure" means a multifamily structure in which at least ninety percent (90%) of the dwelling units are occupied by one (1) or more persons sixty-two (62) or more years of age who have incomes not exceeding income limits for low-rent public housing for one (1) and two (2) person families as established by the Seattle Housing Authority.

"Low income household" means any household whose total household income is less than fifty percent (50%) of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Low-income housing" means any housing unit which is rented to a low-income household at rents not to exceed thirty percent (30%) of fifty percent (50%) of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Low-income housing TDR site" means a lot meeting the following requirements:

1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones;

2. Each structure on the lot shall have the greater of fifty percent (50%) of total gross floor area, or the gross floor area in use as low-income housing on January 1, 1983, committed to low-income housing use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule;

3. The lot has gross floor area equivalent to at least one (1) FAR committed to low-income housing use for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule; and

4. The low-income housing commitment on the lot has been certified by the Director of Housing and Human Services as satisfying the Public Benefit Features Rule.

"Low-moderate income household" means any household whose total household income is between fifty percent (50%) and eighty percent (80%) of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Low-moderate income housing" means any housing unit which is rented to a low-moderate income household at rents not to exceed thirty percent (30%) of eighty percent (80%) of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Lowrise 1 housing" means housing permitted according to standard development requirements in Lowrise 1 Zones.

(Ord. 117929 § 10, 1995; Ord. 117263 § 64, 1994; Ord. 116513 § 17, 1993; Ord. 114486 § 6, 1989; Ord. 114046 § 18, 1988; Ord. 113464 § 4, 1987; Ord. 113041 § 20, 1986; Ord. 112777 § 47, 1986; Ord. 112830 § 16, 1986; Ord. 112134 § 8, 1985; Ord. 111926 § 15, 1984; Ord. 111390 § 45, 1983; Ord. 110793 § 65, 1982; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.025"M."

"Mailed notice" means notice mailed to such property owners, commercial lessees and residents of the area within three hundred feet (300′) of the boundaries of a specific site as can be determined from the records of the King County Department of Assessments and such additional references as may be identified by the Director; provided, that in the downtown area bounded by Denny Way, Interstate 5, South Royal Brougham Way and Elliott Bay, mailed notice shall mean notice mailed to owners, lessees and building managers on the project site and to property owners and building managers within three hundred feet (300′) of a specific site and the posting of two (2) placards at each of the four (4) intersections around the site. Annually, the Director shall publish in the City's official newspaper additional reference(s) to be used to supplement the information obtained from the King County records. The mailed notice shall request that property managers post the notice in a public area of the commercial or multifamily building.

"Major durables sales, service and rental." See "Personal household retail sales and service."

"Major Institution" means an institution providing medical or educational services to the community. A Major Institution, by nature of its function and size, dominates and has the potential to change the character of the surrounding area and/or create significant negative impacts on the area. To qualify as a Major Institution, an institution must have a minimum site size of sixty thousand (60,000) square feet of which fifty thousand (50,000) square feet must be contiguous, and have a minimum gross floor area of three hundred thousand (300,000) square feet. The institution may be located in a single building or a group of buildings which includes facilities to conduct classes or related activities needed for the operation of the institution.

A Major Institution shall be determined to be either an educational Major Institution or a medical Major Institution, according to the following:

1. "Educational Major Institution" means an accredited post-secondary level educational institution, operated by a public agency or nonprofit organization, granting associate, baccalaureate and/or graduate degrees. The institution may also carry out research and other activities related to its educational programs.

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2. "Medical Major Institution" means a licensed hospital.

"Major performing arts facility" means a facility specifically designed for the presentation of live performances of theater, dance or music, that at a minimum has one (1) auditorium with at least two thousand (2,000) seats.

"Major Phased Development" means a nonresidential, multiple building project which, by the nature of its size or function, is complex enough to require construction phasing over an extended period of time, excluding Major Institutions.

"Manufacturing, general" means a manufacturing use, typically having the potential of creating moderate noise, smoke, dust, vibration or other environmental impacts or pollution, and including but not limited to the following:

1. Production of items made from stone or concrete;

2. Production of items from ferrous or nonferrous metals through use of a machine shop, welding or fabrication; or from nonferrous metals through use of a foundry; or from ferrous metals through use of a foundry heated by electricity (induction melting);

3. Production of recreational or commercial vessels of less than one hundred twenty (120) feet in length to individual customer specifications;

4. Production of finished goods, that typically are not for household or office use, such as barrels, ceramic molds, or cardboard cartons, from materials that are already refined, or from raw materials that do not need refining, such as paper, fabric, leather, premilled wood; or wool, clay, cork, semiprecious or precious metals or stones, fiber, or other similar materials;

5. Production of finished goods, for household or nonhousehold use, such as toys, film, pens, or linoleum from plastic, rubber, or celluloid;

6. Production of parts to be assembled into a finished product;

7. Development of film on a wholesale basis;

8. Production of items through biological processes, such as pharmaceuticals and industrial purifiers, manufactured by bioengineering techniques;

9. Production of items such as paint and coatings, dyestuffs, fertilizer, glue, cosmetics, clay, or pharmaceuticals that require the mixing or packaging of chemicals.

"Manufacturing, heavy" means a manufacturing use, typically having the potential of creating substantial noise, smoke, dust, vibration and other environmental impacts or pollution, and including but not limited to:

1. The extraction or mining of raw materials, such as quarrying of sand or gravel;

2. Processing or refining of raw materials, such as but not limited to minerals, petroleum, rubber, wood or wood pulp, into other products;

3. The milling of grain or refining of sugar, except when accessory to a use defined as food processing for human consumption or as a retail sales and service use;

4. Poultry slaughterhouses, including packing and freezing of poultry;

5. Refining, extruding, rolling, or drawing of ferrous or nonferrous metals, or the use of a noninduction foundry for ferrous metal;

6. Mass production of commercial or recreational vessels of any size and the production of vessels one hundred twenty (120) feet in length constructed to individual specifications;

7. Production of large durable goods such as motorcycles, cars, manufactured homes, airplanes, or heavy farm, industrial, or construction machinery;

8. Manufacturing of electrical components, such as semiconductors and circuit boards, using chemical processes such as etching or metal coating;

9. Production of industrial organic and inorganic chemicals, and soaps and detergents; and

10. Conversion of solid waste into useful products or preparation of solid waste for disposal at another location by processing to change its physical form or chemical composition. This includes the off-site treatment or storage of hazardous waste as regulated by the State Department of Ecology. The on-site treatment and storage of hazardous waste is considered an incidental or accessory use.

"Manufacturing, light" means a manufacturing use, typically having little or no potential of creating noise, smoke, dust, vibration or other environmental impacts or pollution, and including but not limited to the following:

1. Production, assembly, finishing, and/or packaging of articles from parts made at another location, such as assembly of clocks, electrical appliances, or medical equipment.

2. Production of finished household and office goods, such as jewelry, clothing or cloth, toys, furniture, or tents, from materials that are already refined, or from raw materials that do not need refining, such as paper, fabric, leather, premilled wood; or wool, clay, cork, semiprecious or precious metals or stones, fiber, or other similar materials;

3. Canning or bottling of food or beverages for human or animal consumption using a mechanized assembly line;

4. Printing plants with more than five thousand (5,000) square feet of gross floor area.

"Manufacturing use" means a business establishment in which articles are produced by hand or by machinery, from raw or prepared materials, by giving to those materials new forms, qualities, properties, or combinations, in a process frequently characterized by the repetitive production of items made to the same or similar specifications.

1. Items produced are generally sold directly to other businesses, or are sold at wholesale. The retail sale of items to the general public is incidental to the production of goods.

2. Manufacturing uses are classified as either light, general or heavy manufacturing. For the purpose of this definition, uses listed as food processing and craft work or high-impact use are not considered manufacturing uses.

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"Marine retail sales and service" means a retail sales and service use which includes one (1) or more of the following uses:

1. "Commercial moorage" means a marine retail sales and service use in which a system of piers, buoys, or floats is used to provide moorage, primarily for commercial vessels except barges, for sale or rent, usually on a monthly or yearly basis. Minor vessel repair, haulout, dry boat storage, tugboat dispatch offices, and other services are also often provided.

2. "Dry storage of boats" means a marine retail sales and service 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."

3. "Vessel repair, major" means a marine retail sales and service use in which ferrous hulls are repaired; or in which boats and ships sixty-five (65) feet or more in length are converted, rebuilt, painted, repaired, or dismantled. Associated activities may include welding and sandblasting.

4. "Vessel repair, minor" means a marine retail sales and service use in which one (1) or more of the following activities take place:

a. General boat engine and equipment repair;

b. The replacement of new or reconditioned parts;

c. Repair of nonferrous boat hulls under sixty-five (65) feet in length;

d. Painting and detailing; and

e. Rigging and outfitting;

but not including any operation included in the definition of "Vessel repair, major."

5. "Marine service station" means a marine retail sales and service use in which fuel for boats is sold, and where accessory uses including but not limited to towing or minor vessel repair may also be provided.

6. "Recreational marina" means a marine retail sales and service use, in which a system of piers, buoys or floats is used to provide moorage, primarily for pleasure craft, for sale or rent usually on a monthly or yearly basis. Minor vessel repair, haulout, dry boat storage, and other services are also often provided.

7. "Sale of boat parts or accessories" means a marine retail sales and service use in which goods are rented or sold primarily for use on boats and ships but excluding uses in which fuel for boats and ships is the primary item sold. Examples of goods sold include navigational instruments, marine hardware and paints, nautical publications, nautical clothing such as foulweather gear, marine engines, and boats less than sixteen (16) feet in length.

8. "Sale or rental of large boats" means a marine retail sales and service use in which boats sixteen (16) feet or more in length are rented or sold. The sale or rental of smaller boats is a major durables sales and service use.

"Master Use Permit" means the document issued to an applicant which records all land use decisions which are made by the Department on a master use application. Construction permits and land use approvals which must be granted by the City Council, citizen boards or the state are excluded.

"Medical service" means a retail sales and service use in which health care for humans is provided on an outpatient basis, including but not limited to offices for doctors, dentists, chiropractors, and other health care practitioners.

"Meeting, public." See RCW 36.70B.020.

"Mini-warehouse" means a commercial use in which enclosed storage space divided into separate compartments no larger than five hundred (500) square feet in area is provided for use by individuals to store personal items or by businesses to store material for operation of a business establishment at another location.

"Mobile home park." See "Residential use."

"Moderate-income household" means any household whose total household income is between eighty (80) and one hundred fifty (150) percent of the median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Area as defined by the United States Department of Housing and Urban Development.

"Moderate-income housing" means any housing unit which is affordable to moderate-income households, according to the Public Benefit Features Rule.

"Modulation" means a stepping back or projecting forward of sections of the facade of a structure within specified intervals of structure width and depth, as a means of breaking up the apparent bulk of the continuous exterior walls (Exhibit 23.84.025 A).

"Mortuary service" means a retail sales and service use which provides services including but not limited to the preparation of the dead for burial or cremation, viewing of the body, and funerals.

"Motel." See "Lodging."

"Motion picture studio" means a facility for the production of motion pictures, intended for movie or television viewing, using video or film media. Motion picture studio use may be intermittent.

"Motion picture theater." See "Places of public assembly."

"Motion picture theater, adult." See "Places of public assembly."

"Multi-family structure." See "Residential use."

"Multiple business center" means a grouping of two (2) or more business establishments which either share common parking on the lot where they are located, and/or which occupy a single structure or separate structures which are physically attached. Shopping centers are considered to be multiple business centers.

"Multi-purpose convenience store." See "Personal and household retail sales and service."

"Museum." See "Institution."

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(Ord. 118624 § 5, 1997; Ord. 118012 § 56, 1996; Ord. 117954 § 9, 1995; Ord. 117598 § 7, 1995; Ord. 117280 § 1, 1994; Ord. 115002 § 20, 1990; Ord. 114725 § 4, 1989; Ord. 113658 § 13, 1987; Ord. 113263 § 35, 1986; Ord. 112777 § 48, 1986; Ord. 112830 § 17, 1986; Ord. 112519 § 47, 1985; Ord. 112303 § 16, 1985; Ord. 112134 § 9, 1985; Ord. 111926 § 17, 1984; Ord. 110793 § 66, 1982; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.026"N."

"Neighborhood plan" means a plan adopted by the Council which has been developed to guide neighborhood growth and development and deal with other neighborhood related issues such as housing, institutions, transportation, economic development and other community development activities.

"Nonconforming structure" means a structure which was lawful when established which does not now conform to the development standards of the zone in which it is located. A structure shall be considered established if it conformed to applicable zoning regulations at any time, or when it is built under permit, a permit for the structure has been granted and has not expired, or the structure is substantially underway in accordance with Section 23.04.010 D.

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Exhibit 23.84.025 A
Modulation

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"Nonconforming use" means a use of land or a structure which was lawful when established and which does not now conform to the use regulations of the zone in which it is located. A use shall be considered established if it conformed to applicable zoning regulations at any time, or when it has commenced under permit, a permit for the use has been granted and has not expired, or a structure to be occupied by the use is substantially underway in accordance with Section 23.04.010 D.

"Non-household sales and services" means one (1) of the following commercial uses:

1. Business incubators — A non-household sales and service use operated in one (1) or more structures offering space, logistical support and business planning and operational support to a number of start-up retail, service or manufacturing businesses each of which will each be located in the incubator setting for a period of less than five (5) years.

2. Business support services — A non-household sales and service use in which services are provided primarily for businesses, institutions and/or government agencies, rather than for households, in a setting other than an office. Examples include but are not limited to blueprint companies, medical laboratories, assaying services and microfilming and copying services.

3. Heavy commercial uses — A non-household sales and service use which is not a business support service, and which does not sell or rent office or other commercial equipment, heating fuel or construction materials. Examples include commercial laundries and construction and building maintenance services.

a. Commercial laundry — A heavy commercial service in which items such as clothing and linens are cleaned. This definition includes cleaning for hospitals, restaurants, hotels and diaper cleaning services, as well as rug and dry cleaning plants where on-premises retail services to individual households are incidental to the operation of the plant.

b. Construction services — A heavy commercial service in which contracting services, including the final processing of building materials such as the mixing of concrete or the heating of asphalt, are provided; or in which construction equipment is stored, either in conjunction with an office or as a separate use.

4. Sales, service and rental of commercial equipment and construction materials — A non-household sales and service use in which commercial equipment not used in offices, such as building construction, farm, restaurant, or industrial equipment, is rented or sold; and/or in which building materials, farm supplies or industrial supplies are sold. Generally these uses carry a wide variety of one type of product, rather than a wide variety of products. Sales may either be retail or wholesale, and are generally made to businesses rather than to individual households.

5. Sales, service and rental of office equipment — A non-household sales and service use in which office equipment or furniture, such as file cabinets, desks, or word processors, is rented or sold; and/or in which office supplies, such as business forms, are sold. Sales may either be retail or wholesale, and are generally made to businesses rather than individual households.

6. Sale of heating fuel — A non-household sales and service use in which heating fuel, such as wood, oil, or coal, is sold.

