

Title 25

**ENVIRONMENTAL PROTECTION AND HISTORIC
PRESERVATION¹**

This title is intended for those provisions of the Code which relate to protection of the environment, historical areas and landmarks.

Chapters:

- 25.04 Environmental Policy
- 25.08 Noise Control
- 25.12 Landmarks Preservation
- 25.16 Ballard Avenue Landmark District
- 25.20 Columbia City Landmark District
- 25.24 Pike Place Market Historical District
- 25.28 Pioneer Square Historical District
- 25.32 Table of Historical Landmarks

1. Cross-reference: For provisions on the following subjects, see the chapter indicated of this Code:
- Billboards, Ch. 24.80
 - Grading Ordinance, Subtitle VIII of Title 22
 - Litter Control, Ch. 12A.52
 - Zoning Ordinance, Title 24

Chapter 25.04

ENVIRONMENTAL POLICY

Sections:

Subchapter I SEPA Guidelines

- 25.04.010 Goals, objectives, and policies.
- 25.04.020 Adoption by reference.
- 25.04.030 Definitions.
- 25.04.040 Integration of SEPA procedures with other governmental operations—Supplementary procedures.
- 25.04.050 Timing of the environmental review process.
- 25.04.060 Exemption for emergency actions.
- 25.04.070 Environmentally sensitive areas.
- 25.04.080 Use and effect of exemptions.
- 25.04.090 Lead agency determination and responsibilities.
- 25.04.100 Designation of responsible department and responsible official.
- 25.04.110 Designation of official to perform consulted agency responsibilities for the city.
- 25.04.120 Initial review.
- 25.04.130 Public awareness of Final Declarations of Nonsignificance (DNS).
- 25.04.140 Preparation of an EIS.
- 25.04.150 Additional elements of the environment for EIS purposes.
- 25.04.160 Public awareness of draft and final EIS.
- 25.04.170 SEPA Public Information Center.
- 25.04.180 Fees for environmental review of private projects.
- 25.04.190 Substantive authority to condition or deny proposals.
- 25.04.200 Appeal to the Hearing Examiner.
- 25.04.210 Appeal to the City Council.
- 25.04.220 No physical modifications until appeal period expires or appeal terminated.
- 25.04.230 Seattle Environmental Review Committee.
- 25.04.240 Committee—Membership.
- 25.04.250 Committee—Chairperson and staff.
- 25.04.260 Committee—Authority.

- 25.04.270 Committee—Duties.
- 25.04.280 Notice of action.

Severability: If any provision of Subchapter I or its application to any person or circumstance is held invalid, the remainder of the subchapter, or the application of the provision to other persons or circumstances, shall not be affected.
(Ord. 105735 § 23, 1976).

Subchapter II Maps

- 25.04.400 Adoption by reference.
- 25.04.410 Copies.

Subchapter III City Policies

- 25.04.500 Overview.
- 25.04.510 Cumulative effects.
- 25.04.520 Parking and traffic.
- 25.04.530 Landscaping.
- 25.04.540 Drainage.
- 25.04.550 View protection.
- 25.04.560 Shadows on publicly owned parks.
- 25.04.570 Light and glare.
- 25.04.580 Housing.
- 25.04.590 Supplemental status of subchapter.
- 25.04.600 Applicability.

Statutory Reference: For statutory provisions directing cities to adopt rules pertaining to the integration of city programs with state environmental policy, see RCW 43.21C.120.

Subchapter I SEPA Guidelines

- 25.04.010 Goals, objectives, and policies.
The City of Seattle (in this subchapter called the "city") adopts by reference the purposes and policies of SEPA as set forth in RCW 43.21C.010 and 43.21C.020; and in addition, the city's goals, objectives, and policies for implementing SEPA in Seattle shall be those set forth in Resolution 25159.¹
(Ord. 105735 § 1, 1976.)

1. Editor's Note: Res. 25159 is not included in this codification. Copies are available in the office of the City Clerk.

- 25.04.020 Adoption by reference.
The city adopts by reference the following sections of Chapter 197-10 of the Washington Administrative Code (WAC), three copies of which are filed with the City Clerk in Comptroller File 283624 for public use and examination:

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

- WAC 197-10-040: Definitions.
- 060: Scope of a Proposal and Its Impacts.
 - 160: No Presumption of Significance for Non-Exempt Actions.
 - 170: Categorical Exemptions.
 - 200: Lead Agency—Responsibilities.
 - 203: Determination of Lead Agency—Procedures.
 - 205: Lead Agency Designation—Governmental Proposals.
 - 210: Lead Agency Designation—Proposals Involving Both Private and Public Construction.
 - 215: Lead Agency Designation—Private Projects for which There Is Only One Agency.
 - 220: Lead Agency Designation—Private Projects, Licenses from More than One Agency when One Is City/County.
 - 240: Agreements as to Lead Agency Status.
 - 245: Agreements Between Agencies as to Division of Lead Agency Duties.
 - 260: Dispute as to Lead Agency Determination—Resolution by CEP.
 - 270: Assumption of Lead Agency by Another Agency with Jurisdiction.
 - 300: Threshold Determination Requirement.
 - 305: Recommended timing for Threshold Determination.
 - 310: Threshold Determination Procedures—Environmental Checklist.
 - 320: Threshold Determination Procedures—Initial Review of Environmental Checklist.
 - 330: Threshold Determination Procedures—Information in Addition to Checklist.
- WAC 197-10-340: Threshold Determination Procedures—Negative Declarations.
- 345: Assumption of Lead Agency Status by Another Agency with Jurisdiction—Pre-requisites, Effect and Form of Notice.
 - 350: Affirmative Threshold Determinations.
 - 355: Form of Declaration of Significance/Non-Significance.
 - 360: Threshold Determination Criteria—Application of Environmental Checklist.
 - 365: Environmental Checklist.
 - 370: Withdrawal of Affirmative Threshold Determination.
 - 375: Withdrawal of Negative Threshold Determination.
 - 390: Effect of Threshold Determination by Lead Agency.
 - 400: Duty to Begin Preparation of a Draft EIS.
 - 405: Purpose and Function of a Draft EIS.
 - 410: Pre-Draft Consultation Procedures.
 - 425: Organization and Style of a Draft EIS.
 - 440: Contents of a Draft EIS.
 - 442: Special Considerations Regarding Contents of an EIS.
 - 444: List of Elements of the Environment.
 - 455: Circulation of the Draft EIS—Review Period.
 - 460: Specific Agencies to which Draft EIS Shall Be Sent.
 - 465: Agencies Possessing Environmental Expertise.
 - 470: Costs to the Public for Reproduction of Environmental Documents.

- WAC 197-10-480: Public Hearing on a Proposal—When Required.
- 485: Notice of a Public Hearing on Environmental Impact of the Proposal.
- 490: Public Hearing on the Proposal—Use of Environmental Document.
- 495: Preparation of Amended or New Draft EIS.
- 500: Responsibilities of Consulted Agencies—Local Agencies.
- 530: Responsibilities of Consulted Agencies—When Pre-Draft Consultation has Occurred.
- 535: Cost of Performance of Consulted Agency Responsibilities.
- 540: Limitations on Responses to Consultation.
- 545: Effect of No Written Comment.
- 550: Preparation of the Final EIS—Time Period Allowed.
- 570: Preparation of Final EIS—When No Critical Comments Received on the Draft EIS.
- 580: Preparation of the Final EIS—Contents—When Critical Comments Received on Draft EIS.
- 600: Circulation of the Final EIS.
- 650: Effect of an Adequate Final EIS Prepared Pursuant to NEPA.
- 652: Supplementation by a Lead Agency of an Inadequate Final NEPA EIS.
- 660: Use of Previously Prepared EIS for a Different Proposed Action.
- 690: Use of a Lead Agency's EIS by Other Acting Agencies for the same Proposal.
- 695: Draft and Final Supplements to a Revised EIS.

WAC 197-10-700: No Action for Seven days After Publication of the Final EIS.
(Ord. 105735 § 2, 1976.)

25.04.030 Definitions.

In addition to the definitions set forth in WAC 197-010-040 and adopted by reference in Section 25.04.020, the following terms shall have the following meanings, unless the context indicates otherwise:

A. "Department" means any city department or organizational unit of the city established by Charter or ordinance.

B. "Filing" of an environmental document means the entering of that document into the city's SEPA Public Information Center and such filing shall constitute the issuance of the document.

C. "Interested person" means any individual, partnership, corporation, association, or public or private organization of any character, significantly affected by or interested in proceedings before an agency, and shall include any party in a contested case.

(Ord. 107501 § I, 1978: Ord. 105735 § 3, 1976.)

25.04.040 Integration of SEPA procedures with other governmental operations—Supplementary procedures.

A. To the fullest extent possible, the procedures required by this subchapter shall be integrated with existing planning and licensing procedures used by the city, and the Mayor is authorized to promulgate rules pursuant to the Administrative Code (Ord. 102228),¹ consistent with this subchapter and with Resolution 25-159,² to facilitate the application of this subchapter to city departments and operations. These procedures should be initiated early and undertaken in conjunction with other governmental operations to avoid lengthy time delays and unnecessary duplication of effort. A private applicant may, and is encouraged to, file a completed environmental checklist prior to the filing of an application for a license.

B. Environmental documents shall accompany a proposal through existing review processes.

C. All departments subject to the provisions of this subchapter are authorized and directed to develop and promulgate such supplementary

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

procedures as they deem appropriate for implementing the provisions of this subchapter within each department.

(Ord. 107501 § 2, 1978: Ord. 105735 § 4, 1976.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.
2. Editor's Note: Res. 25159 is not included in this codification.

25.04.050 Timing of the environmental review process.

A. The primary purpose of the environmental review process is to provide environmental information to governmental decisionmakers to be considered prior to making their decision on any action. The process should be completed before the decisions of the Mayor, the City Council, or a department commit it to a particular action. The actual decision to proceed with many actions may involve a series of individual approvals or decisions. The threshold determination and the Environmental Impact Statement (EIS), if required, should ideally be completed at the beginning of this process. In many cases, however, preliminary decisions must be made upon a proposal before the proposal is sufficiently definite to permit meaningful environmental review and analysis.

B. The threshold determination and the EIS, if required, should be completed at the earliest point in the planning and decision-making process at which principal features of a proposal and its impacts upon the environment can be reliably identified. At a minimum, the threshold determination and any required EIS shall be completed prior to the city taking the first major action on a proposal or making any decision which would result in irreversible commitment to the proposal.

C. When the city is both the lead agency and the proponent of a proposed major action, then the maximum time limits contained in this subtitle for the threshold determination and EIS process need not apply to the proposal. (Ord. 105735 § 5, 1976.)

25.04.060 Exemption for emergency actions.

Any action which in the opinion of the responsible official must be undertaken immediately, or within a time too short to allow full compliance with this subchapter, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private

property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the procedural requirements of this subchapter.

(Ord. 105735 § 6, 1976.)

25.04.070 Environmentally sensitive areas.

A. Environmentally sensitive areas are areas within the city in which certain categorically exempt activities could have a significant adverse environmental impact. The areas designated as environmentally sensitive include and are limited to:

1. Areas of steep slopes which are:
 - a. Known slide areas identified by documented history, or
 - b. Potential slide areas based on documented geological characteristics, or
 - c. Steep slopes of fifty percent or more;
2. Flood-prone areas as defined and designated as to location by the Flood Insurance Administration of the United States Department of Housing and Urban Development;
3. All areas extending landward for one hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark of Thornton Creek, Longfellow Creek, Piper's Creek, Bitter Lake and Haller Lake;
4. Areas subject to instability due to peat deposits and/or land fills as defined and designated as to location by the Building or Engineering Departments.

B. Within two months of the effective date of the amendatory ordinance codified in this section¹ the Department of Community Development shall identify the boundaries of all designated environmentally sensitive areas on maps of the city which when prepared shall be adopted by reference as part of this subchapter. A copy of the maps shall be maintained in the SEPA Public Information Center.

C. After a map identifying the boundaries of an environmentally sensitive area has been adopted by reference by ordinance, the following categorical exemptions listed in WAC 197-10-170 shall not apply in such environmentally sensitive area:

- (1) Minor New Construction:
 - (a) Residential - Two through four units only
 - (b) Agricultural structures (less than ten thousand square feet)
 - (c) Specified structures of less than

four thousand square feet

(f) Const./Installation of minor road and street improvements

— transportation corridor landscaping and herbicides for weed control

(i) Parking lots (twenty automobiles or less)

(j) Landfill or excavation (five hundred cubic yards or less for its lifetime)

(10) Minor Land Use Decisions:

(a) Short plats or short subdivisions

(18) Utilities:

(f) Chemical means to maintain in design condition

(19) Natural Resources Management:

(d) Issuance of agricultural leases of one hundred acres or less

(f) Issuance of leases for school sites

(h) Development of non-ATV recreational sites (twelve campsites or less)

(i) Chemical means to maintain public park or recreation land.

(Ord. 107501 § 3, 1978: Ord. 105735 § 7, 1976.)

1. Editor's Note: Ord. 107501 became effective August 23, 1978.

25.04.080 Use and effect of exemptions.

A. Those activities which are excluded from the definition of "action" in WAC 197-10-040 (2), or categorically exempted by WAC 197-10-170, -175, and -180 and not located in a designated environmentally sensitive area, are exempt from the threshold determination (including completion of the environmental checklist) and EIS requirements of this subchapter, the SEPA Guidelines, and RCW 43.21C.030(2) (c) and (2) (d). No exemption is allowed for the sole reason that activities are considered to be of a ministerial nature or of an environmentally regulatory or beneficial nature.

B. If a proposal includes a series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not, the proposal is not exempt.

C. If the proposal includes a series of categorically exempt actions which are physically or functionally related to each other and which together may have a significant adverse environmental impact, the proposal is not exempt. The

determination that a proposal is not exempt under this subsection shall be made by the responsible official for that proposal.

D. For proposals in subsections B or C of this section, categorically exempt actions may be undertaken prior to the threshold determination, subject to Section 25.04.050.

E. In performing its functions under this subchapter, the city shall recognize and give effect to WAC 197-10-175 which establishes exemptions applicable to specific state agencies. (Ord. 107501 § 4, 1978: Ord. 105735 § 8, 1976.)

25.04.090 Lead agency determination and responsibilities.

A. Any department receiving or initiating a proposal, any portion of which involves a major action, shall determine the lead agency for that proposal, pursuant to the criteria set forth in WAC 197-10-205 through -270, using the procedures of WAC 197-10-203. This determination shall be made for each proposal involving a major action unless the lead agency has been previously determined, or the department is aware that another department or agency is in the process of determining the lead agency. A lead agency must be an agency with jurisdiction.