"Nursing home" means a residence, licensed by the state, which provides full-time convalescent and/or chronic care for individuals who, by reason of chronic illness or infirmity, are unable to care for themselves. No care for the acutely ill or surgical or obstetrical services shall be provided in such a residence. This definition excludes hospitals or sanitariums.

(Ord. 117202 § 20, 1994; Ord. 113263 § 36, 1986; Ord. 112777 § 49, 1986; Ord. 112303 § 17, 1985; Ord. 111390 § 46, 1983; Ord. 110381 § 1(part), 1982.)

23.84.028"O."

"Office" means a commercial use which provides administrative, contractors, professional or customer services to individuals, businesses, institutions and/or government agencies in an office setting.

1. "Administrative office" means an office use in which services are provided to customers primarily by phone or mail, by going to the customer's home or place of business, or on the premises by appointment; or in which customers are limited to holders of business licenses. Examples of services provided include general contracting, janitorial and housecleaning services; legal, architectural, and data processing; broadcasting companies, administrative offices of businesses, unions or charitable organizations; and wholesalers and manufacturer's representatives' offices. Administrative offices may include accessory storage, but not the storage of building materials, contractor's equipment or items, other than samples, for wholesale sale.

2. "Customer service office" means an office use in which on-site customer services are provided in a manner which encourages walk-in clientele and in which generally an appointment is not needed to conduct business. Examples include branch banks, travel agencies, airline ticket offices, brokerage firms, real estate offices, and government agencies which provide direct services to clients.

"Open space" means land and/or water area with its surface predominately open to the sky or predominantly undeveloped, which is set aside to serve the purposes of providing park and recreation opportunities, conserving valuable natural resources, and structuring urban development and form.

"Open space, common" means usable open space which is available for use by all occupants of a residential structure.

"Open space, landscaped" means exterior space, at ground level, predominantly open to public view and used for the planting of trees, shrubs, ground cover and other natural vegetation.

"Open space, usable" means an open space which is of appropriate size, shape, location and topographic siting so that it provides landscaping, pedestrian access or opportunity for outdoor recreational activity. Parking areas and driveways are not usable open spaces.

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"Open space, usable, private" means usable open space which is intended to be used only by the occupants of one (1) ground-related dwelling unit.

"Ornamental feature" means decorative objects such as lintels, cornices and sunshades extending from a structure.

"Outdoor display of rental equipment" means an outdoor area where merchandise available for rent is displayed, and which is freely accessible to the public. Outdoor display of rental equipment may be the principal use of a lot or may be accessory to a commercial use where the rental transactions occur within a structure.

"Outdoor sales" means an outdoor area where merchandise is sold or is displayed for sale, and which is freely accessible to the public, except that automotive retail sales areas shall be considered outdoor sales whether freely accessible or not. Outdoor sales may be the principal use of a lot or may be accessory to a commercial use where the sales transactions occur within a structure.

"Outdoor storage" means a commercial use in which an outdoor area is used for the long-term (more than seventy-two (72) hours) retention of materials, containers and/or equipment. Outdoor storage does not include sale, repair, incineration, recycling or discarding of materials or equipment. Outdoor storage areas are not accessible to the public unless an agent of the business is present. Outdoor parking areas for two (2) or more fleet vehicles of more than ten thousand (10,000) pounds gross vehicle weight shall also be considered outdoor storage. Temporary outdoor storage of construction equipment and materials associated with an active permit to demolish or erect a structure and automotive retail sales areas where motorized vehicles are stored for the purpose of direct sale to the ultimate consumer shall not be considered outdoor storage.

"Overhead weather protection" means a nonstructural feature, such as a canopy, awning or marquee, or a structural feature, such as a building overhang or arcade, which extends from a building and provides pedestrians with protection from inclement weather and adds visual interest at street level.

"Owner occupancy" means an occupancy of a dwelling by the legal property owner as reflected in title records, or by the contract purchaser. The owner occupant of the residence containing the accessory dwelling unit must have an interest equal to or greater than any other partial owner of the property, and the owner occupant's interest must be fifty (50) percent or greater. The owner occupant must occupy the owner-occupied dwelling unit for more than six (6) months of each calendar year and may not receive rent for the owner-occupied dwelling unit at any time during the year.

(Ord. 118472 § 8, 1997; Ord. 117263 § 65, 1994; Ord. 117203 § 7, 1994; Ord. 116795 § 15, 1993; Ord. 114887 § 6, 1989; Ord. 113263 § 37, 1986; Ord. 113041 § 21, 1986; Ord. 112777 § 50, 1986; Ord. 112303 § 18, 1985; Ord. 111926 § 17, 1984; Ord. 110381 § 1(part), 1982.)

23.84.030"P."

"Panoram, adult." See "Places of public assembly."

"Parcel park" means a public benefit feature consisting of a small open space which is accessible to the public and which provides downtown pedestrians an opportunity to rest and relax in a developed urban environment through such amenities as seating, landscaping and artwork.

"Park" means an open space use in which an area is permanently dedicated to recreational, aesthetic, educational or cultural use and generally is characterized by its natural and landscape features. A park may be used for both passive and active forms of recreation; however, its distinctive feature is the opportunity offered for passive recreation such as walking, sitting and watching.

"Park and pool lot" means parking, 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.

"Park and ride lot" means parking 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.

"Parking" means a surface parking area or parking garage.

"Parking, accessory, surface area or garage" means one (1) or more parking spaces which are either reserved or required for a particular use or structure.

"Parking garage" means a structure for parking or storage of vehicles. A parking garage may be accessory to a principal use or structure on a lot or may be the principal structure on a lot.

"Parking, long-term" means a parking space that will be occupied by the same motor vehicle for six (6) hours or more and is used generally by persons who commute to work by private motor vehicle.

"Parking, non-required" means one (1) or more parking spaces not required by either the Land Use Code (Title 23 SMC) or the Zoning Code (Title 24 SMC) as accessory to a principal use and not imposed as a mitigating measure pursuant to the State Environmental Policy Act.

"Parking, principal use, surface area or garage" means a commercial 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.

"Parking screen" means a screen that effectively obscures view of off-street parking from the public right-of-way or private lots. (See also "Screen.")

"Parking, short-term" means a parking space occupied by individual motor vehicles for less than six (6) hours and generally used intermittently by shoppers, visitors or outpatients.

"Parking space" means an area for the parking of one (1) vehicle within a parking facility or parking area, exclusive of driveways, ramps, and office and work areas.

"Parking space, long-term" means a parking space which will be occupied by the same motor vehicle for six

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(6) hours or more and generally used by persons who commute to work by private motor vehicle.

"Parking space, short-term" means a parking space occupied by individual motor vehicles for less than six (6) hours and generally used intermittently by shoppers, visitors, or outpatients.

"Parking, surface area" means an open area used or intended to be used for the parking of vehicles. It may be available to the public or reserved to accommodate parking for a specific purpose.

"Parkway" means a thoroughfare located within a park, or including a park-like development and designated as a "parkway."

"Participant sports and recreation." See "Places of public assembly."

"Party of record" means any person, group, association or corporation that files an appeal; a person granted party status through intervention; the City department making the decision or determination; and the person who files an application for a permit or other type of development authorization which is the subject of the appeal.

"Passenger terminal." See "Transportation facility."

"Paved" means surfaced with a hard, smooth surface, usually consisting of Portland cement concrete or asphaltic concrete underlain by a subgrade of crushed rock.

"Pedestrian orientation" means a condition in which the location of and access to structures, types of uses permitted at street level, and storefront design are based on needs of persons on foot.

"Pedestrian oriented commercial zone." See "Zone, pedestrian oriented commercial."

"Pedestrian walkway" means a surfaced walkway, separated from the roadway, usually of crushed rock or asphaltic concrete and following the existing ground surface (not at permanent grade).

"Performing arts theater." See "Places of public assembly."

"Person" means any individual, partnership, corporation, association, public or private organization of any character.

"Personal and household retail sales and service" means a retail sales and service use in which goods are rented or sold or services are provided primarily for household and personal use rather than for business establishments, institutions, or government agencies, but excluding uses in which primarily building materials and/or heating fuel are sold. Examples of personal and household retail sales are bookstores, furniture stores, and grocery stores. Examples of personal and household services are shoe repair, hair-cutting salons, and dry cleaning.

1. "General personal and household retail sales and service" means a personal and household retail sales and service use which is not a multi-purpose convenience store, major durables sales and service, or a specialty food store.

2. "Major durables, sales, service and rental" means a personal and household retail sales and service use in which large household items, such as but not limited to furniture or appliances, are rented or sold.

3. "Multi-purpose convenience store" means a personal and household retail sales and service use in which a wide range of items frequently purchased for household use are rented or sold. Examples of multi-purpose convenience stores include but are not limited to grocery, hardware, drug, and variety stores.

4. "Specialty food store" means a personal and household retail sales and service use in which food such as salads, deli meats, desserts, baked goods, whole pizzas, and other ready-to-eat foods are prepared and sold, generally for consumption on other premises. Specialty packaged foods, and/or bulk items such as cheese, may also be sold, and the square footage of any area used for seating for the immediate consumption of food shall be no more than three hundred (300) square feet. If more than three hundred (300) square feet are devoted to seating space, the entire use shall be considered an eating and drinking establishment rather than a specialty food store.

"Personal transportation services." See "Transportation facilities."

"Pitched roof" means any non-horizontal roof.

"Placard" means a highly visible notice at least eleven (11) by fourteen (14) inches in size with headings which can be read from a distance of seventy-five (75) feet by persons of normal visual acuity.

"Places of public assembly" means an entertainment use in which cultural, entertainment, athletic, or other events are provided for spectators either in or out of doors. Examples include but are not limited to motion picture and performing arts theaters, spectator sports facilities, and lecture and meeting halls. Places of public assembly accessory to institutions or to public parks or playgrounds shall not be considered commercial uses.

1. "Motion picture theater" means a place of public assembly intended and expressly designed for the presentation of motion pictures, other than an adult motion picture theater.

2. "Motion picture theater, adult" means a place of public assembly in which, in an enclosed building, motion picture films are presented which 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,

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(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.

3. "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 2.

4. "Participant sports and recreation" means an entertainment use in which facilities for engaging in sports and recreation are provided. Any spectators are incidental and are not charged admission. There are two (2) types of participant sports and recreation uses — indoor and outdoor. Participant sports and recreation uses accessory to institutions or to public parks or playgrounds shall not be considered commercial uses.

a. "Participant sports and recreation, indoor" means a participant sports and recreation use in which the sport or recreation is conducted within an enclosed structure. 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.

b. "Participant sports and recreation, outdoor" means a participant sports and recreation use in which the sport or recreation is conducted outside of an enclosed structure. Examples include tennis courts, water slides, and driving ranges.

5. "Performing arts theater" means a place of public assembly intended and expressly designed for the presentation of live performances of drama, dance and music.

6. "Spectator sports facility" means a place of public assembly intended and expressly designed for the presentation of sports events, such as a stadium or arena.

"Planned community development (PCD)" means a zoning process which authorizes exceptions from certain development standards for structures on large tracts of land in certain downtown zones. A PCD is developed as a single entity through a public process, and requires Council approval.

"Planned residential development (PRD)" means a zoning mechanism which allows for flexibility in the grouping, placement, size and use of structures on a fairly large tract of land. A PRD is developed as a single entity, using a public process which incorporates design review.

"Planting strip" means that portion of a street right-of-way lying between the curb and the property line exclusive of the sidewalk; provided, that if there is no curb, then "planting strip" means that portion of the street lying between a sidewalk and the property line. If there is no curb or constructed sidewalk, there is no "planting strip."

"Plat" means a map or representation of a subdivision showing the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

"Plaza, urban" means a public benefit feature consisting of a public open space in the most intensely developed areas of downtown which is located to create a focus for surrounding development, increase light and air at street level, and ensure adequate space at transit stations and major transfer points to increase the convenience and comfort of transit riders.

"Porch" means an elevated platform extending from a wall of a principal structure, with steps or ramps to the ground providing access by means of a usable doorway to the structure. A porch may be connected to a deck. (See also "Deck.")

"Power plant." See "Utility."

"Preliminary plat" means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.

"Preliminary plat approval of a subdivision, fully complete application." See "Application."

"Principal commercial street." See "Street, principal commercial."

"Principal structure" means the structure housing one (1) or more principal uses as distinguished from any separate structures housing accessory uses.

"Principal use" means the main use conducted on a lot, dominant in area, extent or purpose to other uses which may also be on the lot.

"Priority landmark theater TDR" means that portion of the development rights eligible for transfer from a landmark performing arts theater that the Directors of Housing and Human Services, and Construction and Land Use, have approved based on an application by the owner under this section, and that the owner has committed to sell, lease, or option at a price approved by the Director of Housing and Human Services based on appraised value.

"Private club." See "Institution."

"Private usable open space." See "Open space, usable, private."

"Processing and craft work" means one (1) of the following commercial uses:

1. Processing of food for human consumption;
2. Custom and craft work.

"Project permit" or "Project permit application." See RCW 36.70B.020.

"Public atrium" means a public benefit feature consisting of an indoor public open space which provides opportunities for passive recreational activities and events, and for public gatherings, in an area protected from the weather, and including such amenities as seating, landscaping and artwork.

"Public benefit feature" means amenities, uses, and other features of benefit to the public in Downtown zones, which are provided by a developer and which can qualify for an increase in floor area. Examples include public open space, pedestrian improvements, housing, and provision of human services.

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"Public boat moorage" means a pier or system of float or fixed access ways to which boats may be secured and which is owned, operated or franchised by a governmental agency for use by the general public.

"Public convention center" means a public facility of three hundred thousand (300,000) square feet or more, the primary purpose of which is to provide facilities for regional, national and international conventions and which is owned, operated or franchised by a unit of general- or special-purpose government. A public convention center may include uses such as shops, personal services and restaurants which may be owned, operated or franchised by either a unit of general- or special-purpose government or by a private entity.

"Public display space." See "Museum."

"Public facility" means a public project or city facility.

"Public project" means a facility owned, operated or franchised by a unit of general or special-purpose government except The City of Seattle.

"Public school site, existing" means any property acquired and developed for use by or for the proposed public school before the effective date of the ordinance codified in this paragraph.[1] A public school site may be divided by streets or alleys.

"Public school site, new" means any property that has not been previously developed for use by the public school which is to be constructed, expanded or remodeled. A public school site may be divided by streets or alleys. A school property may include both a new school site and existing school sites.

(Ord. 118414 § 59, 1996; Ord. 118012 § 57, 1996; Ord. 117430 § 86, 1994; Ord. 117263 § 66, 1994; Ord. 116513 § 18, 1993; Ord. 115326 § 34, 1990; Ord. 115058 § 2, 1990; Ord. 113977 § 3, 1988; Ord. 112777 § 51, 1986; Ord. 112830 § 18, 1986; Ord. 112539 § 12, 1985; Ord. 112522 § 16(part), 1985; Ord. 112303 § 19, 1985; Ord. 112291 § 1, 1985; Ord. 112134 § 10, 1985; Ord. 111926 § 18, 1984; Ord. 111702 § 2, 1984; Ord. 111100 § 10, 1983; Ord. 110669 § 24, 1982; Ord. 110570 § 17, 1982; Ord. 110381 § 1(part), 1982.)[2]

1.Editor's Note: Ordinance 112539, which added the definition of "existing public school site" was adopted on November 12, 1985.

2.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986, and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.032"R."

"Recreational area, common" means an open space of appropriate size, shape, location and topographic siting to provide landscaping, pedestrian access or opportunity for recreational activity, either in or out of doors, for all the residents of a structure containing dwelling units. Parking areas and driveways are not common recreational areas.

"Recreational marina." See "Marine retail sales and services."

"Recreational vehicle" means a wheeled vehicle designed for temporary occupancy with self-contained utility systems and not requiring a separate highway movement permit for highway travel. A recreational vehicle is not a dwelling unit.

"Recycling center." See "Salvage and recycling."

"Recycling collection station." See "Salvage and recycling."

"Religious facility." See "Institution."

"Research and development laboratory" means a commercial use in which research and experiments leading to the development of new products are conducted.

"Residential district identification sign" means an off-premises sign which gives the name of the group of residential structures, such as a subdivision or cluster development.

"Residential use" means any one (1) of the following uses:

1. "Adult family home" means a residential use as defined and licensed by the State of Washington in a dwelling unit.

2. "Artist's studio/dwelling" means a combination working studio and dwelling unit for artists, consisting of a room or suite of rooms occupied by not more than one (1) household.

3. "Caretaker's quarters" means a residential use accessory to a nonresidential use consisting of a dwelling unit not exceeding eight hundred (800) square feet of living area and occupied by a caretaker or watchperson.

4. "Congregate residence" means a dwelling unit in which rooms or lodging, with or without meals, are provided for nine (9) or more nontransient persons not constituting a single household, excluding single-family residences for which special or reasonable accommodation has been granted.

5. "Domestic violence shelter" means a dwelling unit managed by a nonprofit organization which provides housing at a confidential location and support services for victims of family violence.

6. "Floating home" means a dwelling unit constructed on a float, which is moored, anchored or otherwise secured in the water.

7. "Mobile home park" means a residential use in which a tract of land is rented for the use of more than one (1) mobile home occupied as a dwelling unit.

8. "Multifamily structure" means a structure or portion of a structure containing two (2) or more dwelling units.

9. "Single-family dwelling unit" means a detached structure containing one (1) dwelling unit and having a permanent foundation. The structure may also contain an accessory dwelling unit.

"Restaurant." See "Eating and drinking establishment."

"Retail sales and service" means a commercial use in which goods are rented or sold at retail to the general public for direct consumption and not for resale, or in which services are provided to individuals and/or households. Merchandise may be bought as well as sold and may be processed as long as the items processed are sold only on the premises, and production is incidental or

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subordinate to the selling, rental or repair of goods. See the following:

Personal and household retail sales and services
Medical services
Animal services
Automotive retail sales and service
Marine retail sales and services
Eating and drinking establishments
Lodging
Mortuary services.

"Retail shopping" means a public benefit feature consisting of uses provided at street level which contribute to pedestrian activity and interest.

"Rezone" means an amendment to the Official Land Use Map to change the zone classification of an area.

"Right-of-way" means a strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of pedestrians, vehicles or utilities.

"Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel and parking, exclusive of the sidewalk or shoulder. Where there is a curb, the roadway is the curb-to-curb width of the street.

"Roof, shed." See "Shed roof."

"Rooftop feature" means any parts of or attachments to the structure which project above a roof line and which may or may not be exempt from zoning height limitations.

"Rooftop garden, interior-accessible" means a public benefit feature consisting of an open space located on the roof of a structure which is accessible to the public from the lobby of the building and which is located no more than two hundred forty feet (240′) above grade, and which provides such amenities as landscaping, seating and artwork.

"Rooftop garden, street-accessible" means a public benefit feature consisting of an open space located on the roof of a structure which is accessible to the public from the street or a plaza and is no more than ten feet (10′) above the elevation where public access is provided, and provides such amenities as landscaping, seating and artwork.

"Roomer." See "Boarder."

"Rules" means administrative regulations promulgated and adopted pursuant to this Land Use Code and the Administrative Code.[1]

(Ord. 117263 § 67, 1994; Ord. 117203 § 8, 1994; Ord. 117202 § 21, 1994; Ord. 115326 § 35, 1990; Ord. 113263 § 38, 1986; Ord. 112777 § 52, 1986; Ord. 112830 § 19, 1986; Ord. 112519 § 48, 1985; Ord. 112303 § 20, 1985; Ord. 111926 § 19, 1984; Ord. 111390 § 47, 1983; Ord. 110793 § 67, 1982; Ord. 110570 § 18, 1982; Ord. 110381 § 1(part), 1982.)[2]

1.Editor's Note: The Administrative Code is codified at Chapter 3.02 of this Code.

2.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.036"S."

"Sale and rental of large boats." See "Marine retail sales and service."

"Sale and rental of motorized vehicles." See "Automotive retail sales and service."

"Sale of boat parts and accessories." See "Marine retail sales and service."

"Sale of heating fuel." See "Non-household sales and services."

"Sales and rental of commercial equipment and construction materials." See "Non-household sales and services."

"Sales, service and rental of office equipment." See "Non-household sales and services."

"Salvage and recycling" means a business establishment in which discarded or salvaged materials are collected, stored, transferred, sold, or reused.

1. "Recycling collection station" means a salvage and recycling use in which weather resistant containers are provided for the collection of the following recyclable materials only: glass, aluminum cans, tin cans, and paper; and/or fully enclosed containers are provided for the collection of secondhand goods for processing at another location.

2. "Recycling center" means a salvage and recycling use in which recyclable materials are collected, stored, and/or processed, by crushing, breaking, sorting and/or packaging, but not including any use which is defined as a salvage yard.

3. "Salvage yard" means a salvage and recycling use in which junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile wrecking yards, house-wrecking yards, and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment. A "salvage yard" shall not be construed to include such activity when conducted entirely within an enclosed building, nor pawnshops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, used or salvaged machinery in operable condition or the processing of used, discarded or salvaged materials as a minor part of manufacturing operations.

"Sanitarium." See "Hospital."

"Scale" means the spatial relationship among structures along a street or block front, including height, bulk and yard relationships.

"Scenic route" means those streets designated by the Land Use Code as scenic routes.

"Scenic view section" means a section of the traveled way of a freeway, expressway, parkway, or scenic route the daily traffic along which includes a large number of motorists entering, passing through or leaving the City and from which there is a view of scenic beauty or historical significance, or of an array of urban features or natural prospects, or of a public park, or of lakes, bays, mountains, the harbor or the City skyline, and which has been so designated by this Code.

"School, elementary or secondary." See "Institution."

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"Screen" means a continuous wall or fence that effectively obscures view of the property which it encloses and which is broken only for access drives and walks. (See "Parking screen.")

"Sculptured building top" means a public benefit feature consisting of the treatment of the upper portion of a building as an architectural feature which adds interest to the building by stepping back in a series of steps or by some other arrangement which gives a sculptural definition or aesthetic value to the top of a structure.

"SEPA" means the State Environmental Policy Act.

"Setback" means the required distances between every structure and the lot lines of the lot on which it is located.

"Sewage treatment plant." See "Utility."

"Shed roof" means a roof having only one (1) sloping plane.

"Shopping atrium" means a public benefit feature consisting of a large enclosed space which is accessible to the public, and which provides a combination of retail stores and passive recreational space in a weather-protected, convenient, and attractive atmosphere for shoppers that also contributes to the activity and visual interest at street level.

"Shopping corridor" means a public benefit feature consisting of a passage which goes through a block and connects two (2) avenues, and which is lined with retail uses, in order to make pedestrian circulation more convenient, provide more frontage for shops, give protection to pedestrians from inclement weather, and shorten walking distances.

"Short plat" means a map or representation of a short subdivision.

"Short plat approval, fully complete application." See "Application."

"Short subdivision" means the division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease, development or financing, and shall include all resubdivision of previously platted land and properties divided for the purpose of sale or lease of townhouse units.

"Shoulder" means the graded area between the roadway edge and the sidewalk, or slope line where there is no sidewalk, on the portion of a street where there are no curbs.

"Sidewalk" means a hard-surfaced pedestrian walkway, usually of Portland cement concrete, separated from the roadway by a curb, planting strip or roadway shoulder.

"Sidewalk widening" means a public benefit feature consisting of an extension of the surface of a sidewalk, generally onto private property, which is free of all permanent obstructions.

"Sight triangle" means the area on both sides of a driveway which must be clear of any obstruction to permit optimal visibility from the driveway to the sidewalk and street.

"Sign" means any medium, including structural and component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes.

"Sign, advertising"[1] means a sign directing attention to a business, profession, commodity, service or entertainment conducted, sold or offered elsewhere than upon the lot where the sign is located.

"Sign, awning" means graphics on a fixed awning used or intended to be used to attract attention to the subject matter for advertising, identification, or informative purposes. An awning sign shall not be considered a fabric sign.

"Sign, business" means an on-premises sign directing attention to a business, profession, commodity, service or entertainment conducted, sold or offered on the lot where the sign is located. This definition shall not include signs located within a structure except those signs oriented so as to be visible through a window.

"Sign, canopy" means graphics on a canopy used or intended to be used to attract attention to the subject matter for advertising, identification, or information purposes. A canopy sign shall not be considered a fabric sign.

"Sign, changing-image" means a sign which changes its message or background by means of electrical, kinetic, solar or mechanical energy, not including message board signs.

"Sign, combination" means any sign incorporating any combination of the features of freestanding, projecting, and roof signs. The individual requirements of roof, projecting and pole signs shall be applied for combination signs incorporating any or all of the requirements specified in this Code.

"Sign, electric" means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.

"Sign, externally illuminated" means a sign illuminated by an exterior light source.

"Sign, flashing" means a sign which contains an intermittent or flashing light source, or an externally mounted, intermittent light source.

"Sign, ground" means a sign that is six feet (6′) or less in height above ground level and is supported by one (1) or more poles, columns or supports anchored in the ground.

"Sign, identification" means any ground or wall sign which displays the name, address and/or use of the premises only.

"Sign, large" means a sign four (4) by eight feet (8′), constructed of a durable material.

"Sign, marquee" means a sign placed on, constructed in or attached to a marquee.

"Sign, off-premises" means a sign relating, through its message and content, to a business activity, use, product or service not available on the premises upon which the sign is erected.

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"Sign, off-premises directional" means an off-premises sign used to direct pedestrian or vehicular traffic to a facility, service, or business located on other premises within one thousand five hundred feet (1,500′) of the sign. The message of such sign shall not include any reference to brand names of products or services whether or not available on such other premises; provided, that the name of the facility, service or business may be used.

"Sign, on-premises directional" means an on-premises incidental sign designed to direct pedestrian or vehicular traffic.

"Sign, pole" means a sign wholly supported by a structure in the ground.

"Sign, portable" means a sign which is not permanently affixed and is designed for or capable of being moved, except those signs explicitly designed for people to carry on their persons or which are permanently affixed to motor vehicles.

"Sign, projecting" means a sign other than a wall sign, which projects from and is supported by a wall of a structure.

"Sign, roof" means a sign erected upon or above a roof or parapet of a building or structure.

"Sign, rotating" means a sign that revolves on a fixed axis.

"Sign, side-by-side" means advertising signs that are adjacent to each other on the same plane and facing in the same direction, either on the same structure or within twenty-five feet (25′) of one another.

"Sign, temporary" means any sign which is to be displayed for a limited period of time only, including but not limited to, banners, pennants, streamers, fabric signs, wind-animated objects, clusters of flags, festoons of lights and searchlights. A temporary sign may be of rigid or non-rigid construction.

"Sign, type of" means the following kinds of signs: Ground, roof, projecting, combination, wall, awning, canopy, marquee, under-marquee or pole signs.

"Sign, under-marquee" means a lighted or unlighted sign attached to the underside of a marquee.

"Sign, visually blocked" means an advertising sign that is located against or attached to a building, thereby visible from only one (1) direction. To be considered visually blocked, the advertising sign must be within eight feet (8′) of any building wall or walls that are used to block the back side of the advertising sign and the advertising sign cannot project above or beyond the blocking wall or walls.

"Sign, wall" means any sign attached to and supported by a wall of a structure, with the exposed face of the sign on a plane parallel to the plane of the wall.

"Sign, wall" means a sign painted directly on a building facade.

"Single-family attached structure" means a multifamily structure containing two (2) or three (3) dwelling units and meeting the development standards of the Lowrise Duplex/Triplex zone.

"Single-family dwelling unit." See "Residential use."

"Skylight" means an opening in a roof which is covered with translucent or transparent material, designed to admit light, and incidental to the roof itself.

"Small lot development" means a public benefit feature through which additional gross floor area is granted for development of small lots in certain downtown zones.

"Solar access" means the amount of unrestricted sunlight which reaches a structure, or portion thereof.

"Solar collector" means any device used to collect direct sunlight for use in the heating or cooling of a structure, domestic hot water, or swimming pool, or the generation of electricity.

"Solar greenhouse" means a solar collector which is a structure or portion of a structure utilizing glass or similar glazing material to collect direct sunlight for space heating purposes.

"Solid waste transfer station." See "Utility."

"Specialty food store." See "Personal and household retail sales and service."

"Spectator sports facility." See "Places of public assembly."

"Storage, outdoor." See "Outdoor storage."

"Story" means that portion of a structure included between the surface of any floor and the surface of the floor next above, except that the highest story is that portion of the structure included between the highest floor surface and the ceiling or roof above.

"Street" means a right-of-way which is intended to provide or which provides a roadway for general vehicular circulation, is the principal means of vehicular access to abutting properties and includes space for utilities, pedestrian walkways, sidewalks and drainage. Any such right-of-way shall be included within this definition, regardless of whether it has been developed or not.

"Street, arterial" means every street, or portion thereof, designated as an arterial on Exhibit 23.53.015 A.

"Street, existing" means any street which is not a new street.

"Street Improvement Manual" means a set of detailed standards for street, alley and easement construction, adopted by a joint Administrative Rule of Seattle Transportation and the Department of Construction and Land Use.[2]

"Street, new" means a street proposed to be created through the platting process, or by dedication to the City as part of development proposal.

"Street, principal commercial" means a street that has been identified as such through a Council approved neighborhood plan for a designated urban center or urban village.

"Street, private" means a named, private permanent access easement exceeding thirty-two feet (32′) in width not dedicated to public use but which provides a roadway at least twenty-four feet (24′) wide for internal use within a subdivision or development, and which includes sidewalks and space for utilities and drainage. A private street shall be treated as a street for purposes of application of development standards to abutting properties.

"Streetscape" means the visual character of a street as determined by various elements such as structures, landscaping, open space, natural vegetation and view.

"Structural alterations" means any change in the supporting members of a building, such as foundations,

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bearing walls or bearing partitions, columns, beams or girders, or any structural change in the roof.

"Structure" means anything constructed or erected on the ground or any improvement built up or composed of parts joined together in some definite manner and affixed to the ground, including fences, walls and signs, but not including poles, flowerbed frames and such minor incidental improvements.