B. In those instances in which the city is the lead agency, the responsible official shall supervise compliance with the threshold determination, and if an EIS is necessary, shall supervise preparation of the draft and final EIS.

C. In those instances in which the city is not the lead agency under the criteria of WAC 197-10-205 through -270, all departments shall use unchanged either a Declaration of Nonsignificance subject to the limits of WAC 197-10-390 or a final EIS subject to the limits of WAC 197-10-650, -652, -660, and -690 in conjunction with the decisions of the city on the proposal.

D. In the event the city or any department receives a lead agency determination made by another agency which does not appear to be in accord with the criteria of WAC 197-10-205 through -245, the city or department may object to the determination. Any such objection must be made and resolved within fifteen days of receipt of the determination, or the city must petition the Washington State Department of Ecology or its successor agency for a lead agency determination pursuant to WAC 197-10-260 within the fifteen-day time period. Any such peti-

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

tion on behalf of the city shall be initiated by the Mayor or the Mayor's designee.

E. Departments are authorized to make agreements as to lead agency status pursuant to WAC 197-10-240 and WAC 197-10-245; provided, that any assumption of lead agency status by the city pursuant to WAC 197-10-345 must first be approved by the Mayor or the Mayor's designee.

F. Any department making a lead agency determination for a private project shall require sufficient information from the applicant to ascertain which other agencies have jurisdiction over the proposal.
(Ord. 105735 § 9, 1976.)

25.04.100 Designation of responsible department and responsible official.

A. For each proposal, the responsible department shall be designated prior to designation of the responsible official.

B. In designating the responsible department:

1. The first department receiving or initiating a proposal which involves a major action, and for which the city is the lead agency, shall determine the responsible department for that proposal.

2. If that department determines that another department is the responsible department, it shall immediately notify such department of its determination.

3. When a department determines that it is the responsible department, it shall immediately notify all other departments with jurisdiction over the proposal.

4. Except for the Legislative Department, the responsible department for all proposals initiated by a department shall be the department making the proposal. In the event that two or more departments share in the initiation of a proposal, the departments shall by agreement determine which department will assume the status of responsible department.

5. When the total proposal will involve both private and public construction activity, it shall be characterized as either a private or a public project for the purposes of responsible department designation, depending upon whether the primary sponsor or initiator of the project is a department or from the private sector. Any project in which department and private interests are too intertwined to make this character-

ization shall be considered a public project.

6. For proposals for private projects which require licenses from more than one department, the responsible department shall be the department with responsibility for making final recommendation or report on the first major action of the proposal or the first action which would result in irreversible commitment to the proposal; or in the event these conditions do not apply, the responsible department shall be the department whose action, license, or licenses will have the greatest effect on the environment.

7. Nothing in this section shall prohibit a department from assuming the role of responsible department as the result of an agreement among all departments with jurisdiction.

8. In the event that the departments with jurisdiction are unable to determine which department is the responsible department under this subchapter, any department with jurisdiction may petition the Mayor for such determination. The petition shall clearly describe the proposal in question and include a list of all licenses and approvals required for the proposal. The petition shall be filed with the Mayor within fifteen days after receipt by the petitioning department of the determination to which it objects. Within fifteen days of receipt of a petition, the Mayor shall designate the responsible department.

C. The responsible official shall be the official within the responsible department who is responsible for making the final recommendation or report on the first major action of the proposal or on the first action which would result in irreversible commitment to the proposal. The department head shall designate for each proposed action, or for classes of actions, the responsible official in accordance with the criteria of this subsection.

(Ord. 105735 § 10, 1976.)

25.04.110 Designation of official to perform consulted agency responsibilities for the city.

Any request for consultation with the city by another agency shall be directed to the Mayor. The Mayor shall establish and promulgate procedures for responding to such requests.

(Ord. 105735 § 11, 1976.)

25.04.120 Initial review.

The following determinations shall be made as

part of the initial review of every proposal, subject to the specified time limits which shall be applicable to private projects:

A. Preliminary Determinations.

1. A determination as to the scope of a total proposal pursuant to WAC 197-10-060;

2. A determination whether the proposal is categorically exempt, including a determination that it is a nonaction pursuant to WAC 197-10-170(21);

3. The determinations set forth in subsections 1 and 2 shall be made within seven days following submission of a request for preliminary determination by a private applicant to the responsible official.

B. Threshold Determination.

1. A threshold determination which can be made based upon review of the environmental checklist submitted by a private applicant should be completed within seven days of submission of the completed checklist to the responsible official.

2. A threshold determination requiring further information from a private applicant or consultation with other agencies with jurisdiction should be completed within seven days of receiving the information requested from the private applicant or the consulted agency. Requests by the city for such further information should be made within seven days of the submission of the completed checklist. When a request for further information is submitted to a consulted agency, the city shall wait a maximum of thirty days for the consulted agency to respond.

3. A threshold determination which requires that further studies, including field investigations, be initiated by the city should be completed within thirty days of submission of the completed checklist to the responsible official.

4. When a threshold determination is expected to require more than fifteen days to complete because the proposal is unusually large in scope, or the environmental impact associated with the proposal is unusually complex, and a private applicant requests notification of the date when a threshold determination will be made, the responsible official shall so notify the private applicant in writing.

5. No threshold determination shall be deemed to have been made until a copy of

such determination is filed in the SEPA Public Information Center.

(Ord. 107501 § 5, 1978; Ord. 105735 § 12, 1976.)

25.04.130 Public awareness of Final Declarations of Nonsignificance (DNS).

A. The SEPA Public Information Center shall maintain a "Final Declaration of Nonsignificance Register" which shall contain a listing of all final DNS's. The register shall be maintained and used in accordance with the provisions of Section 25.04.170.

B. The information in the register or update thereof, along with notice of the right to appeal a final DNS in accordance with Section 25.04.200 shall be published once every week in another daily newspaper of general circulation in the city. In addition, notice of a final DNS and notice of the right to appeal such final DNS in accordance with Section 25.04.200, shall be submitted in a timely manner to at least one community newspaper with distribution in the area impacted by the proposal for which the final DNS was adopted.

(Ord. 107501 § 6, 1978; Ord. 105735 § 13, 1976.)

25.04.140 Preparation of an EIS.

A. The draft and final EIS shall be prepared either by the responsible official or his designee, by a private applicant, or by a consultant. In the event the responsible official determines that the applicant will be required to prepare an EIS, the applicant shall be so notified immediately after completion of the threshold determination.

B. In the event an EIS is to be prepared by someone other than the responsible official, the responsible official shall assure that the EIS is prepared in a responsible manner and with appropriate methodology. The responsible official shall direct the areas of research and examination to be undertaken, as well as the organization of the resulting EIS.

C. In the event the responsible official or his designee is preparing an EIS, the responsible official may require a private applicant to provide data and information not in the possession of the city which is relevant to any or all areas to be covered by an EIS. However, a private applicant shall not be required to provide information which is the subject of a predraft con-

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

sultation request until the consulted agency has responded, or the forty-five days allowed for response by the consulted agency has expired, whichever is earlier.

D. No matter who participates in the preparation of an EIS, it must be approved by the responsible official prior to distribution. The responsible official, prior to distributing the draft EIS, shall be satisfied that it complies with the provisions of this subchapter and the SEPA Guidelines.

E. A draft EIS shall be prepared on a private project within seventy-five days following the threshold determination, or within one hundred twenty days following the threshold determination if predraft consultation is requested pursuant to WAC 197-10-410. The responsible official may extend the time period whenever the private project is unusually large in scope, or the environmental impact associated with the project is unusually complex.

F. "Aesthetics" as listed in WAC 197-10-444 (3) (h) shall be interpreted to include all views whether available from public or private property.
(Ord. 105735 § 14, 1976.)

25.04.150 Additional elements of the environment for EIS purposes.

A. The following additional elements covering social, cultural, and economic issues are part of the environment for EIS purposes only:

1. Economic factors, including but not limited to employment, public investment, and taxation where appropriate, provided that this section shall not authorize the city to require disclosure of financial information relating to the private applicant or the private applicant's proposal;

2. Regional, city, and neighborhood goals, objectives, and policies adopted by the appropriate local governmental authority prior to the time the proposal is initiated.

B. The level of detail used in discussing these additional elements should be proportionate to the impacts the proposal may have if approved.

(Ord. 107501 § 7, 1978; Ord. 105735 § 15, 1976.)

25.04.160 Public awareness of draft and final EIS.

A. Upon publication, the draft and the final EIS shall be filed by the responsible official with

the city's SEPA Public Information Center.

B. Notice of the draft EIS and the procedures for requesting a public hearing shall be published in the city official newspaper and in another daily newspaper of general circulation in the city. Notice of the final EIS and the procedures for appeal pursuant to Section 25.04-.200 shall be similarly published. In addition, such notices shall be submitted in a timely manner to at least one community newspaper with distribution in the area impacted by the proposal for which the EIS was prepared. Notice shall be mailed to those organizations and individuals who make written request therefor. (Ord. 107501 § 8, 1978; Ord. 105735 § 16, 1976.)

25.04.170 SEPA Public Information Center.

A. The Department of Community Development shall be responsible for establishing and maintaining the city's SEPA Public Information Center at a location readily accessible to the public, and for making the existence and location of the Center known to the general public and city employees and for satisfying the public information requirements of WAC 197-10-831.

B. The following documents shall be maintained at the SEPA Public Information Center:

1. Copies of all Declarations of Significance and Declarations of Nonsignificance filed by the city, for a period of one year;

2. Copies of all EIS's prepared by or on behalf of the city, for a period of three years;

3. Copies of all decisions in administrative appeals wherein SEPA issues were raised.

C. In addition, the Department of Community Development shall maintain the following registers at the SEPA Public Information Center, each register including for each proposal its location, a brief (one sentence or phrase) description of the nature of the proposal, the date first listed on the register, and the contact person or office from which further information may be obtained:

1. A "Proposed Declaration of Nonsignificance Register" which shall contain a listing of all current proposed Declarations of Nonsignificance;

2. A "Final Declaration of Nonsignificance Register" which shall contain a listing of all Declarations of Nonsignificance made by the city during the previous year;

3. An "EIS in Preparation Register"

which shall contain a listing of all proposals for which the city is currently preparing an EIS, and the date by which the EIS is expected to be available to the public;

4. An "EIS Available Register" which shall contain a listing of all draft and final EIS's prepared by or on behalf of the city during the previous six months, including thereon the date by which comments must be received on draft EIS's, and the date for any public hearing scheduled for the proposal.

D. Each of the registers shall be kept current and maintained at the SEPA Public Information Center for public inspection. In addition, the registers, or updates thereof containing new entries added since the last mailing, shall be mailed once every week to those organizations and individuals who make written request therefor, unless no new entries are made on the register, in which event a copy of the register or update shall be mailed when a new entry is added. The Department of Community Development may charge a periodic fee for the service of mailing the registers or updates, which shall be reasonably related to the costs of reproduction and mailing.

E. The documents required to be maintained at the SEPA Public Information Center shall be available for public inspection and copies thereof shall be provided upon written request. The city shall charge a fee for copies in the manner provided by ordinance, and for the cost of mailing.

F. Copies of all documents filed and registers maintained at the SEPA Public Information Center shall be maintained at the main branch of the Seattle Public Library.

(Ord. 107501 § 9, 1978: Ord. 105735 § 17, 1976.)

25.04.180 Fees for environmental review of private projects.

A. For the purpose of reimbursing the city for necessary costs and expenses related to its compliance with the SEPA Guidelines and this subchapter in connection with private projects, the following schedule of fees, in addition to those otherwise provided for by ordinance, is established:

1. For a threshold determination which requires information in addition to that contained in or accompanying the environmental checklist, a fee in an amount equal to the actual costs and expenses incurred by the city in con-

ducting any studies or investigations necessary to provide such information; provided that the fee shall not be less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00);

2. For all private projects requiring an EIS for which the city is the lead agency and for which the responsible official determines that the EIS shall be prepared by employees of the city, or that the city will contract directly with a consultant or consultants for the preparation of an EIS, a fee in an amount equal to the actual costs and expenses incurred by the city in preparing the EIS. Such fee shall also apply when the applicant prepares the EIS, and the responsible official determines that substantial rewriting or reassessing of impacts must be performed by employees of the city to insure compliance with the provisions of the SEPA Guidelines and this subchapter.

B. If the responsible official determines that an EIS is required, and that the EIS shall be prepared by employees of the city or by a consultant or consultants retained by the city, or that the applicant-prepared EIS shall be substantially rewritten by employees of the city, the private applicant shall be advised by the responsible official of the estimated costs and expenses of preparing or rewriting the EIS prior to actual preparation or rewriting, and the private applicant shall post bond or otherwise insure payment of such costs and expenses. The ultimate charge to the applicant shall not exceed the estimate. A consultant or consultants shall be selected by the responsible official in consultation with the private applicant.

C. All fees owed the city under this section shall be paid in full by the private applicant prior to final action by the city on the private project. Any fee owed the city under subsection A1 shall be paid by the private applicant prior to the initiation of actual preparation of an EIS (if required) or actual rewriting of an applicant-prepared EIS by the city or its consultant(s). If the private applicant disputes the amount of fee charged, the fee may be paid under protest and without prejudice to the applicant's right to file a claim and bring an action to recover the fee.

D. Proceeds from fees and charges imposed pursuant to this subchapter shall be transmitted to the City Treasurer and shall be deposited by him in the General Fund; provided, that proceeds from fees and charges collected by the Su-

perintendent of Buildings shall be deposited in the Building Department Operating Fund.

(Ord. 107501 § 10, 1978; Ord. 106073 § 1, 1976; Ord. 105735 § 18, 1976.)

25.04.190 Substantive authority to condition or deny proposals.

A. Under SEPA, the city and its departments have, and shall exercise where appropriate, the authority to deny or reasonably condition any proposal so as to mitigate or prevent adverse environmental impacts.

B. Any proposal may be reasonably conditioned on environmental grounds only on the basis of the adverse environmental impacts on the elements of the environment defined in WAC 197-10-444 or Section 25.04.150 and identified in the environmental documents prepared pursuant to SEPA.

C. Any proposal may be denied where significant adverse impacts have been identified in the environmental documents prepared pursuant to SEPA which cannot be substantially mitigated or prevented by the imposition of reasonable conditions; provided that a proposal may not be denied solely on the basis of environmental impacts on the additional elements of the environment defined in Section 25.04.150. The merits of the proposal shall be weighed against the adverse environmental impacts.

D. After September 20, 1978, the conditioning or denial of any proposal pursuant to SEPA shall also be based on policies developed and adopted pursuant to RCW 43.21C.060.

E. In the event a proposal is denied or conditioned, the decisionmaker shall state in writing the reasons for the decision, identifying the specific adverse environmental impacts and, after September 20, 1978, the policies upon which the decision is based. A copy of the statement of reasons and the decision shall be filed in the SEPA Public Information Center.

F. Compliance with this section shall be an additional ground for or issue in appeals of decisions otherwise provided by city ordinance, (e.g., Section 25.40 of the Zoning Ordinance¹ which provides for the appeal of a use permit and building permit renewal); provided that for proposals involving more than one action, such issue may be raised only with regard to the first decision which weighed the environmental impacts of the total proposal.

(Ord. 107501 § 11, 1978; Ord. 105735 § 19, 1976.)

1. Editor's Note: Section 25.40 of the Zoning Ordinance is codified in Section 24.10.030 of this Code.

25.04.200 Appeal to the Hearing Examiner.

A. The following city decisions shall be subject to appeal to the Hearing Examiner by any interested person:

1. Threshold determination. On appeal of a threshold determination, a party may also challenge the preliminary determinations which preceded the threshold determination.

2. Adequacy of the final EIS, as filed in SEPA Public Information Center.

Notice of all decisions described in this subsection shall be filed promptly by the responsible official in the city's SEPA Public Information Center.

B. An appeal shall be commenced by the filing of a notice of appeal with the Office of the Hearing Examiner no later than the fifteenth day following the filing of the decision in the SEPA Public Information Center. The notice of appeal shall set forth in a clear and concise manner the alleged errors in the decision. Upon timely notice of appeal the Hearing Examiner shall set a date for hearing and send notice to the parties.

C. Appeals shall be considered de novo and limited to the issues cited in the notice of appeal. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The Hearing Examiner shall have authority to affirm or reverse the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances. Within fifteen days after the hearing, the Hearing Examiner shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

D. The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this section. The rules shall be promulgated pursuant to Ordinance 102228.¹

(Ord. 107501 § 12, 1978; Ord. 106470 § 1, 1977; Ord. 106339 § 1, 1977; Ord. 105735 § 20, 1976.)

1. Editor's Note: Ord. 102228 is codified in Chapter 3.02 of this Code.

25.04.210 Appeal to the City Council.

A. Any decision of the Hearing Examiner, or of any other authorized official or body which

reviews compliance with Section 25.04.190, shall be subject to appeal to the City Council.

B. An appeal pursuant to subsection A may be filed only by a party to the hearing before the Hearing Examiner or other authorized official or body. The appeal shall be filed with the City Clerk no later than the fifteenth day after the date the decision appealed from is filed with the SEPA Public Information Center.

C. The City Council's review on appeal shall be limited to the issuance of compliance with Section 25.04.190. Such review shall be based solely upon the record from the hearing below; provided however, that the City Council or the appropriate City Council committee may allow oral or written arguments.

D. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The City Council may affirm or reverse the administrative decisions below, remand cases to the appropriate department with directions for further proceedings, or grant other appropriate relief in the circumstances. The City Council shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

E. The City Council is authorized to promulgate, pursuant to the Administrative Code (Ordinance 102228),¹ rules to implement the provisions of this section. (Ord. 107501 § 13, 1978; Ord. 105735 § 20A, 1976.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.04.220 No physical modifications until appeal period expires or appeal terminated.

If final action on a proposal involving a major action results in approval of that proposal, no construction, demolition, grading, or other direct modification of the physical environment shall begin or be authorized until expiration of the time period for filing an appeal in accordance with Sections 25.04.200 and 25.04.210, and until termination of all such appeals. Where substantial injury to a party would result from a delay of construction, demolition, grading, or other direct modification of the physical environment, the official or body hearing the appeal shall grant an expedited hearing, in which case shorter notice less than twenty days prior

to the hearing may be given as permitted by Section 8(a) of Ordinance 102228.¹ (Ord. 107501 § 14, 1978; Ord. 105735 § 20B, 1976.)

1. Editor's Note: Section 8(a) of Ord. 102228 is codified in Section 3.02.090A of this Code.

25.04.230 Seattle Environmental Review Committee.

There is established a Seattle Environmental Review Committee, which shall have the responsibility and authority to monitor the environmental processes of the city. The purposes of the Committee shall be:

A. To provide a permanent and continuous means of coordination, communication, and education among various departments on environmental matters;

B. To provide continuous and active communication between representatives of departments and citizens concerned with environmentally sound development in the city; and

C. To provide advice to the Mayor, the City Council, and departments regarding environmental matters of concern to the city. (Ord. 105735 § 21(1), 1976.)

25.04.240 Committee—Membership.

The Committee shall consist of five representative citizen members appointed for three-year terms by the Mayor and confirmed by the City Council, and two city members. The city members shall be the representatives in each of the following departments most responsible for acting on behalf of the department on environmental matters:

A. The Department of Community Development; and

B. One department represented on and chosen by the Board of Public Works. (Ord. 105735 § 21(2), 1976.)

25.04.250 Committee—Chairperson and staff.

The Committee shall be chaired by a citizen member selected annually by the Committee. The Committee shall be provided with adequate staff support to perform its responsibilities as deemed appropriate by the Mayor and the City Council.

(Ord. 105735 § 21(3), 1976.)

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

25.04.260 Committee—Authority.

The responsibility and authority of the Committee shall be advisory only. All departments shall be required to honor reasonable requests for information made by the Committee. In addition, each department shall be required to inform the Committee in writing of its reasons for rejecting written Committee recommendations. (Ord. 105735 § 21(4), 1976.)

25.04.270 Committee—Duties.

The Committee shall:

A. Recommend to the Mayor, the City Council, and departments any desirable changes in city policies, ordinances, rules, and procedures relating to protection of the environment and environmental review and management;

B. Monitor and review a reasonable sample of environmental documents in a manner deemed appropriate by the Committee;

C. Advise the Mayor and the responsible official of any proposal which is not consistent with the requirements of SEPA or which is not in compliance with the SEPA Guidelines or this subchapter. The Committee shall also advise the Mayor of any proposal which has significant adverse environmental impacts which are not mitigated or any proposal which is in apparent conflict with the city's environmental goals, objectives, and policies;

D. Prepare and submit an annual report to the Mayor and the City Council summarizing the Committee's activities for the preceding year, outlining major areas of environmental concern, and suggesting strategies for addressing these areas;

E. Respond to requests for advice and assistance from the Mayor, the City Council, and appropriate departments on all environmental matters of concern to the city;

F. Establish written procedures for conducting Committee business. A copy of the procedures shall be filed in the SEPA Public Information Center and with the City Clerk. (Ord. 105735 § 21(5), 1976.)

25.04.280 Notice of action.

A. The city, the applicant for, or the proponent of an action may publish notice of action pursuant to RCW 43.21C.080 for any action.

B. The form of the notice shall be as prescribed by the Washington State Department of Ecology and/or substantially in the form and

manner set forth in RCW 43.21C.080. (Ord. 105735 § 22, 1976.)

Subchapter II Maps

25.04.400 Adoption by reference.

The Kroll Atlas of The City of Seattle with overlays identifying the boundaries of all designated environmentally sensitive areas within the city, with the exception of areas subject to instability due to peat deposits and/or land fills, contained in C.F. 284314 and incorporated in this subchapter by reference, is adopted as part of the Seattle SEPA Ordinance (105735), as amended, as contemplated in Section 7(2) of said ordinance.¹

(Ord. 107845 § 1, 1978.)

1. Editor's Note: Ord. 105735 is codified in Subchapter I of Chapter 25.04 of this Code. Section 7(2) is codified in Section 25.04.070B.

25.04.410 Copies.

A copy of the maps shall be maintained in the SEPA Public Information Center. (Ord. 107845 § 2, 1978.)

Subchapter III City Policies

25.04.500 Overview.

A. Policy Intent. It is the intent of the city that the SEPA environmental review process be implemented by integrating the consideration of environmental impacts with existing planning and decisionmaking processes. To the greatest extent possible, the mechanism for mitigating or preventing adverse impacts to the environment will be incorporated into present and future city ordinances relating to the affected element of the environment. The SEPA review process and the measures necessary to minimize or prevent adverse impacts are, therefore, not to be treated as a separate review or permitting process, but rather are to be employed as an integral element of the existing decisionmaking process.

B. Policies. In assessing the environmental impacts of a proposal and in determining the need for conditioning or denial pursuant to Section 25.04.190, the city official or authorizing agency shall utilize SEPA, all policies, guidelines and regulations adopted pursuant to SEPA, and shall use other environmentally related policies adopted by the City Council in

the form of resolutions, codes, ordinances, regulations or plans identified in Appendix A¹ and on file in the SEPA Public Information Center, and federal, state, and regional environmental quality standards.
(Ord. 107678 § 1, 1978.)

1. Editor's Note: Appendix A is not included in this Code.

25.04.510 Cumulative effects.

A. Policy Intent. Recognizing that:

1. Comprehensive land use controls and other regulations cannot always anticipate or eliminate adverse impacts upon public facilities and services, natural systems or the surrounding area; and

2. A single development, use, or modification, though otherwise consistent with zoning regulations, may create adverse impacts upon facilities and services, natural systems or the surrounding area when aggregated with the impacts of prior development; and a single development may induce, due to a causal relationship, other developments, which ultimately will adversely affect public facilities and services, natural systems or the surrounding area; it is the policy of the city to condition or deny proposals to minimize or prevent such adverse environmental impacts from occurring.

B. Policies. 1. The analysis of cumulative effects shall include a reasonable assessment of the present and planned capacity of such public facilities as sewers, storm drains, solid waste disposal, parks, schools, streets, utilities and parking areas to serve the area affected by the proposal.

2. The analysis of cumulative effects shall include a reasonable assessment of the present and planned public services such as transit, health, police and fire protection and social services to serve the area affected by the proposal.

3. The analysis of cumulative effects shall include a reasonable assessment of the capacity of natural systems – air, water, light, land – to absorb the direct and reasonably anticipated indirect impacts of the proposal.

4. Based in part upon such analysis, a project may be modified to lessen its demand for support services and facilities or its impact on natural systems. Modification may also be required to provide for subsequent projects which

can be expected to share the need for support services and facilities or use of the natural systems' capacity.
(Ord. 107678 § 2, 1978.)

25.04.520 Parking and traffic.

A. Policy Intent. Recognizing that new development and some modifications will generate travel and parking demands, with resultant adverse impacts on the surrounding areas relative to parking and traffic flow, it is the policy of the city to:

1. Encourage transportation modes such as public transit, vanpools, carpools and bicycles rather than single occupancy vehicles;

2. Modify off-street parking requirements to mitigate adverse impacts;

3. Make other requirements as necessary to assure reasonable access and flow.

B. Policies.

1. The city official or authorizing agency shall examine the proposed building occupants' likely vehicle use pattern and guest and service parking needs.

2. In determining the necessary off-street parking, the city official or authorizing agency shall weigh these needs against factors such as:

a. Availability of on-street parking and public transit;

b. Existing traffic conditions;

c. Trend in local area development;

d. Peaking characteristics of the proposed building and the immediate area;

e. Availability of goods, services, and recreation within reasonable pedestrian distance.

3. The city official or authorizing agency may require measures to mitigate adverse parking impacts, including requiring preference parking spaces for carpool or vanpool vehicles and provision of bicycle racks.

4. The city official or authorizing agency may require curb cuts, construction of sidewalks and other pedestrian access amenities or deeding of street right-of-way.

5. Any condition or mitigating measure must be continuously met by the property owner.

(Ord. 107678 § 3, 1978.)

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

25.04.530 Landscaping.

A. Policy Intent. Recognizing that certain developments, although consistent with zoning, may require separation from adjacent uses or modification if they are to exist in harmony with the surrounding area, the city official or authorizing agency may require foliage and greenery to promote the aesthetic and natural qualities of Seattle. Also, recognizing that vegetation can sometimes mitigate adverse environmental impacts, the city official or authorizing agency may require new landscaping or reservation of existing landscaping to reduce stormwater runoff, erosion and aesthetic incompatibility with the surrounding area.

B. Policies.

1. Landscaping may be required when it can provide a buffer between incompatible land uses or zones such as between parking areas and pedestrian ways.

2. Landscaping may be required when it can reduce the potential for erosion or excessive stormwater runoff.

3. Landscaping may be required for new development to reduce the site coverage by impervious surfaces and to add to the beauty of the city.

4. Where structures prevent on-site landscaping, street trees may be required as a substitute.

5. Preference shall be given for species compatible with surrounding flora.

6. The city official or authorizing agency may require existing vegetation to be retained.

7. Maintenance of landscaped areas and replacement of dying or dead plants shall be the responsibility of the property owner.

(Ord. 107678 § 4, 1978.)

25.04.540 Drainage.

A. Policy Intent. Recognizing that property development and redevelopment usually contribute to increased rates and volumes of stormwater runoff, it is the policy of the city to:

1. Prevent stormwater flooding and related property damage, safety hazards, nuisance problems and water quality degradation from increasing as a result of property development and redevelopment;

2. Preserve and enhance the aesthetic quality of the water and watercourses;

3. Preserve and enhance the suitability of waters for contact recreation and wildlife habitat.

B. Policies. Until a comprehensive drainage control ordinance is adopted, the following policies shall apply:

1. On- or off-site control of stormwater, in conjunction with property development and redevelopment, shall be required throughout the city except where separate storm drain systems have sufficient capacity to carry existing and anticipated increases in loads from the point of source to one of the following major bodies of water: Puget Sound, the Duwamish River and Waterway, Lake Washington, Lake Union and the Lake Washington Ship Canal.

2. The peak stormwater runoff discharge rate from property development and redevelopment involving more than two thousand square feet of impervious surface shall not exceed 0.2 cubic feet per second per acre under an appropriate design storm condition, except where the separate storm drain systems have the necessary capacity as stated above. For purposes of this section, property development shall include demolition of an existing building, structure or impervious surface and subsequent construction of a new building, structure or impervious surface.

3. A drainage control plan shall accompany or be included with the application and/or request for any city action on a proposed project. The plan may consist of a statement of compliance in cases where no drainage control facilities are required to meet the criteria stated above.

4. Approval of the most suitable method of drainage control shall be made by the city official or authorizing agency on a case-by-case basis.

(Ord. 107678 § 5, 1978.)

25.04.550 View protection.

A. Policy Intent. Recognizing that:

1. Part of what makes Seattle a unique city is its magnificent natural setting which combines greenery, mountains, and water; and

2. Visual amenities and opportunities are an integral part of the city's environmental quality and contribute to community pride and prestige; and

3. The city is committed to preserving sites, improvements and objects which reflect significant elements of the city's cultural, aesthetic, social, economic, political, architectural, engineering, historical or other heritage and has

designated such sites, improvements and objects as historic landmarks; and

4. It is the city's policy to encourage concentration of high density of high-rise development in the Central Business District (Western Avenue on the west, Yesler Way on the south, I-5 on the east and Lenora Street on the north), and that such development may obstruct views in many instances; and

5. The city has developed particular sites for the public's enjoyment of views of mountains, water and skyline and has many other public places where such views enhance one's experience;

it is the policy of the city to:

a. Reasonably protect views from such public places; and

b. Reasonably protect the view of certain designated historic landmarks.