"Structure depth" means that dimension of a structure extending between the front and rear lot lines.

"Structure width" means that dimension of a structure extending between side lot lines.

"Structure, accessory." See "Accessory structure."

"Structure, detached" means a structure having no common or party wall with another structure.

"Structure, enclosed" means a roofed structure or portion of a structure having no openings other than fixed windows and such exits as are required by law, and which is equipped with self-closing doors.

"Structure, nonconforming." See "Nonconforming structure."

"Structure, principal." See "Principal structure."

"Structure, single-family." See "Single-family dwelling unit."

"Subdivision" means the division or redivision of land into ten (10) or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease and transfer of ownership.

"Submerged land" means all lands waterward of the ordinary high water mark or mean higher high water, whichever is higher.

"Substandard size lot" means a lot which contains less than the minimum size required for the zone in which it is located.

(Ord. 118409 § 215, 1996: Ord. 117570 § 27, 1995; Ord. 117430 § 87, 1994; Ord. 117263 § 68, 1994; Ord. 117202 § 22, 1994; Ord. 116780 § 5, 1993; Ord. 116262 § 22, 1992; Ord. 116205 § 3, 1992; Ord. 115326 § 36, 1990; Ord. 114887 § 13(part), 1989; Ord. 114196 § 18, 1988; Ord. 113977 § 4, 1988; Ord. 113658 § 14, 1987; Ord. 113615 § 1, 1987; Ord. 113263 § 39, 1986; Ord. 113051 § 1, 1986: Ord. 112890 § 5, 1986; Ord. 112777 § 53, 1986; Ord. 112830 § 20, 1986; Ord. 112519 § 49, 1985; Ord. 112303 § 21, 1985; Ord. 111926 § 20, 1984; Ord. 111390 § 48, 1983; Ord. 111100 § 11, 1983; Ord. 110793 § 68, 1982; Ord. 110669 § 25, 1982; Ord. 110570 § 19, 1982; Ord. 110381 § 1(part), 1982.)[3]

1.Editor's Note: Section 1 of Ordinance 116581, adopted by the Council on February 16, 1993, is provided as follows:

Section 1. Until August 1, 1993, or the effective date of any ordinance amending the substantive standards for advertising signs in the Land Use Code, whichever is sooner, the City shall accept no application, nor approve or issue any permit, to establish the use of, to construct or to relocate any advertising sign. This prohibition shall not apply to any complete application for a construction permit for an advertising sign filed prior to August 17, 1992, nor to any application for use or construction permits to legalize billboard faces in existence on June 1, 1992.

2. "Airport, water-based" means a transportation facility used exclusively by aircraft which take off and land directly on the water.

2.Editor's Note: The Street Improvement Manual is available at the DCLU Information Counter, located at 710 2nd Avenue, Room 200.

3.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.038"T."

"Tandem houses" means two (2) unattached ground-related dwelling units occupying the same lot.

"Tandem parking" means one (1) car parked behind another and where aisles are not provided.

"Tavern." See "Eating and drinking establishment."

"Terraced housing" means a multi-family structure located on a sloping site in which a series of flat rooftops at different heights function as open space for abutting units.

"Topographic break" means a separation of two (2) areas by an abrupt change in ground elevation.

"Towing service." See "Automotive retail sales and service."

"Townhouse" means a form of ground-related housing in which individual dwelling units are attached along at least one (1) common wall to at least one (1) other dwelling unit. Each dwelling unit occupies space from the ground to the roof and has direct access to private open space. No portion of a unit may occupy space above or below another unit, except that townhouse units may be constructed over a common shared parking garage, provided the garage is underground.

"Transit station access easement" means a public benefit feature consisting of an easement for a pedestrian route or connection to provide direct access from street level to transit tunnel stations and concourses.

"Transit station access, grade-level" means a public benefit feature consisting of a pedestrian connection which provides direct access from street level to transit tunnel stations or concourses at approximately the same level as the station mezzanine.

"Transit station access, mechanical" means a public benefit feature consisting of a pedestrian connection that incorporates a mechanical device, such as an escalator, to provide direct access from street level to transit tunnel stations and concourses.

"Transportation facilities" means one (1) of the following commercial uses:

1. "Airport, land-based" means a transportation facility used for the takeoff and landing of airplanes.

3. "Cargo terminal" means a transportation facility in which quantities of goods or container cargo are, without undergoing any manufacturing processes, transferred to other carriers or stored outdoors in order to

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transfer them to other locations. Cargo terminals may include accessory warehouses, railroad yards, storage yards, and offices.

4. "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, hangers and other accessory buildings and open spaces.

5. "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.

6. "Passenger terminal" means a transportation facility located on a sea or land transportation line, where people transfer from one (1) mode of vehicular transportation to another or between carriers within the same mode. Such carriers shall have regularly scheduled routes, and may include vans, trains, ships, tour buses or boats, or other types of transportation. Passenger terminals may include ticket counters, waiting areas, management offices, baggage handling facilities, and shops and restaurants. Metro street bus stops are not included in this definition.

7. "Personal transportation services" means a transportation facility 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.

8. "Railroad switchyard" means a transportation facility in which:

a. Rail cars and engines are serviced and repaired; and

b. Rail cars and engines are transferred between tracks and coupled to provide a new train configuration.

9. "Railroad switchyard with a mechanized hump" means a railroad switchyard which includes a mechanized classification system operating over an incline.

10. "Transit vehicle base" means a transportation facility in which a fleet of buses or light-rail cars is stored, maintained, and/or repaired. (See also "Fleet vehicles.")

"Travelled way" means the portion of a freeway, expressway, parkway, and their entrance or exit ramps, or scenic route, exclusive of shoulders, used for the movement of vehicles.

"Triplex" means a single structure containing three (3) dwelling units.

(Ord. 117430 § 88, 1994; Ord. 114887 § 7, 1989; Ord. 113658 § 15, 1987; Ord. 112777 § 54, 1986; Ord. 112830 § 21, 1986; Ord. 112303 § 22, 1985; Ord. 112134 § 11, 1985; Ord. 111926 § 21, 1984; Ord. 110793 § 69, 1982; Ord. 110570 § 20, 1982; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.040"U."

"Underground" means entirely below the surface of the earth excluding access.

"University." See "Institution."

"Urban plaza." See "Plaza, urban."

"Usable new office space" means the gross floor area of a structure, which floor area is created by new construction for principal office use, rather than by changing the use of floor area to office use in a building existing as of the effective date of the ordinance codified in this definition.

"Usable open space." See "Open space, usable."

"Use" means the purpose for which land or a structure is designed, built, arranged, intended, occupied, maintained, let or leased.

"Use, conditional." See "Conditional use."

"Use, nonconforming." See "Nonconforming use."

"Utility" means a business establishment in which power, water and other similar items are provided or transmitted; or sewage is treated, or solid waste is stored or transferred or incinerated. Underground pipes and cables and high-impact uses shall not be considered utilities.

1. "Power plant" means a utility use in which power in the form of steam or electricity is produced by wind, solar or water forces or combustion of materials such as coal, oil, gas and/or steam is produced by combustion or electricity. A nuclear power plant, solid waste incineration facility and the concurrent incidental production of electricity or useful heating or mechanical energy, or cogeneration, as well as the recovery of waste heat, shall not be considered a power plant.

2. "Sewage treatment plant" means a utility use in which sanitary or combined sewage is received, treated, and discharged, but does not include: Conveyance lines and associated underground storage facilities; pumping stations; or commercial or industrial facilities for "pretreatment" of sewage prior to discharge into the sewer system.

3. "Solid waste incineration facility" means a utility use in which solid waste is reduced by mass burning, prepared fuel combustion, pyrolysis or any other means, regardless of whether or not the heat of combustion of solid waste is used to produce power. Heat-recovery incinerators and the incidental production of electricity or useful heating or mechanical energy, or cogeneration, shall not be considered a solid waste incineration facility.

4. "Solid waste landfill" means a utility use at which solid waste is permanently placed in or on land, including sanitary landfills and compliance cell landfills.

5. "Solid waste transfer station" means a utility use in which discarded materials are collected for transfer to another location for disposal by compaction, shredding or separating, but does not include processing that changes the chemical content of the material.

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"Utility service use" means a utility use which provides the system for transferring or delivering power, water, sewage, stormwater runoff, or other similar substances. Examples include electrical substations, pumping stations, and trolley transformers.

(Ord. 117410 § 1, 1994; Ord. 116596 § 5, 1993; Ord. 116295 § 24, 1992; § 7 of Initiative 31, passed 5/16/89; Ord. 113658 § 16, 1987; Ord. 112969 § 5, 1986; Ord. 112777 § 65, 1986; Ord. 111926 § 22, 1984; Ord. 110381 § 1(part), 1982.)

23.84.042"V."

"Vacation (of public right-of-way)" means an action taken by the Council which terminates or extinguishes a right-of-way easement when it is no longer necessary for a public right-of-way.

"Vanpool" means a highway vehicle with a seating capacity of eight (8) to fifteen (15) persons, including the driver, which is used primarily to transfer a group of three (3) or more employees between home and work.

"Variance" means relief from certain provisions of the Land Use Code authorized by the Director or Council after determining that the criteria established for the granting of variances have been satisfied.

"Vehicle repair." See "Automotive retail sales and service."

"Vessel repair." See "Marine retail sales and service."

"Visible" means capable of being seen (whether or not legible) without visual aid by persons of normal visual acuity.

"Vocational or fine arts school." See "Institution."

(Ord. 112777 § 56, 1986; Ord. 112830 § 22, 1986; Ord. 111926 § 23, 1984; Ord. 110381 § 1(part), 1982.)[1]

1.Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.044"W."

"Wall, exterior" means an upright member of a structure which forms the boundary between the interior and exterior of that structure.

"Warehouse" means a commercial use in which space is provided in an enclosed structure for the storage of goods produced off-site, for distribution or transfer to another location.

"Wholesale showroom" means a commercial use in which merchandise is displayed and sold at wholesale to business representatives for resale, rather than to the general public for direct consumption and which includes storage of goods for sale. Wholesalers which do not have auxiliary storage as a part of the use shall be considered administrative offices.

"Width, structure." See "Structure width."

"Work release center" means an alternative to imprisonment, including pre-release and work/training release programs which are under the supervision of a court, or a federal, state or local agency. This definition excludes at-home electronic surveillance.

(Ord. 114623 § 20, 1989; Ord. 113263 § 40, 1986; Ord. 112777 § 57, 1986; Ord. 110793 § 70, 1982; Ord. 110381 § 1(part), 1982.)

23.84.046"Y."

"Yard." See "Yard, front," "Yard, side" and "Yard, rear."

"Yard, front" means an area from the ground upward between the side lot lines of a lot, extending from the front lot line to a line on the lot parallel to the front lot line, the horizontal depth of which is specified for each zone.

"Yard, rear" means an area from the ground upward between the side lot lines of a lot, extending from the rear lot line to a line on the lot parallel to the rear lot line, the horizontal depth of which is specified for each zone.

"Yard, side" means an area from the ground upward between the front yard (or front lot line if no front yard is required); and the rear yard (or rear lot line if no rear yard is required); and extending from a side lot line to a line on the lot, parallel to the side lot line, the horizontal depth of which is specified for each zone.

(Ord. 117263 § 69, 1994; Ord. 110381 § 1(part), 1982.)

23.84.048"Z."

"Zero (0) lot line construction" means a structure, or structures, sited on one (1) or more lot lines with no yard.

"Zone" means a portion of the City designated on the Official Land Use Map of The City of Seattle within one (1) of the land use classifications.

"Zone, commercial" means the following zones regulated by Title 23: NC1, NC2, NC3, C1 and C2.

"Zone, downtown" means the following zones regulated by Title 23: DOC1, DOC2, DRC, DMC, DMR, IDM IDR, PSM, PMM, DHI and DH2.

"Zone, industrial" means the following zones regulated by Title 23: General Industrial 1, General Industrial 2, Industrial Buffer and Industrial Commercial.

"Zone, lowrise" means Lowrise Duplex/Triplex, Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 multifamily residential zones.

"Zone, multifamily" means Lowrise Duplex/Triplex (LDT), Lowrise 1 (L1), Lowrise 2 (L2), Lowrise 3 (L3), Lowrise 4 (L4), Midrise (MR), Midrise/85 (MR/85), Highrise (HR) zones.

"Zone, neighborhood commercial" means the following zones regulated by Title 23: Neighborhood Commercial 1, Neighborhood Commercial 2, and Neighborhood Commercial 3.

"Zone, pedestrian oriented commercial" means the following zones regulated by Title 23: Neighborhood Commercial 1, Neighborhood Commercial 2, and Neighborhood Commercial 3.

"Zone, residential" means the following zones regulated by Title 23: SF9600, SF7200, SF5000, RSL, LDT, L1, L2, L3, L4, MR, HR, RC, DMR and IDR.

"Zone, single family" means the following zones regulated by Title 23: SF5000, SF7200 and SF9600. Solely for the purposes of the provisions of this title that impose standards or regulations based upon adjacency or any other juxtaposition or relationship to a single-family zone, "zone, single family" also shall include any RSL or RSL/T zone.

(Ord. 117430 § 89, 1994; Ord. 116795 § 16, 1993; Ord. 116596 § 6, 1993; Ord. 116295 § 26, 1992; Ord. 114888 § 10, 1989; Ord. 114887 § 8, 1989; Ord. 113263 § 41, 1986; Ord. 112303 § 23, 1985; Ord. 111926 § 24, 1984; Ord. 110381 § 1(part), 1982.)

Chapter 23.86
MEASUREMENTS

Sections:

23.86.002General provisions.
23.86.004Sign measurements.
23.86.006Structure height.
23.86.007Gross floor area and floor area ratio.
23.86.008Lot coverage, width and depth.
23.86.010Yards.
23.86.012Setbacks in multifamily zones.
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23.86.020Modulation.
23.86.024Minimum facade height.
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23.86.030Common recreation area.
23.86.032Gross floor area in residential use.
23.86.034Distance to required parking.
23.86.036Major institution minimum site and gross floor area measurement.

23.86.002General provisions.

A. For all calculations, the applicant shall be responsible for supplying drawings illustrating the measurements. These drawings shall be drawn to scale, and shall be of sufficient detail to allow verification upon inspection or examination by the Director.

B. When any measurement technique for determining the number of items required or allowed, including but not limited to parking or bicycle spaces, or required trees or shrubs, results in fractional requirements, any fraction up to and including one-half (1/2) of the applicable unit of measurement shall be disregarded and fractions over one-half (1/2) shall require the next higher full unit of measurement.

When any measurement technique for determining required minimum or allowed maximum dimensions, including but not limited to height, yards, setbacks, lot coverage, open space, building depth, parking space size or curb cut width, results in fractional requirements, the dimension shall be measured to the nearest inch. Any fraction up to and including one-half of an inch (1/2″) shall be disregarded and fractions over one-half (1/2) shall be included in the measurement.

(Ord. 117263 § 70, 1994; Ord. 111390 § 49, 1983; Ord. 110381 § 1(part), 1982.)