B. Policies. Until such time as specific view protection policies are enacted by the city, it is the policy of the city that:

1. The city official or authorizing agency shall assess the extent of obstruction of views of mountains, water, skyline, and greenery by a proposed project from public places identified in Appendix B.¹

2. The city official or authorizing agency shall assess the extent of obstruction of views of historic landmarks designated by the Landmarks Preservation Board as having significance which, because of their prominence of location or contrasts of siting, age or scale, are easily identifiable visual features of their neighborhood or the city and contribute to the distinctive quality or identity of such neighborhood or the city; or they embody the distinctive visible characteristics of an architectural style, or period, or of a method of construction.

3. The city official or authorizing agency may mitigate such adverse impacts by measures including, but not limited to:

a. Requiring a change in the height of the development;

b. Requiring a change in the bulk of the development;

c. Requiring a redesign of the profile of the development;

d. Requiring view corridors;

e. Requiring a reduction or rearrangement of walls, fences, or plant material;

f. Requiring a reduction or rearrangement of accessory structures, i.e., towers, railings, antennae.

4. In the Central Business District, the city may mitigate the adverse impacts described in subsections B1 and 2, solely to maintain existing street view corridors to the water, or to other prominent natural or manmade features or to historic landmarks as defined in subsection B2; provided that such street view corridors shall be identified by rule adopted in accordance with the Administrative Code (Ordinance 102228),² and no condition may be imposed to maintain such street view corridors until the view corridors have been identified. (Ord. 107678 § 6, 1978.)

1. Editor's Note: Appendix B is not included in this Code.

2. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.04.560 Shadows on publicly owned parks.

A. Policy Intent. Recognizing that:

1. Access to sunlight, especially in Seattle's climate, is an amenity of publicly owned parks; and

2. It is possible to design and locate structures to minimize the extent to which they block light from publicly owned parks;

it is the policy of the city to consider the extent of light blockage and creation of shadows on publicly owned parks by proposed development or redevelopment and alternative mitigation measures and to weigh the benefits of preventing or minimizing shadows against the public benefits of the costs of conditioning or denying the proposal.

B. Policies.

1. The analysis of sunlight blockage and shadow impacts shall include an assessment of the publicly owned parks and extent of shadows, including times of the year, hours of the day, the land uses and number of people affected.

2. The city official or authorizing agency shall assess the extent of adverse impacts and the need for mitigation.

3. When the city official or authorizing agency finds that a proposed project would substantially block sunlight from a park at a time when the public most frequently uses that park, the city official or authorizing agency may mitigate adverse impacts of sunlight blockage by measures, including but limited to:

a. Limiting the height of the development;

b. Limiting the bulk of the development;

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

c. Redesigning the profile of the development;

d. Limiting or rearranging walks, fences, or plant material;

e. Limiting or rearranging accessory structures, i.e., towers, railings, antennae.
(Ord. 107678 § 7, 1978.)

25.04.570 Light and glare.

A. Policy Intent. Recognizing that development and redevelopment sometimes include lighting and/or reflective surface materials which can adversely affect the surrounding area and that such adverse impacts may be mitigated by alternative lighting techniques and surface materials, it is the policy of the city to consider the adverse impacts and the effectiveness of mitigating measures and to weigh the costs of conditioning or denying the proposal against the benefits to be gained.

B. Policies.

1. If the city official or authorizing agency finds a significant potential for adverse impacts due to light and glare, the city official or authorizing agency shall assess the impacts and need for mitigation.

2. The city official or authorizing agency may mitigate adverse impacts of lighting and glare by measures including, but not limited to:

a. Limiting the reflective qualities of surface materials that can be used in the development;

b. Limiting the area and intensity of illumination;

c. Limiting the location or angle of illumination;

d. Limiting the hours of illumination.
(Ord. 107678 § 8, 1978.)

25.04.580 Housing.

A. Policy Intent. Recognizing that:

1. The city is committed to providing safe and sanitary shelter for all its citizens; and

2. Housing opportunities within the city are inadequate generally and are especially for low income citizens; and

3. Demolition or rehabilitation of low rent housing units or conversion of housing for other uses can cause both displacement of low income persons and a reduction in the supply of housing;

it is the policy of the city to assess the loss of

housing and displacement of persons due to such proposed demolition, rehabilitation or conversion and to apply mitigation measures as described in subsection B.

B. Policies.

1. The city official or authorizing agency shall require any permit applicant who proposes to demolish, rehabilitate or convert housing to other uses to specify the monthly rent for each housing unit occupied at any time during the one year prior to the date of permit application.

2. When the city official or authorizing agency finds that the average rent of any housing unit occupied at any time during the one year prior to the date of permit application was at or below federal Section 8 Existing Fair Market Rent levels and the proposed project results in the eviction of tenants from such the city official or authorizing agency shall require the permit applicant to make a good faith effort to locate housing acceptable to the tenants of such low rent units on or before the date the tenants vacate.
(Ord. 107678 § 9, 1978.)

25.04.590 Supplemental status of subchapter.

The policies established in this subchapter are intended to be supplemental to other adopted city policies protective of the environment, and are not intended to repeal any such adopted policies.
(Ord. 107678 § 10, 1978.)

25.04.600 Applicability.

The policies of this subchapter shall be applicable to any governmental action taken on or after September 21, 1978 and any act pursuant to the authority of this subchapter and prior to the effective date hereof¹ is ratified and confirmed.
(Ord. 107678 § 11, 1978.)

1. Editor's Note: Ord. 107678 became effective on October 21, 1978.

Chapter 25.08

NOISE CONTROL

Sections:

Subchapter I General Provisions

- 25.08.010 Declaration of policy.
- 25.08.020 Findings of special conditions.
- 25.08.030 Chapter additional to other law.

Subchapter II Definitions

- 25.08.040 Definitions generally—Gender.
- 25.08.050 Administrative Code.
- 25.08.060 Administrator.
- 25.08.070 Commercial agriculture.
- 25.08.080 Construction.
- 25.08.090 dB(A).
- 25.08.100 Districts.
- 25.08.110 Emergency work.
- 25.08.120 Equipment.
- 25.08.130 Gross combination weight rating (GCWR).
- 25.08.140 Gross vehicle weight rating (GVWR).
- 25.08.150 Impulsive sound.
- 25.08.160 L eq.
- 25.08.170 Motorcycle.
- 25.08.180 Motor vehicle.
- 25.08.190 Motor vehicle racing event.
- 25.08.200 Muffler.
- 25.08.210 New motor vehicle.
- 25.08.220 Noise.
- 25.08.230 Off-highway vehicle.
- 25.08.240 Periodic sound.
- 25.08.250 Person.
- 25.08.260 Property boundary.
- 25.08.270 Public highway.
- 25.08.280 Public nuisance noise.
- 25.08.290 Pure tone component.
- 25.08.300 Real property.
- 25.08.310 Receiving property.
- 25.08.320 Sound level.
- 25.08.330 Sound level meter.
- 25.08.340 Special construction vehicle.
- 25.08.350 Use.
- 25.08.360 Warning device.
- 25.08.370 Watercraft.
- 25.08.380 Weekday.
- 25.08.390 Weekend.

Subchapter III Environmental Sound Levels

- 25.08.400 Unlawful sounds.
- 25.08.410 Maximum permissible sound levels.

- 25.08.420 Modifications to maximum permissible sound levels.

Subchapter IV Motor Vehicle Sound Levels

- 25.08.430 Sounds created by operation of motor vehicles.
- 25.08.440 Mufflers.
- 25.08.450 Modification to motor vehicles.
- 25.08.460 Tire noise.
- 25.08.470 Sale of new motor vehicles which exceed limits.
- 25.08.480 Motor vehicle exemptions.

Subchapter V Public Nuisance Noises

- 25.08.490 Prohibited.
- 25.08.500 Public disturbance noises.
- 25.08.510 Exempted sources.
- 25.08.520 Noise in public parks and places.

Subchapter VI Exemptions

- 25.08.530 Sounds exempt at all times.
- 25.08.540 Sounds exempt during daytime hours.
- 25.08.550 Sounds exempt from nighttime reduction.

Subchapter VII Variances

- 25.08.560 Application—Generally.
- 25.08.570 Application—Fee.
- 25.08.580 Discretion of Administrator.
- 25.08.590 Granting of variance.
- 25.08.600 Renewal of variance.
- 25.08.610 Appeal procedure.
- 25.08.620 Exemption.
- 25.08.630 Temporary variance.
- 25.08.640 Technical variance.
- 25.08.650 Economic variance.

Subchapter VIII Administration and Noise Measurement

- 25.08.660 Authority of Administrator.
- 25.08.670 Duties of Administrator.
- 25.08.680 Measurement of sound.
- 25.08.690 Technical corrections.
- 25.08.700 Receiving properties within more than one district.

Subchapter IX Enforcement

- 25.08.710 Right of entry.
- 25.08.720 Enforcement.
- 25.08.730 Notice and order.
- 25.08.740 Method of service.
- 25.08.750 Final orders.

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

- 25.08.760 Administrative conferences.
- 25.08.770 Right to appeal.
- 25.08.780 Form of appeal.
- 25.08.790 Hearing Examiner's consideration.
- 25.08.800 Punishment for violations and crimes.
- 25.08.810 Penalty for failure to comply with final orders.

Statutory Reference: For statutory provisions on noise control, see RCW Ch. 70.107.

Severability: Should any section, subsection, paragraph, sentence, clause or phrase of this chapter or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or its application to any other person or situation.

(Ord. 106360 § 1002, 1977.)

Subchapter I General Provisions

25.08.010 Declaration of policy.

It is the policy of the city to minimize the exposure of citizens to the physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment.

(Ord. 106360 § 101, 1977.)

25.08.020 Findings of special conditions.

The problem of noise in the city has been studied since 1974 by the City Council. On the basis of this experience and knowledge of conditions within the city, the City Council finds that special conditions exist within the city which make necessary any and all differences between this chapter and the regulations adopted by the Department of Ecology.

(Ord. 106360 § 102, 1977.)

25.08.030 Chapter additional to other law.

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise, but shall be deemed additional to existing legislation and common law on noise.

(Ord. 106360 § 1001, 1977.)

Subchapter II Definitions

25.08.040 Definitions generally—Gender.

All technical terminology used in this chapter, not defined in this subchapter, shall be interpreted in conformance with American National Standards Institute Specifications, Section 1.1-1960 and Section 1.4-1971. Words used in the masculine gender include the feminine and words used in the feminine gender include the masculine. For the purposes of this chapter the words and phrases used herein shall have the meanings set forth in the following sections of this subchapter.

(Ord. 106360 § 200, 1977.)

25.08.050 Administrative Code.

"Administrative Code" means the Administrative Code of The City of Seattle (Ordinance 102228)¹ as now or hereafter amended.

(Ord. 106360 § 201, 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.060 Administrator.

"Administrator" means the Director of the Seattle-King County Department of Public Health or his authorized representative.

(Ord. 106360 § 202, 1977.)

25.08.070 Commercial agriculture.

"Commercial agriculture" means the production of livestock or agricultural commodities on lands defined as "farm and agricultural" by RCW 84.34.020(2) and the offering of the livestock and agricultural commodities for sale.

(Ord. 106360 § 203, 1977.)

25.08.080 Construction.

"Construction" means any site preparation, assembly, erection, demolition, substantial repair, alteration, or similar action for or of public or private rights-of-way, structures, utilities, or similar property.

(Ord. 106360 § 204, 1977.)

25.08.090 dB(A).

"dB(A)" means the sound level measured in decibels, using the "A" weighting network.

(Ord. 106360 § 205, 1977.)

25.08.100 Districts.

"District" means the land use zones to which

the provisions of this chapter are applied. For the purposes of this chapter:

A. "Rural District" includes zones designated in the King County Zoning Code as A, F-R, F-P, S-E, G, and S-R greater than thirty-five thousand square feet.

B. "Residential District" includes zones designated in the King County Zoning Code as R-S, R-D, R-M, B-N, and S-R less than thirty-five thousand square feet, as well as zones designated as RS, RW, RD, RM, RMH, RM-MD, RMV, and BN in the Comprehensive Zoning Ordinance of the city.¹

C. "Commercial District" includes zones designated in the King County Zoning Code as B-C, C-G, M-L and M-P, as well as zones designated as BI, BC, BM, CM, CMT, and CG in the Comprehensive Zoning Ordinance of the city.¹

D. "Industrial District" includes zones designated in the King County Zoning Code as M-H, Q-M and unclassified uses, as well as zones designated as M, IG, and IH in the Comprehensive Zoning Ordinance of the city.¹ (Ord. 106360 § 206, 1977.)

1. Editor's Note: The Zoning Ordinance is codified in Title 24 of this Code.

25.08.110 Emergency work.

"Emergency work" means work required to restore property to a safe condition following a public calamity, work required to protect persons or property from an imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.

(Ord. 106360 § 207, 1977.)

25.08.120 Equipment.

"Equipment" means any stationary or portable device or any part thereof capable of generating sound.

(Ord. 106360 § 208, 1977.)

25.08.130 Gross combination weight rating (GCWR).

"Gross combination weight rating" (GCWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle.

(Ord. 106360 § 209, 1977.)

25.08.140 Gross vehicle weight rating (GVWR).

"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

(Ord. 106360 § 210, 1977.)

25.08.150 Impulsive sound.

"Impulsive sound" means sound having the following qualities: the peak of the sound level is less than one second and short compared to the occurrence rate; the onset is abrupt; the decay rapid; and the peak value exceeds the ambient level by more than 10 dB(A).

(Ord. 106360 § 211, 1977.)

25.08.160 L eq.

"L eq" means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. The time period applicable must be specified.

(Ord. 108552 § 1, 1979; Ord. 106360 § 211.5, 1977.)

25.08.170 Motorcycle.

"Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; except that farm tractors and vehicles powered by engines of less than five horsepower shall not be included.

(Ord. 106360 § 214, 1977.)

25.08.180 Motor vehicle.

"Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways and required to be licensed under RCW 46.16.010. (Aircraft, watercraft and vehicles used exclusively on stationary rails or tracks are not motor vehicles as that term is used in this chapter.)

(Ord. 106360 § 212, 1977.)

25.08.190 Motor vehicle racing event.

"Motor vehicle racing event" means any competition between motor vehicles and/or off-highway vehicles under the auspices of a sanctioning body recognized by the Administrator under rules adopted in accordance with the Administrative Code.¹

(Ord. 106360 § 213, 1977.)