23.86.004Sign measurements.

A. Sign Area.

1. For a sign which is an independent structure, the entire visible surface of the sign, exclusive of support devices, shall be included in area calculations. Only one (1) face of a double-faced sign shall be counted.

2. For a sign painted or mounted directly on another structure, sign area shall be the area contained in the smallest rectangular area enclosing the graphic or worded message, measured by the projection of the legs of two (2) right angles that are placed at opposite corners of the graphic and/or worded message (Exhibit 23.86.004 A).

3. Where a background color different from that of the face upon which a sign is located is used as part of the sign, the entire background area shall be included in area calculations (Exhibit 23.86.004 B).

4. Only message-conveying text shall be included. Decorative graphics not conveying a readily apparent message are not counted in the area of the sign.

5. For the purposes of measuring sign area for signs regulated by Section 23.55.042, Signs adjacent to certain public highways, the following provisions shall also be used to calculate sign area:

a. Where freestanding business signs and business signs on the face of a building are visible on the same premises, the sum of the area of both types of signs visible from any place on the traveled way shall not exceed the area permitted on the face of the building, except as provided for gas station signs and in subsection E1 of Section 23.55.042.

b. Where a multi-faced sign is used, the greatest area visible from any place on the traveled way shall be measured.

6. In major institution zones, when signs with and without size limits are combined, the portion of the sign to which a size limit applies shall not exceed the applicable limit.

B. Number of Signs. In certain zones, the type and number of signs is determined by amount of frontage on public rights-of-way, except alleys. Frontage shall be measured as follows:

1. When only one (1) business establishment is located on a lot, or when determining the frontage of

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Exhibit 23.86.004 A
Sign Area Measurement

Exhibit 23.86.004 B
Sign Area Measurement

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a multiple business center, frontage shall equal the length of the street property line(s) of the lot on which the business establishment or multiple business center is located (Exhibit 23.86.004 C).

2. When determining the frontage of a business establishment located in a multiple business center, the following method shall be used:

a. Draw the least rectangle that encloses the portion of the principal structure in which the business establishment is located, as well as any area used for outdoor sales or outdoor display of rental equipment.

b. Extend the sides of the rectangle to the property line(s) of the lot which abut a right-of-way, except an alley, and which are not blocked from the rectangle by another structure or portion of the structure (Exhibit 23.86.004 D).

c. The lineal footage of the frontage between the extended sides of the rectangle shall be the frontage of the business establishment for purposes of measuring the number and type of permitted signs.

C. Dispersion Standards for Off-premises Signs.

1. Where linear dispersion of off-premises signs is required, the number of off-premises signs permitted on a street shall be calculated as follows:

a. Project the centerline of each off-premises sign structure or sign painted on a structure to the centerline of each street from which the sign face is visible, at right angles to the street. Signs which are set so far back from a street that they are not visible from the street, sign structures which may be visible from the street but are oriented to face another street and permitted business district identification signs, shall not be counted.

b. Signs on both sides of the street shall be counted, unless otherwise stated.

c. Single-face billboards shall be considered one (1) structure for the purposes of this subsection.

d. Double-face or "V" type shall be considered one (1) structure for the purposes of this subsection.

e. Visually blocked advertising signs shall be considered one-half ($^1/_2$) of a sign structure for the purposes of this subsection.

f. The number of permitted signs shall be measured from the projections made under subsection C1a at the centerline of the street.

2. Where a minimum radial distance between each off-premises sign structure is established, the distance shall be calculated as follows:

a. Draw a circle with its center on the centerline of the sign structure, and a radius equal to the minimum required distance (Exhibit 23.86.004 F).

b. No off-premises sign except permitted business district identification signs shall be located within the circle.

c. Double-face or "V" type billboards shall be considered one (1) structure for the purposes of this subsection.

d. When permitted sign area is calculated as a percentage of the area of the face of the structure on which the sign is located, the area of the structure face shall be the elevation of the structure as measured on flat projection from any side, excluding the roof and excluding any chimney, stack, structure, or mechanical equipment on the roof.

(Ord. 116780 § 6, 1993; Ord. 113263 § 42, 1986; Ord. 112830 § 23, 1986; Ord. 112519 § 50, 1985; Ord. 110381 § 1(part), 1982.)

23.86.006Structure height.

A. Height Measurement Technique in All Zones Except Downtown Zones.

1. The height shall be measured at the exterior walls of the structure. Measurement shall be taken at each exterior wall from the existing or finished grade, whichever is lower, up to a plane essentially parallel to the existing or finished grade. For determining structure height, the exterior wall shall include a plane between supporting members and between the roof and the ground. The vertical distance between the existing grade, or finished grade, if lower, and the parallel plane above it shall not exceed the maximum height of the zone.

2. When finished grade is lower than existing grade, in order for an upper portion of an exterior wall to avoid being considered on the same vertical plane as a lower portion, it must be set back from the lower portion a distance equal to two (2) times the difference between existing and finished grade on the lower portion of the wall (Exhibit 23.86.006 A1).

3. Depressions such as window wells, stairwells for exits required by other codes, "barrier free" ramps on grade, and vehicle access driveways into garages shall be disregarded in determining structure height when in combination they comprise less than fifty percent (50%) of the facade on which they are located. In such cases, the grade for height measurement purposes shall be a line between the grade on either side of the depression.

4. No part of the structure, other than those specifically exempted or excepted under the provisions of the zone, shall extend beyond the plane of the maximum height limit.

5. Underground portions of structures are not included in height calculations. The height of structures shall be calculated from the point at which the sides meet the surface of the ground.

B. Height Averaging for Single-family Zones. In a single-family zone, the average elevation of the nearest single-family structures on either side of a lot may be, at the applicant's option, used to establish the height limit of the principal structure on that lot, according to the following provisions:

1. Each structure used for averaging shall be on the same block front as the lot for which a height limit is being established. The structures used shall be the nearest single-family structure on each side of the

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Exhibit 23.86.004 C
Measurement of Property Frontage for Business Establishments
and Multiple Business Centers
Exhibit 23.86.004 D
Measurement of Property Frontage for Business Establishments
in a Multiple Business Center

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Exhibit 23.86.004 F
Distance Between Off-premises Signs

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Exhibit 23.86.006 A1
Height Measurement

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lot, and shall be within one hundred feet (100′) of the side lot lines of the lot.

2. The height limit for the lot shall be established by averaging the elevations of the structures on either side in the following manner:

a. If the nearest structure on either side has a roof with at least a three-in-twelve (3:12) pitch, the elevation to be used for averaging shall be the highest point of that structure's roof minus five feet (5′).

b. If the nearest structure on either side has a flat roof, or a roof with a pitch of less than three-in-twelve (3:12), the elevation of the highest point of the structure's roof shall be used for averaging.

c. Rooftop features which are otherwise exempt from height limitations, Height Exceptions, Section 23.44.012 C, shall not be included in elevation calculations.

d. The two (2) elevations obtained from steps 2a and/or 2b shall be averaged to derive the height limit for the lot. This height limit shall be the difference in elevation between the midpoint of a line parallel to the front lot line at the required front setback and the average elevation derived from 2a and/or 2b.

e. The height measurement technique used for the lot shall then be the City's standard measurement technique, Section 23.86.006 A.

3. When there is no single-family structure within one hundred feet (100′) on a side of the lot, or when the nearest single-family structure within one hundred feet (100′) on a side of the lot is not on the same block front, the elevation used for averaging on that side shall be thirty feet (30′) plus the elevation of the midpoint of the front lot line of the abutting vacant lot.

4. When the lot is a corner lot, the height limit may be the highest elevation of the nearest structure on the same block front, provided that the structure is within one hundred feet (100′) of the side lot line of the lot and that both front yards face the same street.

5. In no case shall the height limit established according to these height averaging provisions be greater than forty feet (40′).

6. Lots using height averaging to establish a height limit shall be eligible for the pitched roof provisions of Section 23.44.012 B.

C. Additional Height on Sloped Lots.

1. In certain zones, additional height shall be permitted on sloped lots at the rate of one foot (1′) for each six percent (6%) of slope. For the purpose of this provision, the slope shall be measured from the exterior wall with the greatest average elevation at existing grade, to the exterior wall with the lowest average elevation at existing grade. The slope shall be the difference between the existing grade average elevations of the two (2) walls, expressed as a percentage of the horizontal distance between the two (2) walls.

2. This additional height shall be permitted on any wall of the structure, provided that on the uphill side(s) of the structure, the height of the wall(s) shall be no greater than the height limit of the zone (Exhibit 23.86.006 A2).

3. Structures on sloped lots shall also be eligible for the pitched roof provisions applicable in the zone.

D. Height Measurement Techniques in Downtown Zones.

1. Determine the major street property line, which shall be the lot's longest street property line. When the lot has two (2) or more street lot lines of equal length, the applicant shall choose the major street property line.

2. Determine the slope of the lot along the entire length of the major street property line.

3. The maximum height shall be measured as follows:

a. When the slope of the major street property line is less than or equal to seven and one-half percent (7-½%), the elevation of maximum height shall be determined by adding the maximum permitted height to the existing grade elevation at the midpoint of the major street property line. On a through lot, the elevation of maximum height shall apply only to the half of the lot nearest the major street property line. On the other half of a through lot, the elevation of maximum height shall be determined by the above method using the street lot line opposite and parallel to the major street property line as depicted in Exhibit 23.86.006 B.

b. When the slope of the major street property line exceeds seven and one-half percent (7-½%), the major street property line shall be divided into four (4) or fewer equal segments no longer than one hundred twenty feet (120′) in length. The elevation of maximum height shall be determined by adding the maximum permitted height to the existing grade elevation at the midpoint of each segment. On a through lot, the elevation of maximum height shall apply only to the half of the lot nearest the major street property line. On the other half of a through lot, the elevation of maximum height shall be determined by the above method using the street lot line opposite and parallel to the major street property line, as depicted in Exhibit 23.86.006 C.

c. For lots with more than one (1) street frontage, where there is no street property line which is essentially parallel to the major street property line, when a measurement has been made for the portion of the block containing the major street property line, the next measurement shall be taken from the longest remaining street lot line.

4. No parts of the structure, other than those specifically exempted or excepted under the provisions of the zone, shall extend beyond the elevation of maximum height.

5. Underground portions of structures are not included in height calculations. The height of structures shall be calculated from the point at which the sides meet the surface of the ground.

E. Determining the Height of Existing Public School Structures. When the height of the existing public school

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Exhibit 23.86.006 A2
Height Exception on Sloping Lots

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Exhibit 23.86.006 B
Maximum Height, Slope Less Than or
Equal to 7½%

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Exhibit 23.86.006 C

Maximum Height, Slope Greater Than 7-½%

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structure must be measured for purposes of determining the permitted height or lot coverage of a public school structure, either one of the following options may be used:

1. If all parts of the new roof are pitched at a rate of not less than three to twelve (3:12), the ridge of the new roof may extend to the highest point of the existing roof. A shed roof does not qualify for this option.

2. If all parts of the new roof are not pitched at a rate of not less than three to twelve (3:12), then the elevation of the new construction may extend to the average height of the existing structure. The average height shall be determined by measuring the area of each portion of the building at each height and averaging those areas, as depicted in Exhibit 23.86.006 D.

(Ord. 112971 § 1, 1986; Ord. 112539 § 13, 1985; Ord. 112519 § 51, 1985; Ord. 112303 § 24, 1985; Ord. 111926 § 25, 1984; Ord. 110669 § 26, 1982; Ord. 110570 § 21, 1982; Ord. 110381 § 1(part), 1982.)

23.86.007Gross floor area and floor area ratio.

A. Certain items may be exempted from calculation of gross floor area of a structure. When gross floor area below grade is exempted, the amount of below-grade floor area shall be measured as follows:

1. The existing grade of the lot shall be established by the elevations of the perimeter lot lines of the lot.

2. To determine the amount of gross floor area which is below grade, find the point where the ceiling of each floor intersects the existing grade elevation. Draw a line perpendicular to the point of intersection. All gross floor area behind this line shall be considered below-grade (see Exhibit 23.86.007 A).

B. Public rights-of-way shall not be considered part of a lot when calculating floor area ratio; provided that when dedication of right-of-way is required, permitted floor area ratio shall be calculated before the dedication is made.

(Ord. 115326 § 37, 1990; Ord. 113892 § 9, 1988: Ord. 112519 § 52, 1985: Ord. 112303 § 25, 1985.)

23.86.008Lot coverage, width and depth.

A. Lot coverage shall be calculated in accordance with Exhibit 23.86.008 A.

B. In single-family zones, lot depth shall be the length of the line extending between the front lot line or front lot line extended, and the rear lot line or lines, or in the case of a through lot, between the two (2) front lot lines or lines extended. This line shall be perpendicular to the front lot line or front lot line extended. Where an alley abuts the rear of the property, one-half (½) of the width of the alley shall be included as a portion of the lot for determining lot depth.

C. Lot Width in Single-family Zones:

1. When a lot is essentially rectangular, the lot width shall be the mean horizontal distance between side lot lines measured at right angles to lot depth (Exhibit 23.86.008 B).

2. In the case of a lot with more than one (1) rear lot line (Exhibits 23.86.008 C and 23.86.008 D), the lot width shall be measured according to the following:

a. If the distance between the rear lot lines is fifty (50) percent or more of the lot depth, the lot width shall be measured parallel to the front lot line and shall be the greatest distance between the side lot lines (Exhibit 23.86.008 C); or

b. If the distance between the rear lot lines is less than fifty (50) percent of the lot depth, the lot width shall be measured according to Exhibit 23.86.008 D.

3. For irregular lots not meeting the conditions of subsections C1 or C2, the Director shall determine the measurement of lot width.

(Ord. 117263 § 71, 1994; Ord. 113883 § 4, 1988; Ord. 110669 § 27, 1982: Ord. 110381 § 1(part), 1982.)

23.86.010Yards.

A. Measuring Required Yards. Required yard dimensions shall be horizontal distances, measured perpendicular to the appropriate lot lines (Exhibit 23.86.010 A).

For lots with no street frontage, the applicant may designate the front lot line.

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 23.86.010 B). When 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 23.86.010 C).

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 C, 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.

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Exhibit 23.86.006 D

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Exhibit 23.86.007 A
Floor Area Below Grade

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Exhibit 23.86.008 A
Lot Coverage

Exhibit 23.86.008 B
Lot Width

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Exhibit 23.86.008 C
Lots With More Than One Rear Lot Line,
And Where The Distance Between The
Rear Lot Lines Is 50% Or More Of Lot Depth
Where X + Y is 50% of D or greater, the lot width shall be:

a for Lot A, and b for Lot B

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Exhibit 23.86.008D
Lots With More Than One Rear Lot Line, And Where
The Distance Between The Rear Lot Line Is
Less Than 50% Of Lot Depth

Where X + Y is less than 50% of D,

Width of Lot A shall be: $\frac{(a \times X) + (b \times Y) + (c \times Z)}{D}$; and

Width of lot B shall be: $\frac{(d \times X) + (e \times Y) + (f \times Z)}{D}$

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Exhibit 23.86.010 A
Standard Required Yards
(SF Zone Example)

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Exhibit 23.86.010 B
Determination of Front Yard Setback

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Exhibit 23.86.010 C
Calculating Minimum Required Front Yard
Unusual Front Walls

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d. When 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. When 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 when 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 23.86.010 D and 23.86.010 E).

f. When 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 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.