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.200 Muffler.

"Muffler" means a device consisting of a series of chambers or other mechanical designs for the purpose of receiving exhaust gas from an internal combustion engine and effective in reducing sound resulting therefrom.
(Ord. 106360 § 215, 1977.)

25.08.210 New motor vehicle.

"New motor vehicle" means a motor vehicle manufactured after December 31, 1975, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.
(Ord. 106360 § 216, 1977.)

25.08.220 Noise.

"Noise" means the intensity, duration and character of sounds from any and all sources.
(Ord. 106360 § 217, 1977.)

25.08.230 Off-highway vehicle.

"Off-highway vehicle" means any self-propelled motor-driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16.010. The term "off-highway vehicle" shall not include special construction vehicles.
(Ord. 106360 § 218, 1977.)

25.08.240 Periodic sound.

"Periodic sound" means sound having the following qualities: the sound level varies repetitively, with a period of one minute or less, and the peak value is more than 5 dB(A) above the minimum value.
(Ord. 106360 § 219, 1977.)

25.08.250 Person.

"Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
(Ord. 106360 § 220, 1977.)

25.08.260 Property boundary.

"Property boundary" means an imaginary line exterior to any enclosed structure, at ground surface, which separates the property of one or more persons from that owned by

others, and its vertical extension.
(Ord. 106360 § 221, 1977.)

25.08.270 Public highway.

"Public highway" means the entire width between the boundary lines of every way publicly maintained by the Department of Highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.
(Ord. 106360 § 222, 1977.)

25.08.280 Public nuisance noise.

"Public nuisance noise" means any sound which unreasonably either annoys, injures, interferes with or endangers the comfort, repose, health or safety of an entire community or neighborhood, although the extent of damage may be unequal.
(Ord. 106360 § 223, 1977.)

25.08.290 Pure tone component.

"Pure tone component" means a sound having the following qualities: a one-third octave band sound pressure level in the band with the tone that exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 decibels for center frequencies of 500 Hz and above, by 8 decibels for center frequencies between 160 and 400 Hz, and by 15 decibels for center frequencies less than or equal to 125 Hz.
(Ord. 106360 § 224, 1977.)

25.08.300 Real property.

"Real property" means an interest or aggregate of rights in land which is guaranteed and protected by law; for purposes of this chapter, the term "real property" includes a leasehold interest.
(Ord. 106360 § 225, 1977.)

25.08.310 Receiving property.

"Receiving property" means real property within which sound originating from sources outside the property is received.
(Ord. 106360 § 226, 1977.)

25.08.320 Sound level.

"Sound level" means the weighted sound pressure level measured by the use of a metering characteristic and weighted as specified in American National Standards Institute Specifications, Section 1.4-1971. The sound pressure level of a

sound expressed in decibels is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound pressure of 20 micropascals. In the absence of any specific modifier, the level is understood to be that of a mean-square pressure.
(Ord. 106360 § 227, 1977.)

25.08.330 Sound level meter.

"Sound level meter" means a sound level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-1971.
(Ord. 106360 § 228, 1977.)

25.08.340 Special construction vehicle.

"Special construction vehicle" means any vehicle which is designed and used primarily for grading, paving, earth moving, and other construction work; and which is not designed or used primarily for the transportation of persons or property on a public highway; and which is only incidentally operated or moved over the highway.
(Ord. 106360 § 229, 1977.)

25.08.350 Use.

"Use" means the nature of the occupancy, the type of activity, or the character and form of improvements to which land is devoted or may be devoted.
(Ord. 106360 § 230, 1977.)

25.08.360 Warning device.

"Warning device" means any device intended to provide public warning of potentially hazardous, emergency or illegal activities, including but not limited to a burglar alarm or vehicle back-up signal, but not including any fire alarm.
(Ord. 106360 § 231, 1977.)

25.08.370 Watercraft.

"Watercraft" means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water.
(Ord. 106360 § 232, 1977.)

25.08.380 Weekday.

"Weekday" means any day Monday through Friday which is not a legal holiday.
(Ord. 106360 § 233, 1977.)

25.08.390 Weekend.

"Weekend" means Saturday and Sunday or any legal holiday.
(Ord. 106360 § 234, 1977.)

Subchapter III Environmental Sound Levels

25.08.400 Unlawful sounds.

It is unlawful for any person to cause sound, or for any person in possession of property to permit sound originating from such property, to intrude into the real property of another person whenever such sound exceeds the maximum permissible sound levels established by this subchapter.
(Ord. 106360 § 301, 1977.)

25.08.410 Maximum permissible sound levels.

For sound sources located within the city or King County, the maximum permissible sound levels are as follows:

District of Sound Source	District of Receiving Property Within The City of Seattle		
	Residential	Commercial	Industrial
Rural	52 dB (A)	55 dB (A)	57 dB (A)
Residential	55 dB (A)	57 dB (A)	60 dB (A)
Commercial	57 dB (A)	60 dB (A)	65 dB (A)
Industrial	60 dB (A)	65 dB (A)	70 dB (A)

(Ord. 106360 § 302, 1977.)

25.08.420 Modifications to maximum permissible sound levels.

The maximum permissible sound levels established by this subchapter shall be reduced or increased by the sum of the following:

A. Between the hours of ten p.m. and seven a.m. during weekdays, and between the hours of ten p.m. and nine a.m. on weekends, the levels established by Section 25.08.410 are reduced by 10 dB(A) where the receiving property lies within a residential district of the city.

B. For any source of sound which is periodic, which has a pure tone component, or which is impulsive and is not measured with an impulse sound level meter, the levels established by this subchapter shall be reduced by 5 dB(A); provided, however, that this 5 dB(A) penalty for the emission of sound having a pure tone component shall not be imposed on any electrical substation, whether existing or new.

C. For any source of sound which is of short duration, the levels established by this subchapter are increased by:

1. 5 dB(A) for a total of fifteen minutes in any one-hour period; or
 2. 10 dB(A) for a total of five minutes in any one-hour period; or
 3. 15 dB(A) for a total of 1.5 minutes in any one-hour period.
- (Ord. 106360 § 303, 1977.)

Subchapter IV Motor Vehicle Sound Levels

25.08.430 Sounds created by operation of motor vehicles.

It is unlawful for any person to operate upon any public highway any motor vehicle or any combination of motor vehicles under any conditions of grade, load, acceleration or deceleration in such manner as to exceed the following maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet from the center of the lane of travel within the speed limits specified, by measurement procedures established by the State Commission on Equipment.

Vehicle Category	35 mph or less	Over 35 mph
Motor vehicles over 10,000 pounds GVWR (or GCWR)	86 dB(A)	90 dB(A)
Motorcycles	80 dB(A)	84 dB(A)
All other motor vehicles	76 dB(A)	80 dB(A)

(Ord. 106360 § 401, 1977.)

25.08.440 Mufflers.

It is unlawful for any person to operate, or for any owner to permit any person to operate, any motor vehicle upon the public highways which is not equipped with a muffler in good working order and in constant operation. (Ord. 106360 § 402, 1977.)

25.08.450 Modification to motor vehicles.

It is unlawful for any person to modify or change any part of a motor vehicle or install any device thereon in any manner that permits sound to be emitted by the motor vehicle in excess of the limits prescribed by this subchapter. It is unlawful for any person to remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any

muffler or sound dissipative device on a motor vehicle. (Ord. 106360 § 403, 1977.)

25.08.460 Tire noise.

It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, provided that sound resulting from emergency braking to avoid imminent danger shall be exempt from this section. (Ord. 106360 § 404, 1977.)

25.08.470 Sale of new motor vehicles which exceed limits.

It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum sound level exceeding the following maximum permissible sound levels at a distance of fifty feet, by acceleration test procedures established by the State Commission on Equipment.

Vehicle Category	Sound Level
Motorcycles manufactured after 1975	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR manufactured after 1975 and prior to 1978	86 dB(A)
Any motor vehicle over 10,000 pounds GVWR manufactured after 1978	83 dB(A)
All other motor vehicles	80 dB(A)

(Ord. 106360 § 405, 1977.)

25.08.480 Motor vehicle exemptions.

Sounds created by motor vehicles are exempt from the maximum permissible sound levels of Subchapter III, except that sounds created by any motor vehicle operated off public highways shall be subject to the sound levels of Subchapter III when the sounds are received within a residential district of the city. (Ord. 106360 § 406, 1977.)

Subchapter V Public Nuisance Noises

25.08.490 Prohibited.

Pursuant to the notice and order procedure set forth in Subchapter IX, the Administrator may determine that a sound constitutes a public nuisance noise as defined in this chapter. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound which has been determined a public nuisance noise. (Ord. 106360 § 501, 1977.)

25.08.500 Public disturbance noises.

It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise. The following sounds are determined to be public disturbance noises:

A. Frequent, repetitive, or continuous sounds made by any animal which unreasonably disturb or interfere with the peace, comfort and repose of property owners or possessors, except that such sounds made in animal shelters, or commercial kennels, veterinary hospitals, pet shops, or pet kennels licensed under and in compliance with Chapter 9.08 of this Code shall be exempt from this subsection; provided, that notwithstanding any other provision of this chapter, if the owner or other person having custody of the animal cannot, with reasonable inquiry, be located by the investigating officer, or if the animal is a repeated violator of this subsection, the animal shall be impounded by the poundmaster, subject to redemption in the manner provided by Chapter 9.08 of this Code;

B. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;

C. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine, within a rural or residential district, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;

D. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure, or property or the contents therein, except as permitted by law, and except that vendors whose sole method of selling is from a mo-

ving vehicle shall be exempt from this subsection;

E. The making of any loud and raucous sound within one thousand feet of any school, hospital, sanitarium, nursing or convalescent facility; and

F. The creation by use of a musical instrument, whistle, sound amplifier or other device capable of producing or reproducing sound, of loud and raucous sounds which emanate frequently, repetitively or continuously from any building, structure or property located within a rural or residential district, such as sounds originating from a band session or social gathering. (Ord. 106360 § 502, 1977.)

25.08.510 Exempted sources.

No sound source specifically exempted from a maximum permissible sound level by this chapter shall be a public nuisance noise or public disturbance noise, insofar as the particular source is exempted.

(Ord. 106360 § 503, 1977.)

25.08.520 Noise in public parks and places.

A. It is unlawful for any person to cause, or for any person in charge of a group of persons to allow sound from an officially sanctioned musical event to originate in a public park, public place, as defined in the Street Use Ordinance No. 90047,¹ public market or civic center which exceeds a L_{eq} of 95 dB(A) for one minute as measured fifty feet (approximately fifteen meters) from the source or sources, whether or not the sounds are live or recorded. Provided, that this section shall not apply to indoor events.

B. Each violation of this section which occurs after notice to the person (designated on the permit as the agent to receive notices of violations in the case of events with permits) that he or she is in violation of this section shall constitute a separate offense. At the time of application the applicant shall designate an on-premises agent who will accept notices of violations of this chapter during the event. The absence of the designated on-premises agent from the event or the inability of the serving agency to locate the on-premises agent or the refusal of an on-premises agent or a responsible official of a group to accept notice of a violation shall not affect the validity of the initial or successive violations.

C. The Administrator, the Director of Seattle Center, the Superintendent of Parks, the Chairperson of Board of Public Works, the Chief of Police, or an authorized representative of any of them may terminate a performance as a public nuisance after following the notice re-

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

quirements of subsection B if the decibel level exceeds 105 dB(A) for a total of five minutes in any thirty-minute period as measured fifty feet (approximately fifteen meters) from the source or sources.

D. Before any permit or other authorizing document is issued for any event which will produce sounds which may violate this section, the application shall be circulated to the Noise Abatement Section of the Health Department. The Health Department is authorized to attach any conditions consistent with this chapter and reasonably calculated to prevent annoying sounds.

E. In the discretion of the Administrator or his designee a cash deposit may be required to insure compliance with this section and which shall be retained by the city as security for payment of any fines imposed for violation of this section. The amount of such deposit may be up to Five Hundred Dollars (\$500.00) if the event will involve unamplified sound and up to One Thousand Dollars (\$1,000.00) if amplified sound will be used. The factors to consider when determining the amount of the deposit include, but are not limited to: past performances, amplification, number and type of musical instruments, location of event and number of participants. In the case of amplified sound, the Administrator will be principally guided by the expected power of the source of amplification.

F. The Administrator may waive the deposit if the likelihood of a violation is remote.

G. A copy or digest of this section on noise in public parks and public places shall be delivered to every person applying for a permit or other authorizing document which involves the production of sounds which may violate this section and the permittee shall sign a receipt signifying that he or she has received the same. (Ord. 108552 § 2, 1979; Ord. 106360 § 504, 1977.)

1. Editor's Note: The Street Use Ordinance is codified in Title 15 of this Code.

Subchapter VI Exemptions

25.08.530 Sounds exempt at all times.

A. The following sounds are exempt from the provisions of this chapter at all times:

1. Sounds originating from aircraft in flight, and sounds which originate at airports and are directly related to flight operations;

2. Sounds created by safety and protective devices, such as relief valves, where noise suppression would defeat the safety release intent of the device;

3. Sounds created by fire alarms;

4. Sounds created by emergency equipment and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community;

5. Sounds created by the discharge of firearms in the course of lawful hunting activities;

6. Sounds caused by natural phenomena and unamplified human voices;

7. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a commercial or industrial district of the city;

8. Sounds created by auxiliary equipment on motor vehicles used for highway maintenance; and

9. Sounds created by warning devices not operated continuously for more than thirty minutes per incident.

B. The City Council intends to amend this chapter by enacting specific regulations for the following sounds, each of which shall be exempt from the provisions of this chapter at all times until a specific amendment applying to that sound has been adopted:

1. Sounds created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad;

2. Sounds created by float planes;

3. Sounds created by construction equipment, including special construction vehicles, and emanating from temporary construction sites, if the receiving property is located in a commercial or industrial district of the city; and

4. Sounds created by watercraft. (Ord. 106360 § 601, 1977.)

25.08.540 Sounds exempt during daytime hours.

A. The following sounds are exempt from the provisions of this chapter between the hours of seven a.m. and ten p.m. on weekdays and between the hours of nine a.m. and ten p.m. on weekends:

1. Sounds created by bells, chimes, or carillons not operating for more than five minutes in any one hour;

- 2. Sounds originating from officially sanctioned parades and other public events;
- 3. Sounds created by the discharge of firearms on legally established shooting ranges;
- 4. Sounds created by blasting; and
- 5. Sounds originating from forest harvesting and silviculture activity and from commercial agriculture, if the receiving property is located in a residential district of the city. The Administrator is authorized to promulgate regulations which extend the hours during which this exemption shall be in effect to conform with operating laws designated by the Washington State Department of Natural Resources in directing an official fire closure.