C. Rear Yards. Rear yard requirements are presented in the standard development requirements for each zone. In determining how to apply these requirements, the following provisions shall apply:

1. The rear yard shall be measured horizontally from the rear lot line when the lot has a rear lot line which is essentially parallel to the front lot line for its entire length.

2. When the front lot line is essentially parallel to portions of the rear property line, as with a stepped rear property line, each portion of the rear property line which is opposite and essentially parallel to the front lot line shall be considered to be a rear lot line for the purpose of establishing a rear yard.

3. On a lot with a rear property line, part of which is not essentially parallel to any part of the front lot line, the rear yard shall be measured from a line or lines drawn from side lot line(s) to side lot line(s), at least ten (10) feet in length, parallel to and at a maximum distance from the front lot line. Where an alley abuts the rear of the property, one-half (½) the width of the alley, between the side lot lines extended, shall be considered to be part of the lot for drawing this line. For those portions of the rear lot line which are essentially parallel to the front lot line, subsection C2 above shall apply.

4. For a lot with a curved front lot line, the rear yard shall be measured from a line at least ten (10) feet in length, parallel to and at a maximum distance from a line drawn between the endpoints of the curve. The lot depth is then measured perpendicularly from this ten (10) foot long line extended as needed to the point on the actual front lot line which is the furthest distance away. This establishes lot depth, which then may be used to determine the required rear yard depth.

5. For a lot with an irregular shape or with an irregular front lot line not meeting conditions of C1 through C4 above, the Director shall determine the measurement of the rear yard.

D. Side Yards.

1. Side Yard Averaging. Side yard requirements are presented in the standard development requirements for each zone. In certain cases where specifically permitted, the side yard requirement may be satisfied by averaging the distance from side lot line to structure facade for the length of the structure. In those cases the side yard shall be measured horizontally from side lot line to the side facade of the structure.

(Ord. 118414 § 60, 1996; Ord. 117263 § 72, 1994; Ord. 115326 § 38, 1990; Ord. 111390 § 50, 1983; Ord. 110793 § 71, 1982; Ord. 110669 § 28, 1982; Ord. 110381 § 1(part), 1982.)

23.86.012Setbacks in multifamily zones.

A. Front Setbacks.

1. Determining Front Setback Requirements. Front setback requirements are presented in the development standards for each zone. Where the minimum required front setback is to be determined by averaging the setbacks of structures on either side of the subject lot, the following provisions shall apply:

a. The required depth of the front setback shall be the average of the distance between principal structures and front lot lines of the nearest principal structures on each side of the subject lot (Exhibit 23.86.012 A).

b. The setbacks used for front setback averaging shall be on the same block front as the subject lot, and shall be the front setbacks of the nearest principal structures within one hundred (100) feet of the side lot lines of the subject lot.

c. For averaging purposes, front setback depth shall be measured from the front lot line to the nearest wall 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 principal structure on either side. Attached garages and enclosed porches shall be considered part of the principal structure for measurement purposes. Decks less than eighteen (18) inches above existing grade, uncovered porches, eaves, attached solar collectors and other similar parts of the structure shall not be considered part of the principal structure. When the front facade of the principal 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.

d. When 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,

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Exhibit 23.86.010 D

1. Front yard, Lot D = 16′.
2. Lot B unimproved.
3. Lot A not on same block front.
4. Use 20′ for averaging purposes on west side.
5. Minimum required front yard,
   Lot C = (20 + 16)/2 = 18′.

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Exhibit 23.86.010 E

Minimum Required Front Yards, Adjoining Lots Unimproved

1. Front yard, Lot F = 18′.
2. Lots B, C, D unimproved.
3. Use 20′ for averaging purposes on west side.
4. Minimum required front yard,
   Lot E = (20 + 18)/2 = 19′.

Exhibit 23.86.010 F

1. Minimum required front yard,
   Lot B = (20 + 20)/2 = 20′.
2. Minimum required front yard,
   Lot E = (20 + 18)/2 = 19′.

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Exhibit 23.86.012 A
Determination of Front Yard Setback

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for averaging purposes the amount of dedication shall be subtracted from the front setbacks of the structures on either side.

e. When the first principal structure within one hundred feet (100′) of a side lot line of the subject lot is not on the same block front or when there is no principal structure within one hundred feet (100′) of the side lot line, the setback depth used for averaging purposes on that side shall be ten feet (10′).

f. When the front setback of the first principal structure within one hundred feet (100′) of the side lot line of the subject lot exceeds twenty feet (20′), the setback depth used for averaging purposes on that side shall be twenty feet (20′).

g. In cases where the street is very steep or winding, the Director shall determine which adjacent structures should be used for averaging purposes.

h. In the case of a through lot, the requirement for front setback shall be determined independently for each street frontage. The measurement techniques of this section shall be applied for each street frontage separately.

i. For cluster development, the front setback of a principal structure on the same lot may be used for averaging purposes.

2. Front Setback Averaging. In certain zones the required front setback may be averaged. In such cases the following provisions shall apply:

a. The average distance from the front lot line to the facade shall satisfy the minimum front setback requirement. The front setback shall be averaged for the entire width of the structure, except that areas which are farther than three (3) times the required front setback from the front lot line shall not be calculated in the front setback.

b. Portions of the facade at existing grade shall be used in determining the average setback.

c. Projections of the front facade which begin at least eight feet (8′) above finished grade and project four feet (4′) or less from the lower portion of the facade shall not be included in the setback averaging. For such projections which project more than four feet (4′) from the lower portion of the facade, only the first four feet (4′) shall be exempt from the averaging calculation. This provision applies to such features as cantilevered floor area, decks and bay windows. Eaves, gutters and cornices are permitted to project eighteen inches (18″) beyond any front facade without being counted in averaging.

3. Measuring Street-facing Setbacks for Institutions and Public Facilities in Multifamily Zones.

a. In multifamily zones, the depth of setback from a street lot line may be averaged along the width and height of the facade for institutions and public facilities, as an alternative providing greater design flexibility than standard modulation requirements.

b. This average setback shall be calculated by dividing the three (3) dimensional volume of setback by the area of the structure facade.

(1) Find the sum of volumes within the space defined by extension of the roof line, the planes of the side walls, and the vertical extension of the front lot line; and

(2) Divide this sum by the area of the street-facing facade, calculated as the product of facade height and facade width (Exhibit 23.86.012 B).

B. Rear Setbacks. In Midrise zones applicants are given an option in multifamily zones to provide a minimum rear setback of ten feet (10′) which must be modulated, or an averaged rear setback of at least fifteen feet (15′). The following provisions shall apply when the applicant has chosen to provide an averaged rear setback of at least fifteen feet (15′):

1. All projections of the facade shall be included in averaging the rear setback, with the exception of eaves, gutters and cornices which project eighteen inches (18″) or less from the facades.

2. The rear setback shall be averaged for the entire width of the structure.

C. Side Setbacks.

1. Side setback requirements are presented in the standard development requirements for each zone. Side setback requirements are based on the height and the depth of a structure. Where two (2) or more structures are connected by elevated walkways, structure depth shall be determined by the combined depth of the structures connected by the elevated walkway, not including the walkway itself.

2. Side Setback Averaging. In certain cases where specifically permitted, the side setback requirement may be satisfied by averaging the distance from side lot line to structure facade for the depth of the structure. In those cases the following provisions shall apply:

a. The side setback shall be measured horizontally from side lot line to the side facade of the structure.

b. This side setback shall be averaged for the entire depth of the structure, except that areas which are farther than two (2) times the required average side setback from the side lot line shall not be counted as part of the side setback (Exhibit 23.86.012 C).

C. Setbacks Between Structures in Cluster Developments. Required setbacks in cluster developments are specified in each multifamily zone. In certain cases, the setback requirement may be satisfied by averaging the distance between the portions of the facades which face each other. In those cases the following provisions apply:

1. The setback shall be measured horizontally from one (1) facade to the other.

2. The setback shall be averaged across the width of those portions of the facades which face each other.

(Ord. 115326 § 39, 1990; Ord. 115002 § 21, 1990; Ord. 114887 § 9, 1989: Ord. 113041 § 22, 1986: Ord. 112971 § 2, 1986; Ord. 111100 § 12, 1983; Ord. 110793 § 72, 1982; Ord. 110570 § 22, 1982.)

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Exhibit 23.86.012 B
Average Facade Setback,
Institutions and Public Facilities

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Exhibit 23.86.012 C
Side Setback Averaging

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23.86.014Structure width.

A. Structure width shall be measured by the following method:

1. Draw a rectangle that encloses the principal structure.

2. Structure width shall be the length of the side of that rectangle most closely parallel to the front lot line (Exhibit 23.86.014 A).

B. Portions of a structure which shall be considered part of the principal structure for the purpose of measuring structure width are as follows:

1. Carports and garages attached to the principal structure unless attached by a structural feature not counted in structure width under subsection C;

2. Exterior corridors, hallways or open, above-grade walkways, except portions which are elevated walkways connecting structures in a cluster development;

3. Enclosed porches, decks, balconies and other enclosed projections;

4. Chimneys used to meet modulation requirements;

5. Modulated and projecting segments of a facade unless excluded in subsection C.

C. Portions of a structure which shall not be considered part of the principal structure for the purpose of measuring structure width are as follows:

1. Eaves, cornices and gutters provided that when such features project more than eighteen (18) inches from an exterior wall only eighteen (18) inches shall be excluded in the measurement of structure width;

2. The portion of elevated walkways connecting buildings in cluster developments;

3. Chimneys not used to meet modulation requirements provided that only eighteen (18) inches shall be excluded in the measurement of structure width;

4. Attached solar greenhouses meeting minimum standards administered by the Director;

5. Unenclosed decks, balconies and porches, ten (10) feet or less above existing grade, unless located on the roof of an attached garage or carport included in structure width in subsection B1 of this section;

6. Unenclosed decks, balconies and porches, more than ten (10) feet above existing grade, provided that when such features project more than four (4) feet from an exterior wall, only four (4) feet shall be excluded in the measurement of structure width. Such features shall be excluded whether or not used to meet modulation requirements; and

7. Arbors, trellises and similar features.

(Ord. 118414 § 61, 1996; Ord. 114887 § 10, 1989; Ord. 111390 § 51, 1983; Ord. 110793 § 73, 1982: Ord. 110570 § 23, 1982.)

23.86.016Structure depth.

A. Measuring Structure Depth. In certain zones structure depth is limited by development standards. The following provisions shall apply for determining structure depth:

1. Structure depth shall be measured by the following method:

a. Draw a rectangle that encloses the principal structure.

b. Structure depth shall be the length of the sides of that rectangle most closely parallel to the side lot lines (Exhibit 23.86.016 A).

c. In Lowrise zones when more than one (1) structure is located on a lot and no portion of a structure is behind any portion of another structure and the structures are separated by a minimum of ten (10) feet, the maximum depth of each structure shall be measured individually. (See Exhibit 23.86.016 B.) When any portion of a structure is behind any portion of another structure then maximum structure depth shall be the combined depth of the structures on the lot.

2. Portions of a structure which shall be considered part of the principal structure for the purpose of measuring structure depth are as follows:

a. Carports and garages attached to the principal structure unless attached by a structural feature not counted in structure depth under subsection A3;

b. Exterior corridors, hallways or open, abovegrade walkways, except portions which are elevated walkways connecting structures in a cluster development;

c. Enclosed porches, decks, balconies and other enclosed projections;

d. Chimneys used to meet modulation requirements;

e. Modulated and projecting segments of a facade unless excluded in subsection A3;

f. Accessory structures which are less than three (3) feet from the principal structure at any point.

3. Portions of a structure which shall not be considered part of the principal structure for the purpose of measuring structure depth are as follows:

a. Eaves, cornices and gutters provided that when such features project more than eighteen (18) inches from an exterior wall only eighteen (18) inches shall be excluded in the measurement of the structure depth;

b. The portion of elevated walkways connecting buildings in a cluster development;

c. Chimneys not used to meet modulation requirements provided that only eighteen (18) inches shall be excluded in the measurement of structure depth;

d. Attached solar greenhouses meeting minimum standards administered by the Director;

e. Unenclosed decks, balconies and porches, ten (10) feet or less in height, unless located on the roof of an attached garage or carport included in structure depth in subsection A2a;

f. Unenclosed decks, balconies and porches, more than ten (10) feet above existing grade, provided that when such features project more than four (4) feet from an exterior wall only four (4) feet shall be excluded in the measurement of structure depth. Such features shall be excluded whether or not used to meet modulation requirements.

B. Determining Maximum Permitted Structure Depth. In certain zones, structure depth is limited to a percentage of lot depth. For those cases the following provisions shall apply:

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Exhibit 23.86.014 A
Structure Width

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Exhibit 23.86.016 A
Structure Depth

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Exhibit 23.86.016 B
Depth Measurement for Structures When Offset

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1. When the lot is essentially rectangular and has a rear lot line which is within fifteen (15) degrees of parallel to the front lot line, the lot depth shall be the horizontal distance between the midpoints of the front and rear lot lines (Exhibit 23.86.016 C).

2. When the lot is triangular or wedge-shaped, lot depth shall be the horizontal distances between the midpoint of the front lot line and the rear point of the lot. If such a lot does not actually come to a point, lot depth shall be measured from midpoint of front lot line to midpoint of rear lot line (Exhibit 23.86.016 C).

3. In the case of a through lot, lot depth shall be measured between midpoints of front lot lines.

4. When lot shape is so irregular that provisions 1, 2 or 3 cannot be used, lot depth shall be that distance equal to the result of lot area divided by length of front lot line, provided that in no case shall lot depth be greater than the distance from front lot line to the furthest point on the perimeter of the lot (Exhibit 23.86.016 D).

C. Measuring Structural Depth Exceptions. In certain zones, exceptions permit increased structure depth. For those cases total permitted lot coverage shall equal maximum width times maximum depth less the area required for modulation, according to the following provisions:

1. Maximum width shall be considered to be the width of the lot less the total required side setbacks, but shall in no case exceed the maximum width permitted for the housing type and zone. In Lowrise 3 zones, apartments no more than thirty (30) feet in height may have a maximum depth of one hundred (100) feet.

2. Maximum depth shall be considered to be the percentage of lot depth permitted for the proposed housing type.

3. The area of minimum required modulation shall be subtracted from the calculation to determine maximum lot coverage permitted.

4. Eaves, and unenclosed decks, balconies and porches, shall not be calculated as part of lot coverage, provided that when such features project more than four (4) feet from an exterior wall only four (4) feet shall be excluded from the lot coverage calculation.

(Ord. 118414 § 62, 1996; Ord. 114887 § 11, 1989; Ord. 113041 § 23, 1986; Ord. 111390 §§ 51, 52, 1983; Ord. 110793 § 74, 1982: Ord. 110570 § 24, 1982.)