B. The City Council intends to amend this chapter by enacting specific regulations for the following sounds, each of which shall be exempt from the provisions of this ordinance between the hours of seven a.m. and ten p.m. on weekdays and between the hours of nine a.m. and ten p.m. on weekends, until a specific amendment applying to that sound has been adopted:

- 1. Sounds created by aircraft testing and maintenance;
- 2. Sounds created by construction equipment, including special construction vehicles, and emanating from temporary construction sites, if the receiving property is located in a residential district of the city;
- 3. Sounds created by the installation or repair of essential utility services;
- 4. Sounds created by maintenance operations on public facilities;
- 5. Sounds created by powered equipment used in temporary or periodic maintenance or repair of residential property, including grounds and appurtenances, such as lawn mowers, powered handtools, snow-removal equipment, and composters.

(Ord. 106360 § 602, 1977.)

25.08.550 Sounds exempt from nighttime reduction.

The following sounds are exempt from the provisions of Section 25.08.420A:

- A. Sounds created by existing stationary equipment used in the conveyance of water by a utility;
- B. Sounds created by existing electrical substations;
- C. Sounds created by sources in industrial districts which, over the previous three years, have consistently operated in excess of fifteen

hours per day as a demonstrated routine or as a consequence of process necessity; provided that such exemption shall only extend to five years after the effective date of the ordinance codified in this chapter.¹ Changes in working hours or activity which would increase the noise emitted under this exemption require the approval of the Administrator, given under rules adopted in accordance with the Administrative Code.² (Ord. 106360 § 603, 1977.)

- 1. Editor's Note: Ord. 106360 became effective on May 13, 1977.
- 2. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

Subchapter VII Variances

25.08.560 Application—Generally.

Any person who owns or is in possession of any property or use, or any process or equipment, may apply to the Administrator for relief from the requirements of this chapter or rules or regulations promulgated hereunder governing the quality, nature, duration or extent of discharge of noise. In a proper case, the variance may apply to all sources of a particular class or type. The application shall be accompanied by such information and data as the Administrator may require. In accordance with the Administrative Code,¹ the Administrator shall promulgate rules and regulations governing application for and granting of such variances, including hearings and notice.

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(a), 1977.)

- 1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.570 Application—Fee.

Application for a variance or renewal of a variance shall be accompanied by payment of a nonrefundable fee as follows:

Temporary variance.	\$25.00
Technical or economic variance, source in rural or residential district.	\$100.00
Technical or economic variance, source in commercial or industrial district	\$200.00

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(b), 1977.)

25.08.580 Discretion of Administrator.

A variance or its renewal shall not be a right of the applicant or holder thereof but shall be

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

at the reasonable discretion of the Administrator.
(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(c), 1977.)

25.08.590 Granting of variance.

No variance shall be granted pursuant to Sections 25.08.560 through 25.08.620 until the Administrator has considered the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public. A technical or economic variance may be granted only after a public hearing on due notice. The Administrator may grant a variance, if he finds that:

A. The noise occurring or proposed to occur does not endanger public health or safety; and

B. The applicant demonstrates that the criteria required for temporary, technical or economic variance under Sections 25.08.610 through 25.08.630 are met.

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(d), 1977.)

25.08.600 Renewal of variance.

Variances, except temporary variances, granted pursuant to this chapter may be renewed on terms and conditions and for periods which would be appropriate on the initial granting of a variance. No renewal shall be granted except on application made at least sixty days prior to the expiration of the variance.

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(e), 1977.)

25.08.610 Appeal procedure.

Any person aggrieved by the denial, grant, or the terms and conditions on the grant of an application for a variance or renewal of a variance by the Administrator may appeal such decision to the Hearing Examiner under procedures contained in Subchapter IX.

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(f), 1977.)

25.08.620 Exemption.

Any person or source granted a variance pursuant to the procedures of this subchapter or an appeal shall be exempt from the maximum permissible sound levels established by this chapter to the extent provided in the variance.

(Ord. 107377 § 1(part), 1978: Ord. 106360 § 701(g), 1977.)

25.08.630 Temporary variance.

The Administrator may grant a temporary variance, not to exceed fourteen days, for any activity, use, process or equipment which the Administrator determines, in accordance with rules and regulations, does not annoy a substantial number of the people and does not endanger public health or safety.

(Ord. 106360 § 702(a), 1977.)

25.08.640 Technical variance.

A technical variance may be granted by the Administrator on the ground that there is no practical means known or available for the adequate prevention, abatement or control of the noise involved. Any technical variance shall be subject to the holder's taking of any alternative measures that the Administrator may prescribe. The duration of each technical variance shall be until such practical means for prevention, abatement or control become known or available. The holder of a technical variance, as required by the Administrator, shall make reports to the Administrator detailing actions taken to develop a means of noise control or to reduce the noise involved and must relate these actions to pertinent current technology.

(Ord. 106360 § 702(b), 1977.)

25.08.650 Economic variance.

An economic variance may be granted by the Administrator on the ground that compliance with the particular requirement or requirements from which the variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a period of time. The duration of an economic variance shall be for a period not to exceed such reasonable time as is required in the view of the Administrator for the taking of the necessary measures. An economic variance shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to the timetable.

(Ord. 106360 § 702(c), 1977.)

Subchapter VIII Administration and Noise Measurement

25.08.660 Authority of Administrator.

The Administrator is authorized and directed to administer and enforce the provisions of this chapter; provided that the Chief of Police is directed to enforce Subchapter IV and Section

25.08.500. Upon request by the Administrator or the Chief of Police, all other city departments and divisions are authorized to assist them in enforcing this chapter.
(Ord. 106360 § 801, 1977.)

25.08.670 Duties of Administrator.

The duties of the Administrator shall include, but are not limited to:

- A. Obtaining assistance from other appropriate city departments and divisions;
 - B. Training field inspectors;
 - C. Purchasing measuring instruments and training inspectors in their calibration and use;
 - D. Promulgating and publishing rules and procedures, in accordance with the Administrative Code,¹ to establish techniques for measuring or reducing noise and to provide for clarification, interpretation, and implementation of this chapter;
 - E. Investigating citizens' noise complaints;
 - F. Issuing orders for the reduction or elimination of noise in accordance with Subchapter IX;
 - G. Assisting citizens and city departments in evaluating and reducing the noise impact of their activities;
 - H. Assisting city planning officials in evaluating the noise component in planning and zoning actions;
 - I. Instituting a public education program on noise; and
 - J. Reviewing at least every three years the provisions of this chapter and recommending revisions consistent with technology to reduce noise.
- (Ord. 106360 § 802, 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.680 Measurement of sound.

If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition and shall meet the requirements for a Type I or Type II instrument, as described in American National Standards Institute Specifications, Section 1.4-1971. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such manner that the overall accuracy shall be at least that called for in Section 1.4-1971 for Type II instruments.
(Ord. 106360 § 803, 1977.)

25.08.690 Technical corrections.

When the location, distance or technique prescribed in this chapter for measurement of sound is impractical or would yield misleading or inaccurate results, measurements shall be taken at other locations or distances using appropriate correction factors, as specified in the rules promulgated by the Administrator.
(Ord. 106360 § 804, 1977.)

25.08.700 Receiving properties within more than one district.

Where a receiving property lies within more than one district, the maximum permissible sound level shall be determined by the district within which the measurement is made.
(Ord. 106360 § 805, 1977.)

Subchapter IX Enforcement

25.08.710 Right of entry.

Upon presentation of proper credentials, the Administrator -- with the consent of the occupant, or with the consent of the owner of any unoccupied building, structure, property or portion thereof, or pursuant to a lawfully issued warrant -- may enter at all reasonable times, any building, structure, property or portion thereof to inspect the same whenever necessary to make an inspection to enforce or determine compliance with the provisions of this chapter or whenever he has cause to believe that a violation of this chapter has been or is being committed; provided, if the building, structure, property or portion thereof is unoccupied, the Administrator shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the Administrator is unable to locate the owner or such other persons and he has reason to believe that conditions therein create an immediate and irreparable health hazard, then he shall make entry.
(Ord. 106360 § 901, 1977.)

25.08.720 Enforcement.

Whenever the Administrator has reason to believe that an unlawful act under this chapter has been committed, he shall initiate an administrative proceeding as provided by Sections 25.08.730 through 25.08.760 or initiate an enforcement action under Sections 25.08.800 and 25.08.810; provided, however, that in the event the unlawful act constitutes a violation of the

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

environmental sound levels established in Subchapter III and the same type of unlawful act has not been committed previously by the offender, then the Administrator shall initiate only an administrative proceeding as provided by Sections 25.08.730 through 25.08.760. (Ord. 106360 § 902, 1977.)

25.08.730 Notice and order.

A. Whenever the Administrator has reason to believe that a noise will be most promptly and equitably reduced by an administrative proceeding, that a public nuisance noise is being emitted, or that the terms of a variance have not been met, he may serve a written notice and order directed to the owner or operator of the source, the person in possession of the property where the sound originates, or the holder of the variance. One copy shall also be posted on the property or source, if reasonably possible, and another copy shall be mailed to each complainant (if any) about the noise; additional copies may be mailed by the Administrator to such other interested or affected persons as the Administrator deems appropriate.

B. The notice shall contain a brief and concise description of the conditions alleged to be in violation or to be a public nuisance noise, the provision(s) of this chapter alleged to have been violated, and sound level readings, if taken, including the time and place of their recording.

C. The order shall contain a statement of the corrective action required and shall specify a reasonable time within which the action must be accomplished.

(Ord. 106360 § 903(a), 1977.)

25.08.740 Method of service.

Service of the notice and order shall be made upon the persons named in the notice and order, either personally or by mailing a copy of the notice and order by certified mail, postage prepaid, return receipt requested, to each person at his last known address. If the whereabouts of the persons is unknown and cannot be ascertained by the Administrator in the exercise of reasonable diligence, and the Administrator shall make affidavit to that effect, then the service of the notice and order upon the persons may be made by publishing them once each week for two consecutive weeks in the city official newspaper. The failure of any such person to receive the notice and order shall not affect the validity of any proceedings taken under this

chapter. Service by certified mail in the manner provided in this section shall be effective on the date of mailing.

(Ord. 106360 § 903(b), 1977.)

25.08.750 Final orders.

Any order issued by the Administrator pursuant to this chapter shall become final unless, no later than ten days after the order is served, a person named in the notice and order requests a hearing before the Hearing Examiner in accordance with Section 25.08.770.

(Ord. 106360 § 903(c), 1977.)

25.08.760 Administrative conferences.

An informal administrative conference may be conducted at any time by the Administrator for the purpose of bringing out all the facts and circumstances relating to an alleged violation, promoting communication between concerned parties, and providing a forum for efficient resolution of a violation. The Administrator may call a conference in response to a request from any person aggrieved by an order of the Administrator or the Administrator may call a conference on his own motion. Attendance at the conference shall be determined by the Administrator and need not be limited to those named in a notice and order. As a result of information developed at the conference, the Administrator may affirm, modify or revoke his order. The holding of an administrative conference shall not be a prerequisite to use of any other enforcement provisions contained in this chapter.

(Ord. 106360 § 903(d), 1977.)

25.08.770 Right to appeal.

Any person aggrieved by an order issued by the Administrator, including a variance decision, may file an appeal in writing with the Hearing Examiner within a period extending to five p.m. of the tenth day following the date of service of the order. The appeal shall be accompanied by a receipt from the City Treasurer showing payment by the appellant of a filing fee of Ten Dollars (\$10.00).

(Ord. 106360 § 904(a), 1977.)

25.08.780 Form of appeal.

The written appeal shall contain the following information:

A. A heading in the words: "Before the Hearing Examiner of the City of Seattle";

B. A caption reading: "Appeal of . . ." giving the names of all appellants participating in the appeal;

C. A brief statement setting forth any legal interest of each of the appellants in the property or equipment involved in the order or variance decision;

D. A brief statement in concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;

E. A brief statement of the relief sought, and the reason why it is claimed the protested action should be reversed, modified, or otherwise set aside;

F. The signatures of all parties named as appellants and their mailing addresses; and

G. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal. (Ord. 106360 § 904(b), 1977.)

25.08.790 Hearing Examiner's consideration.

The Hearing Examiner shall consider the appeal in accordance with the procedure established for hearing contested cases under the Administrative Code,¹ and within thirty days of the conclusion of the hearing, shall render his decision and mail his final order to the Administrator and the appellant. The ruling or interpretation of the Administrator may be affirmed, reversed or modified in the Hearing Examiner's final order. If the ruling or interpretation of the Administrator is reversed or substantially modified, the Hearing Examiner shall direct that the filing fee be returned to the appellant. The decision of the Hearing Examiner shall be final, and the appellant and the Administrator bound thereby.

(Ord. 106360 § 904(c), 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.08.800 Punishment for violations and crimes.

Every offense defined by this chapter or conduct made unlawful thereby shall constitute a violation subject to the provisions of Chapters 12A.02 and 12A.04 of this Code (Seattle Criminal Code) and any person convicted of a violation shall be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars (\$500.00); provided, any person knowingly and wilfully committing an offense under this chapter shall be guilty of a crime subject to Chapters 12A.02 and 12A.04 and any person convicted

of the crime shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the City Jail for a term not to exceed six months, or by both fine and imprisonment.

(Ord. 106360 § 905(a), 1977.)

25.08.810 Penalty for failure to comply with final orders.

In addition to any other sanction or remedial injunctive procedure which may be available at law or equity, any person failing to comply with a final order issued by the Administrator or Hearing Examiner shall be subject to a cumulative civil penalty in an amount not to exceed One Hundred Dollars (\$100.00) per day from the date set for compliance until such order is complied with. The civil penalty shall be collected by civil action, brought in the name of the city. The Administrator shall notify the Corporation Counsel in writing of the name of any person subject to the penalty and the amount thereof; and the Corporation Counsel shall, with the assistance of the Administrator, take appropriate action to collect the penalty. The defendant in any such action may show, in mitigation of liability:

A. That the failure to comply was caused by the wilful act, or neglect or abuse of another; or

B. That action to comply with the order was commenced promptly upon receipt of 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 building, or other condition or circumstance beyond the control of defendant, and upon such a showing the court may remit all or part of the accumulated penalty as justice may require.

(Ord. 106360 § 905(b), 1977.)

Chapter 25.12

LANDMARKS PRESERVATION¹

Sections:

Subchapter I Title and Purpose

25.12.010 Short title.

25.12.020 Purpose and declaration of policy.

Subchapter II Definitions

- 25.12.030 Definitions generally.
- 25.12.040 Alteration.
- 25.12.050 Approval of designation.
- 25.12.060 Approval of nomination.
- 25.12.070 Board.
- 25.12.080 Certificate of approval.
- 25.12.090 Controls.
- 25.12.100 Council.
- 25.12.110 Designating ordinance.
- 25.12.120 Economic incentives.
- 25.12.130 Hearing Examiner.
- 25.12.140 Improvement.
- 25.12.150 Interested person of record.
- 25.12.160 Landmark.
- 25.12.170 Landmark site.
- 25.12.180 Nomination.
- 25.12.190 Object.
- 25.12.200 Owner.
- 25.12.210 Party of record.
- 25.12.220 Person.
- 25.12.230 Person in charge.
- 25.12.240 Significant change.
- 25.12.250 Site.
- 25.12.260 Superintendent.

Subchapter III Landmarks Preservation Board

- 25.12.270 Creation.
- 25.12.280 Membership.
- 25.12.290 Vacancy filling.
- 25.12.300 Rules and regulations.
- 25.12.310 Quorum—Voting.
- 25.12.320 Staff—Historic Preservation Officer.
- 25.12.330 Board meeting.
- 25.12.340 Electronic record of hearings.

Subchapter IV Designation of Landmark Sites

- 25.12.350 Standards for designation.
- 25.12.360 Separate nomination and designation of site and object or improvement.
- 25.12.370 Nomination.
- 25.12.380 Notice of Board meeting on approval of nomination.
- 25.12.390 Board approval of nomination.
- 25.12.400 Notification of approval of nomination.
- 25.12.410 Disapproval of nomination.

- 25.12.420 Board hearing on approval of designation.
- 25.12.430 Board action on approval of designation.
- 25.12.440 Notice of report on designation.
- 25.12.450 Disapproval of designation.
- 25.12.460 Consultation with owner.
- 25.12.470 Procedure.
- 25.12.480 Requests for Council approval.

Subchapter V Controls and Incentives

- 25.12.490 Negotiation with owner.
- 25.12.500 Negotiations—Procedure and time requirements.
- 25.12.510 Effect of Board approval of agreement.
- 25.12.520 Effect of failure to agree or disapproval of agreement.
- 25.12.530 Filing of recommendation and objections with Hearing Examiner.
- 25.12.540 Scheduling of hearing.
- 25.12.550 Expert advice.
- 25.12.560 Hearing Examiner procedure.
- 25.12.570 Basis for Hearing Examiner's recommendation.
- 25.12.580 Owners shall not be deprived of reasonable economic use.
- 25.12.590 Factors to be considered.
- 25.12.600 Information.
- 25.12.610 Hearing Examiner recommendations—Referral to Council.
- 25.12.620 Right of appeal to Council.
- 25.12.630 Procedure on appeal to Council.
- 25.12.640 Council action on appeal.
- 25.12.650 Designating ordinance—Generally.
- 25.12.660 Designating ordinance—Information required.

Subchapter VI Alterations or Significant Changes

- 25.12.670 Requirement of certificate of approval.
- 25.12.680 Application for certificate of approval—Filing.
- 25.12.690 Application for certificate of approval—In conjunction with permit application.
- 25.12.700 Application for certificate of approval—Similar changes.
- 25.12.710 Fee for certificate of approval.

- 25.12.720 Board hearing on certificate of approval.
- 25.12.730 Board decision on certificate of approval.
- 25.12.740 Appeal to Hearing Examiner.
- 25.12.750 Factors to be considered by Board or Hearing Examiner.
- 25.12.760 Hearing Examiner procedure.
- 25.12.770 Failure of timely decision.
- 25.12.780 Appeal to Council.
- 25.12.790 Suspension by the Board.
- 25.12.800 Suspension by Hearing Examiner.
- 25.12.810 Effect of suspension of certificate of approval.
- 25.12.820 Termination of suspension.
- 25.12.830 Effect of termination of suspension.

Subchapter VII General Provisions

- 25.12.840 Service of notices.
- 25.12.850 Termination of proceedings.
- 25.12.860 Revision or revocation of designation, controls, incentives.
- 25.12.870 Staff reports and studies.
- 25.12.880 Economic incentives—City authorities.
- 25.12.890 Conformance with general development.
- 25.12.900 Advice and guidance to property owners.

Subchapter VIII Enforcement and Penalties

- 25.12.910 Designated.

Statutory Reference: For statutory provisions pertaining to preservation of historic properties, see RCW 43.51.750 et seq.

Severability: The invalidity of any section, subsection, provision, clause or portion of this chapter, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances. (Ord. 106348 § 14.09, 1977.)

1. Cross-reference: For a table listing designated city landmarks, see Chapter 25.32 of this Code.

Subchapter I Title and Purpose

- 25.12.010 Short title.

This chapter may be cited as the "Landmarks Preservation Ordinance." (Ord. 106348 § 1.01, 1977.)

- 25.12.020 Purpose and declaration of policy.

A. The city's legislative authority finds that the protection, enhancement, perpetuation and use of sites, improvements and objects of historical, cultural, architectural, engineering or geographic significance, located within the city, are required in the interest of the prosperity, civic pride and general welfare of the people; and further finds that the economic, cultural and aesthetic standing of this city cannot be maintained or enhanced by disregarding the heritage of the city and by allowing the unnecessary destruction or defacement of such cultural assets.

B. The purposes of this chapter are: (1) to designate, preserve, protect, enhance and perpetuate those sites, improvements and objects which reflect significant elements of the city's cultural, aesthetic, social, economic, political, architectural, engineering, historic or other heritage, consistent with the established long-term goals and policies of the city; (2) to foster civic pride in the beauty and accomplishments of the past; (3) to stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects; (4) to protect and enhance the city's attraction to tourists and visitors; (5) to promote the use of outstanding sites, improvements and objects for the education, stimulation and welfare of the people of the city; and (6) to promote and encourage continued private ownership and use of such sites, improvements and objects now so owned and used, to the extent that the objectives listed above can be attained under such a policy. (Ord. 106348 § 1.02, 1977.)

Subchapter II Definitions

- 25.12.030 Definitions generally.

The words and terms set out in this subchapter, when used in this chapter, unless a different meaning clearly appears from the context shall mean as follows.

(Ord. 106348 § 1.03(part), 1977.)

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

25.12.040 Alteration.

"Alteration" is any construction, modification, demolition, restoration or remodeling for which a permit from the Superintendent is required.

(Ord. 106348 § 1.03(1), 1977.)

25.12.050 Approval of designation.

"Approval of designation" is final action by the Landmarks Preservation Board identifying an object, improvement or site as a landmark or landmark site.

(Ord. 106348 § 1.03(2), 1977.)

25.12.060 Approval of nomination.

"Approval of nomination" is an action by the Landmarks Preservation Board approving a nomination, in whole or in part, for further designation proceedings.

(Ord. 106348 § 1.03(3), 1977.)

25.12.070 Board.

"Board" is the Landmarks Preservation Board.

(Ord. 106348 § 1.03(4), 1977.)

25.12.080 Certificate of approval.

"Certificate of approval" is written authorization which must be issued by the Board before any alteration or significant change may be made to the controlled features of a landmark or landmark site, or during the pendency of designation proceedings, to a site, improvement or object after its nomination has been approved by the Board for further proceedings.

(Ord. 106348 § 1.03(5), 1977.)

25.12.090 Controls.

"Controls" are such specific restrictions as may be imposed by a designating ordinance upon the alteration or the making of significant changes of specific features or characteristics of a landmark site or landmark that are designated for preservation by such designating ordinance.

(Ord. 106348 § 1.03(6), 1977.)

25.12.100 Council.

"Council" is the City Council of The City of Seattle.

(Ord. 106348 § 1.03(7), 1977.)

25.12.110 Designating ordinance.

"Designating ordinance" is an ordinance enacted pursuant to this chapter for the purpose

of declaring an object, improvement or site a landmark, or a landmark site, and specifying the controls and any economic incentives applicable thereto, and shall include any ordinance designating a landmark in accordance with Ordinance 102229.¹

(Ord. 106348 § 1.03(8), 1977.)

1. Editor's Note: Ord. 102229 is the previous landmarks preservation ordinance.

25.12.120 Economic incentives.

"Economic incentives" are such compensation, rights or privileges or combination thereof, which the Council, or other public body or agency, by virtue of applicable present or future legislation, may be authorized to grant to or obtain for the owner as consideration for the imposition of controls on a designated landmark site or landmark. Examples of economic incentives include tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, named gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

(Ord. 106348 § 1.03(9), 1977.)

25.12.130 Hearing Examiner.

"Hearing Examiner" means any person authorized to act as a Hearing Examiner pursuant to the Administrative Code of The City of Seattle (Ordinance 102228)¹ or any ordinance amendatory or successor thereto.

(Ord. 106348 § 1.03(10), 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.12.140 Improvement.

"Improvement" is any building, structure, or other object constituting a physical improvement of real property.

(Ord. 106348 § 1.03(11), 1977.)

25.12.150 Interested person of record.

"Interested person of record" includes any individual, corporation, partnership or association which notifies the Board in writing of its interest in any matter before the Board.

(Ord. 106348 § 1.03(12), 1977.)

24.12.160 Landmark.

"Landmark" is an improvement or object

designated as a landmark pursuant to this chapter, or pursuant to Ordinance 102229.¹ (Ord. 106348 § 1.03(13), 1977.)

1. Editor's Note: Ord. 102229 is the previous landmarks preservation ordinance.

25.12.170 Landmark site.

"Landmark site" is a site designated as a landmark site pursuant to this chapter. (Ord. 106348 § 1.03(14), 1977.)

25.12.180 Nomination.

"Nomination" is the act of proposing that any object, site or improvement be designated a landmark or landmark site. (Ord. 106348 § 1.03(15), 1977.)

25.12.190 Object.

"Object" is any tangible thing, including any ship, which may or may not be attached to real property. (Ord. 106348 § 1.03(16), 1977.)

25.12.200 Owner.

"Owner" is a person having a fee simple interest, a substantial beneficial interest of record or a substantial beneficial interest known to the Board in an object, site or improvement. (Ord. 106348 § 1.03(17), 1977.)

25.12.210 Party of record.

"Party of record" includes the Board, the owner, the person in charge, and the nominator of any proposed landmark or landmark site, and the Hearing Examiner, when appropriate. (Ord. 106348 § 1.03(18), 1977.)

25.12.220 Person.

"Person" is an individual, partnership, corporation, group or association. (Ord. 106348 § 1.03(19), 1977.)

25.12.230 Person in charge.

"Person in charge" is the person or persons in possession of an object or of an improved lot or parcel including but not limited to a mortgagee or vendee in possession, an assignee of rents, a receiver, executor, trustee, lessee, tenant, agent, or any other person directly or indirectly in control of an object or of an improved lot or parcel of real property. (Ord. 106348 § 1.03(20), 1977.)

25.12.240 Significant change.

"Significant change" is any change in appearance not requiring a permit from the Superin-

tendent, but for which a certificate of approval is expressly required by a Board approval of nomination, a Board report on designation, or a designating ordinance. (Ord. 106348 § 1.03(21), 1977.)

25.12.250 Site.

"Site" is any area of land which is unimproved except for trees, shrubs, and/or plants. (Ord. 106348 § 1.03(22), 1977.)

25.12.260 Superintendent.

"Superintendent" is the Superintendent of Buildings of the city or such other official as may be designated from time to time to issue permits for construction, alteration, reconstruction, or demolition of improvements upon real property in the city. (Ord. 106348 § 1.03(23), 1977.)

Subchapter III Landmarks Preservation Board

25.12.270 Creation.

There is created the Landmarks Preservation Board (hereinafter called the "Board") which shall consist of eleven members. The membership of the Board shall consist of at least two architects, (one of whom may be a landscape architect), two historians, one representative from the City Planning Commission, one structural engineer, one representative from the field of real estate management, and one representative from the field of finance. Three additional members shall also be appointed without regard to occupation or affiliation. All Board members shall have a demonstrated sympathy with the purposes of this chapter. (Ord. 106348 § 2.01(a), 1977.)

25.12.280 Membership.

Members of the Landmarks Preservation Board established under Ordinance 102229¹ are appointed members of the Board established pursuant to this chapter to serve for the remainder of the terms to which they were originally appointed, and in addition, one new member shall be appointed for a three-year term and one new member shall be appointed for a two-year term. Thereafter all members of the Board shall be appointed by the Mayor, subject to confirmation by the Council, for a term of three years, which appointments shall be made

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

in such a manner that the composition specified in this subchapter is maintained.
(Ord. 106348 § 2.01(b), 1977.)

1. Editor's Note: Ord. 102229 is the previous landmarks preservation ordinance.

25.12.290 Vacancy filling.

In the event of a vacancy, an appointment shall be made to fill the vacancy in the same manner as if at the beginning of the term. The person appointed to fill the vacancy shall hold for the unexpired term, and if the vacancy being filled was occupied by a person meeting one of the enumerated qualifications, the newly appointed member shall meet that same qualification. No member shall serve for more than two terms consecutively; provided that for the purpose of this limitation a member shall be deemed to have served one term if such member resigns after being appointed for any period of time, and provided further that "one term" shall include an unexpired term of two years or more. Members of the Board shall serve without compensation.
(Ord. 106348 § 2.01(c), 1977.)

25.12.300 Rules and regulations.

The Board shall elect a Chairperson from among its members, and shall within six months adopt in accordance with the Administrative Code (Ordinance 102228),¹ and file with the City Comptroller rules and regulations, including a code of ethics for its members, for its organization and procedures consistent with this chapter. The Board shall not conduct any public hearing required under this chapter until rules and regulations have been filed.
(Ord. 106348 § 2.02(a), 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.12.310 Quorum—Voting.

A majority of the current appointed and confirmed members of the Board shall constitute a quorum for the transaction of business. All official actions of the Board, with the exception of votes on approval of designation, shall require a majority vote of the members present and voting. Votes on approval of designation shall require a majority vote of the then current appointed and confirmed members of the Board. No member shall be eligible to vote upon any matter required by this chapter to be deter-

mined after a hearing unless that member has attended the hearing or familiarized him or herself with the record.

(Ord. 106348 §2.02(b), 1977.)