23.86.018Open space.

Certain zones require a minimum amount of open space to be provided on the lot. For those cases where open space is required, the following provisions shall apply:

A. In order for a portion of a lot to qualify as open space, the ground's surface shall be permeable, except for patios, paved areas designed for recreation, and pedestrian access which meets the Washington State Rules and Regulations for Barrier-Free Design. The area shall be landscaped with grass, ground cover, bushes and/or trees.

B. Driveways, parking areas and pedestrian access, except for pedestrian access meeting the Washington State Rules and Regulations for Barrier-Free Design, shall not be counted as open space.

C. The area covered or enclosed by solar collectors meeting minimum standards administered by the Director may be counted as required open space.

D. Portions of a structure which begin eight (8) feet or more above finished grade may project up to four (4) feet over required ground-level open space.

E. Development standards for certain zones specify a minimum contiguous area for open space. Open space areas smaller than the minimum contiguous area specified for such zones shall not be counted toward fulfilling total open space requirements for that lot.

1. Driveways and parking areas, paved or unpaved, shall be considered to separate open space areas they bisect.

2. Pedestrian access areas shall not be considered to break the contiguity of open space on each side.

F. In shoreline areas, when determining the amount of open space required or provided, no land waterward of the ordinary high water mark shall be included in the calculation.

G. In order for a ground area, roof area, deck or balcony to be considered as open space, it shall have a minimum area and provide a minimum horizontal dimension as established in each zone. For the purpose of measuring the horizontal dimensions of open space, the following provisions shall apply:

1. For rectangular or square areas, each exterior dimension of the area shall meet the minimum dimension (Exhibit 23.86.018 A).

2. For irregularly shaped areas where all lines intersect at or approximately at ninety (90) degree angles, an area which is not less than sixty (60) percent of the minimum dimension in width and does not extend further than sixty (60) percent of the minimum dimension from a contiguous rectangular or square area of which all sides meet or exceed the minimum dimension, may be included as required open space (Exhibit 23.86.018 B).

3. For triangular areas, all exterior dimensions of the area shall meet or exceed the minimum dimensions (Exhibit 23.86.018 C).

4. For circular areas, the diameter of the circle shall meet the minimum dimension; for semicircular areas, the radius of the area shall meet the minimum dimension (Exhibit 23.86.018 D).

5. In cases where the shape of the open space is so unusual that the above provisions cannot be applied, for example, a curvilinear shape, the Director shall determine when open space requirements have been met.

H. Open Space Relationship to Grade.

1. The elevation of open space for ground-related housing must be within ten (10) 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

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Exhibit 23.86.016 C
Measuring Lot Depth

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Exhibit 23.86.016 D
Rear Lot Line Exception

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Exhibit 23.86.018 A
Measurement of Rectangular Open Spaces

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Exhibit 23.86.018 B
Measurement of Irregular Open Spaces
("a" = minimum horizontal dimension of
open space
as established in each zone)

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Exhibit 23.86.018 C
Measurement of Triangular Open Spaces
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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 (8) eighty square feet of the principal living areas of the unit. Principal living areas shall not include foyers, entrance areas, closets or storage rooms, hallways, bathrooms or similar rooms alone or in combination.

The grade of the open space can either be the existing grade or within eighteen (18) inches of existing grade. The portion of the open space which is within ten (10) feet of the unit shall include the point where the access to the open space from the unit occurs.

2. 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 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 open space can either be 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.

I. In the case of a lot where a portion is reserved as a vehicular access easement to another lot, when determining the amount of open space required or provided, no land within the limits of the easement shall be included in the calculation except where a portion of the structure is constructed over the easement.

(Ord. 118414 § 63, 1996; Ord. 114196 § 19, 1988; Ord. 112971 § 3, 1986; Ord. 111390 § 53, 1983; Ord. 110793 § 75, 1982: Ord. 110570 § 25, 1982.)

23.86.020Modulation.

Modulation criteria are described in the development standards for each multifamily residential zone. The following provisions describe how measurements shall be made in determining whether modulation requirements have been met.

A. Modulation Width.

1. Modulation width shall be the width of a facade segment between the points at which adjacent segments begin to step forward or back (Exhibit 23.86.020 A).

2. Balconies and decks shall be considered to be projections of the facade for the purpose of measuring modulation width.

3. The stepping forward or back in the facade between which modulation width is measured shall be sufficient to satisfy the minimum modulation requirements for width and depth specified in the standard development requirements for the appropriate multi-family zone. Steps in the facade which do not satisfy minimum modulation width or depth requirements shall not be considered to form a separate facade segment for the purpose of measuring modulation width, until such steps cumulatively satisfy the minimum dimension required.

4. In cases where the design of a structure is so unusual that the above provisions cannot be applied; for example, for wedge-shaped or curved facade projections; the Director shall determine when modulation requirements have been met.

B. Modulation Depth.

1. Modulation depth shall be the distance a facade segment steps forward or back from an adjacent facade segment (Exhibit 23.86.020 B).

2. Balconies and decks shall be considered to be projections of the facade for the purpose of measuring modulation depth.

3. When portions of a facade which step forward or back do not satisfy the minimum modulation width or depth specified in the standard development requirements for the appropriate multifamily zone, such portions shall not be considered to form a separate facade segment for the purpose of measuring modulation depth, until such steps cumulatively satisfy the minimum dimensions required.

4. In cases where the design of the structure is so unusual that the above provisions cannot be applied, the Director shall determine when modulation requirements have been met.

C. Calculating Maximum Permitted Modulation Width. The maximum width of modulation is prescribed in the standard development requirements for each multi-family zone. In those cases for which the maximum modulation width may be increased if the modulation depth is increased, the following provisions shall apply:

1. When the depth of modulation provided allows the structure to qualify for increased modulation width, each adjacent facade segment shall qualify for the increased width, each adjacent facade segment shall qualify for the increased width (Exhibit 23.86.020 C).

2. When a facade segment is bounded by two (2) modulated segments of differing depths, the maximum modulation width shall be determined by the greater of the two modulation depths (Exhibit 23.86.020 D).

(Ord. 110570 § 26, 1982.)

23.86.024Minimum facade height.

A. When a minimum facade height is required in downtown zones, the height of the facade shall be measured from the elevation of the street property line at the sidewalk as depicted in Exhibit 23.86.024 A. Areaways, stairways and other excavations at the property line shall not be considered in measuring the elevation of the street property line. When sidewalk widening is required according to Section 23.49.022, the height of the facade shall be measured from the elevation of the line establishing the new sidewalk width, rather than the street property line.

B. When different minimum facade heights are established at the corner of a lot, the higher minimum height shall continue to be provided around the corner for a distance equal to the higher minimum height required as depicted in Exhibit 23.86.024 B.

(Ord. 112519 § 53, 1985; Ord. 111926 § 26(part), 1984.)

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Exhibit 23.86.018 D
Measurement of Circular Open Spaces
("a" = minimum horizontal dimension of
open space
as established in each zone)

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Exhibit 23.86.020 A
Modulation Width

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Exhibit 23.86.020 B
Modulation Depth ("a" = modulation depth)

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Exhibit 23.86.020 C
Modulation Width Exception
(If modulation depth "A" allows the structure to qualify for increased modulation width (see Standard Development Requirements), then facade segments "B" and "C" each qualify for the extra width permitted.)

Exhibit 23.86.020 D
Measuring Modulation Width
(Segment "B" maximum width is determined by modulation depth "A," not "C.")

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23.86.026Facade transparency.

A. In zones where a certain percentage of the street facade is required to be transparent, transparency shall be measured in an area between two feet (2′) and eight feet (8′) above the elevation of the property line at the sidewalk, as depicted in Exhibit 23.86.026 A. Areaways, stairways and other excavations at the property line shall not be considered in measuring the elevation of the street property line. When sidewalk widening is required according to Section 23.49.022, the elevation of the lines establishing the new sidewalk width shall be used rather than the street property line.

B. When transparency is required for facades which abut bonused public open spaces, the measurement of facade transparency shall be from the elevation of the public open space.

(Ord. 112519 § 54, 1985; Ord. 111926 § 26(part), 1984.)

23.86.028Blank facades.

In zones where blank facades are required to be limited, the following provisions shall be used to determine the percent and length of blank facades.

A. Percent of Blank Facades.

1. Blank facades shall be measured in an area between two feet (2′) and eight feet (8′) above the elevation of the property line at the sidewalk as depicted in Exhibit 23.86.028 A. Areaways, stairways and other excavations at the property line shall not be considered in measuring the elevation of the street property line. When sidewalk widening is required according to Section 23.49.022, the elevation of the line establishing the new sidewalk width shall be used rather than the street property line.

2. When the blank facade is limited for facades which abut bonused public open spaces, the measurement of facade transparency shall be from the elevation of the public open space.

B. Length of Blank Facades. The length of a blank facade located within the area established in subsection A of this section shall be measured between the closest points of adjacent transparent areas, at five feet (5′) above the elevation of the property line at the sidewalk. Garage doors shall not be counted in determining the length of blank facades, as depicted in Exhibit 23.86.028 A.

(Ord. 112303 § 26, 1985; Ord. 111926 § 26(part), 1984.)

23.86.030Common recreation area.

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

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

B. Driveways, parking areas and pedestrian access, except for pedestrian access meeting the Washington State Rules and Regulations for Barrier-Free Design, shall not be counted as common recreation area.

C. Development standards in downtown zones specify a minimum contiguous area for common recreation area. Areas smaller than the minimum contiguous area specified shall not be counted toward fulfilling the common recreation area requirements. Driveways and parking areas, paved or unpaved, shall be considered to separate common recreation areas they bisect. Pedestrian access areas shall not be considered to break the contiguity of common recreation areas on each side.

D. For an area to be considered a common recreation area, it must have a minimum area and minimum horizontal dimensions as established for downtown zones. For the purpose of measuring the horizontal dimensions of the common recreation area, the following provisions shall apply:

1. In rectangular or square areas, each exterior dimension of the area shall meet the minimum dimension as depicted in Exhibit 23.86.030 A.

2. In irregularly shaped areas in which all lines intersect at or approximately at ninety-degree (90°) angles, an area which is not less than sixty percent (60%) of the minimum dimension in width and does not extend further than sixty percent (60%) of the minimum dimension form a contiguous rectangular or square area of which all sides meet or exceed the minimum dimension, may be included as required common recreation area, as depicted in Exhibit 23.86.030 B.

3. In triangular areas, all exterior dimensions of the area shall meet or exceed the minimum dimension as depicted in Exhibit 23.86.030 C.

4. In circular areas, the diameter of the circle shall meet the minimum dimension; for semicircular areas, the radius of the area shall meet the minimum dimension as depicted in Exhibit 23.86.030 D.

5. When the shape of the area is so unusual that the above provisions cannot be applied; for example, when the shape is curvilinear, the Director shall determine when common recreation area requirements have been met.

6. When a portion of a lot is reserved for a vehicular access easement to another lot, no land within the limits of the easement shall be included in the calculation of the common recreation area required, except when a portion of the structure containing common recreation area is constructed over the easement.

(Ord. 111926 § 26(part), 1984.)

23.86.032Gross floor area in residential use.

When a requirement is based on the percentage of a structure's gross floor area which is in residential use, residential area shall include the following:

A. The gross floor area of all floors or portions of floors of a structure which are devoted entirely to residential use;

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Exhibit 23.86.024 A
Minimum Facade Height

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Exhibit 23.86.024 B
Minimum Facade Height at Corners

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Exhibit 23.86.026 A
Street Facade Transparency
Exhibit 23.86.028 A
Percent of and Length of Blank Facades

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Exhibit 23.86.030 A
Measurement of Rectangular Open Spaces
"a" is equal to or greater than minimum required
dimension for square or rectangular areas.

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Exhibit 23.86.030 B
Measurement of Irregular Open Spaces
"a" = minimum horizontal dimension of
open space
as established in each zone.

Exhibit 23.86.030 C
Measurement of Triangular Open Spaces
"a" = minimum horizontal dimension of
open space
as established in each zone.

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Exhibit 23.86.030 D
Measurement of Circular Open Spaces
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as established in each zone.

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B. The prorated portion share of a structure's common areas in the same proportion as the residential use to other uses occupying the structure.
(Ord. 112303 § 27, 1985.)

23.86.034Distance to required parking.

When a maximum distance to required parking is specified it shall be the walking distance measured from the nearest point of the parking area or garage to the nearest point of the lot containing the use the parking is required to serve.
(Ord. 112777 § 58, 1986.)

23.86.036Major Institution minimum site and gross floor area measurement.

A. For the purpose of determining whether an institution's site meets the minimum site area to be designated a Major Institution, the following shall be included:

1. All contiguous lots containing Major Institution uses, and lots abutting or across a street or alley and within a radius of two thousand five hundred feet (2,500′) of the contiguous lots containing Major Institution uses, including parking lots and outdoor uses and activity areas such as ball courts and playfields primarily used by the Major Institution;

2. If a structure on a lot contains uses other than Major Institution uses, only the area of the lot which contains Major Institution uses or the respective lot area calculated as a percentage of the structure that is occupied by the Major Institution use(s) shall be included.

B. For the purposes of determining whether an institution's gross floor area meets the minimum required to be designated a Major Institution, all gross floor area containing Major Institution uses in all structures within a Major Institution's site area, as determined by subsection A of this section, shall be included.
(Ord. 115002 § 22, 1990.)

Division 3 Implementation

Chapter 23.88
RULES; INTERPRETATION

Sections:

23.88.010Rulemaking.
23.88.020Land use interpretations.

23.88.010Rulemaking.

The Director may promulgate rules consistent with this title pursuant to the authority granted in Section 3.06.040 and pursuant to the procedures established for rulemaking in the Administrative Code, Chapter 3.02. In addition to the notice provisions of Chapter 3.02, notice of the proposed adoption of a rule shall be placed in the General Mailed Release.
(Ord. 112522 § 17(part), 1985: Ord. 110381 § 1(part), 1982.)

23.88.020Land use interpretations.

A. Interpretations Generally. A decision by the Director as to the meaning, application or intent of any development regulation in Title 23, Land Use Code, or in Chapter 25.09, Regulations for Environmentally Critical Areas, as it relates to a specific property is known as an "interpretation." An interpretation may be requested in writing by any person or may be initiated by the Director. Procedural provisions and statements of policy shall not be subject to the interpretation process. A decision by the Director that an issue is not subject to an interpretation request shall be final and not subject to administrative appeal. A request for an interpretation and a subsequent appeal to the Hearing Examiner are administrative remedies that must be exhausted before judicial review of a decision subject to interpretation may be sought.

B. Filing and Fees. Any request for interpretation shall be filed with the Director accompanied by the fee for interpretation provided in Table 6, SMC Section 22.901E.010. If a request for interpretation is included in an appeal to the Hearing Examiner of a related project decision, a copy shall be filed with the Director, accompanied by the applicable fee.

C. Timing of Request.

1. An interpretation that is not related to any pending project application may be requested at any time, by any person.

2. If an interpretation relates to a project application requiring no public notice pursuant to the provisions of Chapter 23.76, the following rules govern the deadline by which the request for interpretation must be received by the Department in order for the interpretation to be applied to the pending permit application:

a. Any person may request an interpretation within fourteen (14) days after the date the project application is determined to be complete, provided that the interpretation will not apply to the project if the permit is ready to issue before or on the same day the interpretation request and fee are submitted to the Department.

b. The project applicant may request an interpretation more than fourteen (14) days after the project application is determined to be complete if he or she agrees in writing that the time limits required by SMC Section 23.76.005 shall be calculated from the day the interpretation is requested.

3. If an interpretation relates to a project application requiring public notice pursuant to the provisions of Chapter 23.76, the following rules govern the deadline by which the request for interpretation must be received by the Department in order for the interpretation to be applied to the pending permit application:

a. Any person may request an interpretation prior to the end of the public comment period, including any extension, for the project application.

b. The project applicant may request an interpretation after the end of the public comment period and prior to publication of a land use decision or recommendation, if he or she agrees in writing that the time

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limits required by SMC Section 23.76.005 shall be calculated from the day the interpretation is requested.

c. Notwithstanding the above deadlines, an appeal of a Type II decision or a request for further consideration of a Type III recommendation may include a request that the Director issue in writing his or her interpretation of specified code sections, combined with an appeal of such interpretation, provided that an interpretation regarding whether a use proposed under the related project application has been correctly classified may not be requested pursuant to this subsection (c). A request for interpretation made pursuant to this subsection (c) shall state with specificity:

(1) How the Director's construction or application of the specified code sections is in error; and

(2) How the requester believes those sections should be construed or applied.

The provisions of subsections D, E and F of this section shall not apply to interpretations requested pursuant to this subsection (c). The Director shall respond to the request by issuing an interpretation in the form of a memorandum to be filed with the Hearing Examiner at least five (5) calendar days before the hearing.

D. Notice of Request for Interpretation. If an interpretation relates to a project application under consideration, and is requested by a person other than the applicant for that project, notice of the request for interpretation shall be provided to the permit applicant. If an interpretation relates to the provisions of Chapter 23.60 (Seattle Shoreline Master Program), notice of the request shall be provided to the Washington State Department of Ecology. If an interpretation is requested by a Major Institution as to whether a proposal constitutes a major or minor amendment to an adopted Major Institution Master Plan, notice of the request shall be provided to all members of the Citizens' Advisory Committee for that Major Institution.

E. Notice of Interpretation. Notice of an interpretation shall be provided to the person requesting the interpretation, and to the applicant(s) for the specific project or projects to which the interpretation relates. If the interpretation relates to provisions of Chapter 23.60 (Seattle Shoreline Master Program), notice shall be provided to the Washington State Department of Ecology. If the interpretation is related to a project requiring public notice, the interpretation shall be published concurrently with other land use decisions relating to that project. Notice of any interpretation subject to appeal before the Hearing Examiner or the Shoreline Hearings Board shall be provided by General Mailed Release.

F. Availability and Venue of Appeals.

1. An interpretation that is unrelated to any specific project application, or is related to a Type III or IV decision, may be appealed by any person to the Hearing Examiner. Such an appeal shall be filed with the Hearing Examiner by five p.m. (5:00 p.m.) on the fourteenth calendar day following publication of the notice of the interpretation. When the last day of the appeal period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The appeal hearing on an interpretation related to a Type III Master Use Permit shall be consolidated with the open record hearing on the project application and the appeal hearing for any related environmental determination. Interpretations related to Type IV decisions shall be appealable to the Hearing Examiner in accordance with SMC Section 23.76.052.

2. An interpretation relating to a project application that does not require public notice shall not be subject to administrative appeal.

3. An interpretation relating to a Type II Master Use Permit shall be subject to the same appeal deadline as the related project decision, and may be appealed only if that project decision is appealed. The appeal of an interpretation shall be consolidated with the appeal of the related project decision. Interpretations related to projects that are appealed to the Hearing Examiner shall be appealable to the Hearing Examiner, and interpretations relating to project decisions that are appealed to the Shoreline Hearings Board shall be appealable to the Shoreline Hearings Board.

G. Appeals to Hearing Examiner, Process and Standard of Review.

1. The appeal of an interpretation, where permitted, shall be in writing and shall state specifically why the applicant believes the interpretation to be incorrect.

2. Appeals submitted to the Hearing Examiner shall be accompanied by payment of a filing fee as established in SMC Chapter 3.02.

3. The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases in the Administrative Code, Chapter 3.02 and the Hearing Examiner Rules of Practice and Procedure in effect at the time the appeal is made.

4. In the event of an appeal of an interpretation not related to a specific project application, such appeal shall be decided within fifteen (15) days of the close of the record before the Hearing Examiner.

5. Appeals shall be considered de novo, and the decision of the Hearing Examiner shall be made upon the same basis as was required of the Director. The interpretation of the Director shall be given substantial weight, and the burden of establishing the contrary shall be upon the appellant. The Hearing Examiner shall summarily dismiss an appeal without hearing which is determined to be without merit on its face, frivolous, or brought merely to secure a delay.

6. The Hearing Examiner may affirm, reverse or modify the Director's interpretation either in whole or in part or may remand the interpretation to the Director for further consideration. The decision of the Hearing Examiner shall be final and conclusive unless the decision is reversed or remanded on judicial appeal. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040.

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(Ord. 118181 § 8, 1996; Ord. 118012 § 58, 1996: Ord. 112522 § 17(part), 1985; Ord. 110793 § 76, 1982; Ord. 110381 § 1(part), 1982.)

Case: Mandamus will not issue to compel the City to abate a violation which comes to light through the interpretation process. **Carkeek v. Seattle**, 53 Wn.App. 277, 766 P.2d 480 (1989).

This section does not preclude a lawsuit by neighbors who opposed issuance of a permit and had no reason or opportunity to seek interpretation of the code. **Kates v. Seattle**, 44 Wn.App. 754, 723 P.2d 493 (1986).

Chapter 23.90
ENFORCEMENT OF THE LAND USE CODE

Sections:

23.90.002Violations.
23.90.004Duty to enforce.
23.90.006Investigation and notice of violation.
23.90.008Time to comply.
23.90.010Stop Work Order.
23.90.012Emergency Order.
23.90.014Review by the Director.
23.90.016Extension of compliance date.
23.90.018Civil penalty.
23.90.019Civil penalty for unauthorized dwelling units in single-family structures.
23.90.020Criminal penalties.
23.90.022Additional relief.

23.90.002Violations.

A. It is a violation of Title 23 for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within The City of Seattle without first obtaining the permits or authorizations required for the use by Title 23.

B. It is a violation of Title 23 for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within The City of Seattle in any manner that is not permitted by the terms of any permit or authorization issued pursuant to Title 23 or previous codes, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

C. It is a violation of Title 23 to remove or deface any sign, notice, complaint or order required by or posted in accordance with Title 23 or Title 25.

D. It is a violation of Title 23 to misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization.

E. It is a violation of Title 23 for anyone to fail to comply with the requirements of Title 23.

(Ord. 117570 § 28, 1995: Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

23.90.004Duty to enforce.

A. It shall be the duty of the Director to enforce Title 23. The Director may call upon the police, fire, health or other appropriate City departments to assist in enforcement. It shall be the duty of the Director of Transportation to enforce Section 23.55.004, Signs projecting over public rights-of-way.

B. Upon presentation of proper credentials, the Director or duly authorized representative of the Director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by the Land Use Code.

C. The Land Use Code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this Land Use Code to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this Code.

E. No provision of or term used in this Code is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

(Ord. 118409 § 216, 1996: Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

23.90.006Investigation and notice of violation.

A. The Director shall investigate any structure or use which the Director reasonably believes does not comply with the standards and requirements of this Land Use Code.

B. If after investigation the Director determines that the standards or requirements have been violated, the Director shall serve a notice of violation upon the owner, tenant or other person responsible for the condition. The notice of violation shall state separately each standard or requirement violated, shall state what corrective action, if any, is necessary to comply with the standards or requirements; and shall set a reasonable time for compliance. The notice shall state that any subsequent violations may result in criminal prosecution as provided in Section 23.90.020. In the event of violations of the standards or requirements of the Seattle Shoreline Master Program, Chapter 23.60, the required corrective action shall include, if appropriate, but shall not be limited to, mitigating measures such as restoration of the area. Civil penalties for unauthorized dwelling units in single-family structures shall be applied.

C. The notice shall be served upon the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person or persons is unknown or service cannot be accomplished and the Director makes an affidavit to that

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effect, then service of the notice upon such person or persons may be made by:

1. Publishing the notice once each week for two (2) consecutive weeks in the City Official Newspaper; and

2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.

D. A copy of the notice may be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

E. Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to Section 23.90.010 or Section 23.90.012.

F. The Director may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, Stop Work Order or Emergency Order and the applicable requirements and procedures.

G. A notice or an Order may be amended at any time in order to:

1. Correct clerical errors, or

2. Cite additional authority for a stated violation.

(Ord. 118472 § 9, 1997; Ord. 118414 § 64, 1996; Ord. 117263 § 73; Ord. 117203 § 9, 1994: Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

23.90.008Time to comply.

A. When calculating a reasonable time for compliance, the Director shall consider the following criteria:

1. The type and degree of violation cited in the notice;

2. The stated intent, if any, of a responsible party to take steps to comply;

3. The procedural requirements for obtaining a permit to carry out corrective action;

4. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and

5. Any other circumstances beyond the control of the responsible party.

B. Unless a request for review before the Director is made in accordance with Section 23.90.014 the notice of violation shall become the final order of the Director. After the notice of violation becomes the final order of the Director, a copy of the notice of violation shall be filed with the King County Department of Records and Elections if the notice of violation cites illegal uses, illegal units, failure to comply with a permit condition, elimination of a required parking space, more than one (1) dwelling per lot, or shoreline violations. All other notices of violation shall be filed with the King County Department of Records and Elections when the Director notifies the City Attorney in writing of any person subject to a penalty under the title.

(Ord. 117263 § 74, 1994; Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

23.90.010Stop Work Order.

Whenever a continuing violation of this Code will materially impair the Director's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Director may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a Stop Work Order shall constitute a violation of this Land Use Code.

(Ord. 113978 § 5(part), 1988.)

23.90.012Emergency Order.

Whenever any use or activity in violation of this Code threatens the health and safety of the occupants of the premises or any member of the public, the Director may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an Emergency Order shall constitute a violation of this Land Use Code.

Any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Director is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law.

(Ord. 113978 § 5(part), 1988.)

23.90.014Review by the Director.

A. Any person significantly affected by or interested in a notice of violation issued by the Director pursuant to Section 23.90.006 may obtain a review of the notice by requesting such review within fifteen (15) days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. The request shall be in writing, and upon receipt of the request, the Director shall notify any persons served the Notice of Violation and the complainant, if any, of the date, time and place set for the review, which shall be not less than ten (10) nor more than twenty (20) days after the request is received, unless otherwise agreed by all persons served with the notice of violation. Before the date set for the review, any person significantly affected by or interested in the notice of violation may submit any written material to the Director for consideration at the review.

B. The review will consist of an informal review meeting held at the Department. A representative of the Director who is familiar with the case and the applicable ordinances will attend. The Director's representative will explain the reasons for the Director's issuance of the notice and will listen to any additional information presented by the persons attending. At or after the review, the Director may:

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1. Sustain the notice of violation;
2. Withdraw the notice of violation;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the notice of violation, which may include an extension of the compliance date.

C. The Director shall issue an Order of the Director containing the decision within seven (7) days of the date of the completion of the review and shall cause the same to be mailed by regular first class mail to the person or persons named on the notice of violation, mailed to the complainant, if possible, and filed with the Department of Records and Elections of King County.
(Ord. 113978 § 5(part), 1988.)

23.90.016Extension of compliance date.

The Director may grant an extension of time for compliance with any notice or Order, whether pending or final, upon the Director's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension.

An extension of time may be revoked by the Director if it is shown that the conditions at the time the extension was granted have changed, the Director determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date. The procedures for revocation, notification of parties, and appeal of the revocation shall be established by Rule.
(Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

23.90.018Civil penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty in the amount of Seventy-five Dollars ($75) per day for each violation from the date set for compliance until the order is complied with, except as provided in subsection B of this section.

B. Violations of Section 23.71.018 are subject to penalty in the amount specified in Section 23.71.018 H.

C. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty.

D. The violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the wilful act, or neglect, or abuse of another; or
2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

(Ord. 116795 § 17, 1993: Ord. 113978 § 5(part), 1988: Ord. 113079 §§ 2(part), 6, 1986: Ord. 110381 § 1(part), 1982.)

23.90.019Civil penalty for unauthorized dwelling units in single-family structures.

A. In addition to any other sanction or remedial procedure which may be available, the following penalties shall apply to any owner of a single-family structure with one (1) or more unauthorized dwelling unit(s). Any owner of a single-family structure who is issued a notice of violation for one (1) or more unauthorized dwelling unit(s) and which dwelling unit(s) are not legal(ly) nonconforming uses shall be subject to a civil penalty of One Thousand Dollars ($1,000). This penalty shall be reduced to One Hundred Dollars ($100) if, prior to the compliance date stated on the notice, the owner removes the unauthorized dwelling unit(s). Any owner of a single-family structure who voluntarily applies to legalize an accessory dwelling unit prior to issuance of a notice of violation for an unauthorized dwelling unit shall be subject to a civil penalty of One Hundred Dollars ($100). This penalty shall be waived if: (1) the purchaser of a property with an existing unauthorized dwelling unit applies to legalize the unit within sixty (60) days of becoming an owner of the property as reflected in the real estate records of King County and; (2) final inspection approval for the unit is obtained within two (2) years from the date of application for the Master Use Permit.

B. After discovery of the existence of one (1) or more unauthorized dwelling unit(s) in a single-family structure, the Director shall issue a Notice of Violation in the manner set forth in Section 23.90.006 which notice shall impose the civil penalty and notify the owner of the date by which action to remove or legally establish the illegal unit(s) must be completed to avoid additional penalty. Failure to complete the required action by the date stated shall be a further violation of the Land Use Code subjecting the owner to additional penalty of Seventy-five Dollars ($75) per day until the Notice is satisfied. Such penalties shall be collected in the manner provided in Section 23.90.018.
(Ord. 118472 § 10, 1997; Ord. 117789 § 13, 1995; Ord. 117203 § 10, 1994.)

23.90.020Criminal penalties.

A. Any person violating or failing to comply with any of the provisions of this Land Use Code and who has had a judgment entered against him or her pursuant to Section 23.90.018 or its predecessors within the past five (5) years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding Five Thousand Dollars ($5,000) or be imprisoned in the City Jail for a term not exceeding one (1) year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this Land Use Code shall constitute a separate offense.

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

1. For violations of Section 23.90.002 D;

2. For any other violation of this Code for which corrective action is not possible; and

3. For any wilful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this Code.

(Ord. 118414 § 65, 1996; Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

23.90.022Additional relief.

The Director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of this Land Use Code when civil or criminal penalties are inadequate to effect compliance.

(Ord. 113978 § 5(part), 1988: Ord. 110381 § 1(part), 1982.)

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