25.12.320 Staff—Historic Preservation Officer.

The Director of the Department of Community Development shall provide adequate staff support to the Landmarks Preservation Board and shall assign a member of the Department's staff to act as Historic Preservation Officer. Under the direction of the Board, the Historic Preservation Officer shall be the custodian of the Board's records, conduct official correspondence, assist in organizing and supervising the Landmarks Preservation Board, conduct official correspondence, organize and supervise the Board staff and the clerical and technical work of the Board to extent required to administer this chapter. In addition, the Historic Preservation Officer shall:

A. Carry out, assist and collaborate in studies and programs designed to identify and evaluate objects, improvements and sites worthy of preservation;

B. Consult with and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in historic preservation;

C. Inspect and investigate objects, improvements and sites which are believed worthy of preservation;

D. Officially recognize design excellence in the rehabilitation of objects, improvements and other features deemed deserving of official recognition although not designated as landmark sites or landmarks and encourage appropriate measures for such recognition;

E. Disseminate information to the public concerning those objects, improvements and sites deemed worthy of preservation, and encourage and advise owners in the protection, enhancement and perpetuation of such objects, improvements and sites;

F. Consider methods other than those provided for in this chapter for encouraging and achieving historical preservation, and make appropriate recommendations to the Council and to other bodies and agencies, both public and private;

G. Recommend such policies, rules and regulations for adoption by the Board as are deemed necessary to carry out the purposes of this chapter;

H. Subject to such limitations and within such standards as the Board may establish from time to time, grant certificates of approval all without prejudice to the right of the owner at any time to apply directly to the Board for its consideration and action on such matters. (Ord. 106348 § 2.03, 1977.)

25.12.330 Board meetings.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the action of the Board upon each question, and shall keep records of all official actions taken by it, all of which shall be filed in the office of the Historic Preservation Officer and shall be public records. (Ord. 106348 § 2.04, 1977.)

25.12.340 Electronic record of hearings.

At all hearings before the Board, all oral proceedings shall be electronically recorded. Such proceedings may also be recorded stenographically by a court reporter if any interested person at his or her expense shall provide a court reporter for that purpose. A copy of the record or any part thereof, whether recorded stenographically or electronically, shall be transcribed and furnished to any person upon request therefor and payment of the reasonable costs thereof. (Ord. 106348 § 2.05, 1977.)

Subchapter IV Designation of Landmark Sites

25.12.350 Standards for designation.

An object, site or improvement which is more than twenty-five years old may be designated for preservation as a landmark site or landmark if it has significant character, interest or value, as part of the development, heritage or cultural characteristics of the city, state, or nation and if it falls into one of the following categories:

A. It is the location of, or is associated in a significant way with, an historic event with a significant effect upon the community, city, state, or nation; or

B. It is associated in a significant way with the life of a person important in the history of the city, state, or nation; or

C. It is associated in a significant way with a significant aspect of the cultural, political, or economic heritage of the community, city, state or nation; or

D. It embodies the distinctive visible characteristics of an architectural style, or period, or of a method of construction; or

E. It is an outstanding work of a designer or builder; or

F. Because of its prominence of spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the city and contributes to the distinctive quality or identity of such neighborhood or the city. (Ord. 106348 § 3.01, 1977.)

25.12.360 Separate nomination and designation of site and object or improvement.

The nomination or designation of a site as a landmark site shall not constitute nomination or designation of any object or improvement located on the site as a landmark unless the object or improvement is nominated or designated as a landmark. The nomination or designation of an object or improvement as a landmark shall not constitute nomination or designation of the site on which the object or improvement is located as a landmark site unless the site is nominated or designated as a landmark site. (Ord. 106348 § 3.02, 1977.)

(Ord. 106348 § 3.02, 1977.)

25.12.370 Nomination.

Any person including the Historic Preservation Officer and any member of the Board may nominate any site, improvement or object for designation as a landmark or landmark site. Nominations may be made on official nomination forms provided by the Historic Preservation Officer, shall be filed with the Historic Preservation Officer, and shall include all data required by the Board. Nominations found to be in order by the Historic Preservation Officer shall be considered by the Board at a public meeting. The Historic Preservation Officer or the Board may amend or complete any nomination. A copy of any nomination and of any amendments thereto shall be given the owner promptly. (Ord. 106348 § 4.01, 1977.)

(Ord. 106348 § 4.01, 1977.)

25.12.380 Notice of Board meeting on approval of nomination.

The Board may approve a nomination for further designation proceedings only at a public meeting. The Board shall make a reasonable effort to serve the owner of a nominated site,

improvement or object with notice of any Board meeting at which such nomination shall be considered for approval by the Board, however, failure to serve such notice shall not invalidate any proceedings with respect to such nomination. Neither the attendance, and participation of the owner at the meeting to consider the nomination nor the owner's failure to so attend or participate shall prejudice the right of the owner to resist designation or the imposition of controls if the nomination is approved. (Ord. 106348 § 5.01, 1977.)

25.12.390 Board approval of nomination.

A. If the Board, in whole or in part, approves a nomination for further designation proceedings, it shall in such approval:

1. Specify the legal description of the site, the particular features and/or characteristics proposed to be preserved, and such other description of the site, improvement or object as it deems appropriate;

2. Set a date, which is not less than thirty nor more than forty-five days from the date of approval of nomination, at which a public hearing on approval of designation shall be held as provided in Section 25.12.420.

B. If the Board approves a nomination, the provisions of Sections 25.12.670 through 25.12.780 shall apply. (Ord. 106348 § 5.02, 1977.)

25.12.400 Notification of approval of nomination.

If the Board approves a nomination in whole or in part for further designation proceedings, the Historic Preservation Office shall within three working days file a written notice of such action with the Superintendent and serve a copy of the same on the owner and interested persons of record. Such written notice shall include:

A. A copy of such approval of nomination;

B. A statement that while proceedings pursuant to this chapter are pending, and thereafter if a designating ordinance is enacted, a certificate of approval must be obtained before anyone may: (1) make alterations or significant changes to specific features or characteristics of the site, improvement or object suggested for preservation in the approval of nomination or thereafter specified in the report on approval of designation, or set forth in the decision of the Hearing Examiner; or (2) make alterations or significant changes to specific controlled fea-

tures or characteristics of such landmark site or landmark specified in a designating ordinance; and

C. A statement of the date and time of the Board hearing on approval of designation;

D. A statement that all proceedings to review the action of the Board at the hearing on approval of designation will be based on the record made at such hearing and that no further right to present evidence on the issue of designation is afforded pursuant to this chapter. (Ord. 106348 § 5.03, 1977.)

25.12.410 Disapproval of nomination.

If the Board disapproves the nomination, the proceedings shall terminate as provided in Section 25.12.850A, and the Board shall set forth its reasons why approval of nomination is not warranted. (Ord. 106348 § 5.04, 1977.)

25.12.420 Board hearing on approval of designation.

Except as otherwise provided in Section 25.12.470 the Board may approve or deny designation of a site, improvement or object only at a public hearing. At the hearing on approval of designation the Board shall receive evidence and hear arguments on whether the site, improvement or object meets the criteria for designation of landmarks and landmark sites specified in Section 25.12.350 and merits designation as a landmark or landmark site. (Ord. 106348 § 6.01, 1977.)

25.12.430 Board action on approval of designation.

Whenever the Board approves designation of all or any portion of the site, improvement or object under consideration as a landmark or landmark site, it shall within fourteen days issue a written report on designation which shall set forth:

A. The legal description of the site, the specific features and/or characteristics to be preserved, and such other description of the site, improvement or object as it deems appropriate;

B. Its reasons, analysis and conclusions supporting subsection A with specific reference to the criteria set forth in Section 25.12.350. (Ord. 106348 § 6.02, 1977.)

25.12.440 Notice of report on designation.

A copy of the Board's report on designation

shall be served on the owner and mailed to interested persons of record within three working days after it is issued. If the Board acts to approve designation, the owner, at the time of service of the report shall also be served with a notice that:

A. States a date, which is not later than seventy-five days after mailing of the report on designation, when the Board will consider controls and incentives, if any, to be applied for preservation of specific features or characteristics of the site, improvement or object in question.

B. Requests the owner to consult and confer with the Board staff to develop and agree upon controls and incentives; and

C. Informs the owner of the procedures of Sections 25.12.490 through 25.12.520. (Ord. 106348 § 6.03, 1977.)

25.12.450 Disapproval of designation.

If the Board disapproves designation, the proceedings shall terminate as provided in Section 25.12.850A and the Board shall set forth its reasons why approval of designation is not warranted.

(Ord. 106348 § 6.04, 1977.)

25.12.460 Consultation with owner.

Following Board approval of nomination an owner may affirmatively indicate a desire to confer and consult with the Board and Board staff with a view toward reaching agreement on specific features and characteristics of the site, improvement or object to be preserved and methods of achieving such preservation, including controls and incentives.

(Ord. 106348 § 7.01, 1977.)

25.12.470 Procedure.

Upon receipt of written notice that the owner desires to confer and consult with the Board and Board staff under the provisions of Section 25.12.460, the Board staff and owner shall develop a schedule for such consultation which shall not be subject to any time limitations set forth in other sections of this chapter. The Board shall establish procedures for consent proceedings under Sections 25.12.460 through 25.12.480 which shall insure that the Board's consideration of approval of designation and the Board's recommendation on controls and incentives are separate actions. If, for any reason, the Board and owner fail to reach agreement under

this procedure and when either party informs the other in writing that an impasse has been reached, Section 25.12.520 shall apply. (Ord. 106348 § 7.02, 1977.)

25.12.480 Requests for Council approval.

All requests for Council approval of reports and recommendations made pursuant to Sections 25.12.460 and 25.12.470 shall include a statement that such report or recommendation is made under the provisions of said sections and shall include a written statement from the owner concurring in such report or recommendation. (Ord. 106348 § 7.03, 1977.)

Subchapter V Controls and Incentives

25.12.490 Negotiation with owner.

Promptly after service on the owner of the Board's report on designation, the Board staff shall commence to negotiate with the owner the application of controls on the site, improvement, or object, designed to preserve the specific features or characteristics identified in the Board's report on designation and the application of economic incentives, if any, to the owner of the site, improvement or object. If within fifteen days of the commencement of the negotiation period, the owner fails to contact the Board staff, or notifies the staff that the owner declines to negotiate controls and incentives, the staff shall promptly prepare and transmit to the Board its recommendations for controls and incentives for the subject site, improvement or object to be considered at a public meeting at the time and place specified in the notice of report on designation.

(Ord. 106348 § 8.01(a), 1977.)

25.12.500 Negotiations—Procedure and time requirements.

The negotiation period may run for a maximum of seventy-five days from the date of service of the Board's report on designation on the owner. The negotiations shall terminate if either party concludes that an impasse has been reached and so notifies the other party in writing and if the other party does not object within seven days after receipt of such notice. If the owner and the Board staff reach written agreement within the period allotted for negotiation, the Board staff shall promptly submit the agreement to the Board for approval at a Board meeting to be held not later than twenty days

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

after the written agreement is reached, or within such further time as the Board and owner may stipulate in writing. Notice of such Board meeting shall be served on the owner and mailed to interested persons of record at least fifteen days prior to such meeting. Within three working days after such meeting the Board shall serve upon the owner, and mail to interested persons of record, notice of its approval or disapproval of the agreement and specify the reasons therefor. (Ord. 106348 § 8.01(b), 1977.)

25.12.510 Effect of Board approval of agreement.

If the agreement on controls and incentives between the Board staff and owner is approved by the Board, the Board shall transmit the agreement to the Council with a request for Council action pursuant to Sections 25.12.650 and 25.12.660.

(Ord. 106348 § 8.02, 1977.)

25.12.520 Effect of failure to agree or disapproval of agreement.

In the event the Board staff and the owner are unable to reach an agreement by negotiation, or in the event the agreement reached is disapproved by the Board, the Board shall file its recommendation on controls and economic incentives, if any, with the Hearing Examiner and serve same on the owner and the owner shall have an opportunity to file objections thereto. The controls proposed in such recommendation shall relate to the specific feature or features of the site, improvement or object which are to be preserved. The recommendation shall set forth the reasons and the need for each proposed specific control and for any proposed economic incentive and shall, in addition, state the circumstances under which a certificate of approval shall be required with respect to any alteration or significant change to the site, improvement or object if the proposed controls are imposed. The Board may hold a public hearing prior to the making of its recommendation.

(Ord. 106348 § 8.03, 1977.)

25.12.530 Filing of recommendation and objections with Hearing Examiner.

As provided in Section 25.12.520, in the event of a failure to agree on proposed controls and incentives or in the event of disapproval of an agreement, the Board shall file with the

Hearing Examiner and serve upon the owner recommendations for proposed controls and incentives and the owner may file objections thereto. The recommendation of the Board shall be filed not later than one hundred eighty-five days after the approval of nomination and not later than fifteen days after the expiration of the maximum period permitted for negotiations if no written agreement was signed by the Board staff and the owner, or if an agreement, was signed within fifteen days after the time has expired for the Board to approve or disapprove such a written agreement pursuant to Section 25.12.500. The owner's objections shall be filed not later than fifteen days after receipt of the Board's recommendation on proposed controls and incentives. For good and sufficient cause shown by either the Board or owner, the Hearing Examiner may grant an extension of time not to exceed thirty days. Any interested person of record may file with the Hearing Examiner written objections to the Board's recommendations on controls and economic incentives. (Ord. 106348 § 9.01, 1977.)

25.12.540 Scheduling of hearing.

After the Board's recommendations and the owner's objections, if any, are filed with the Hearing Examiner, the Hearing Examiner shall set the matter for a hearing which shall be held within seventy days of the receipt of the owners objections or the receipt of the Board's recommendations, whichever is later, and promptly notify the Board, owner and all interested persons of record of the date and time for the hearing.

(Ord. 106348 § 9.02, 1977.)

25.12.550 Expert advice.

After reasonable notice to the Board and owner, the Hearing Examiner may appoint an expert or experts to provide advice concerning the economic effects of the proposed controls and economic incentives.

(Ord. 106348 § 9.03, 1977.)

25.12.560 Hearing Examiner procedure.

Proceedings before the Hearing Examiner shall be in accordance with the procedures for hearings in contested cases pursuant to the Administrative Code (Ordinance 102228),¹ except as such procedures are modified by this chapter. Any person may testify at the hearing.

(Ord. 106348 § 9.04, 1977.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.12.570 Basis for Hearing Examiner's recommendation.

On the basis of all the evidence presented at a hearing, the Hearing Examiner shall determine whether to recommend all or any of the proposed controls and economic incentives, and/or whether to recommend a modified version of any of the proposed controls or incentives. The Hearing Examiner, except upon written agreement with the owner, shall not recommend any control which directly regulates population density; provided that the Hearing Examiner may recommend a control which indirectly affects density by controlling a specific feature of a site, improvement or object. The Hearing Examiner shall not recommend any control which is not set forth with adequate specificity, or which is inconsistent with any provision of this chapter, or for which the reason and need is not established with respect to the specific features and characteristics of the site, improvement or object to be preserved, or which requires that the site, improvement or object be devoted to any particular use, or which imposes any use restrictions, or any control or incentive if the effect of such control, incentive or combination thereof would be to prevent the owner from realizing a reasonable return on the site, improvement, or object.
(Ord. 106348 § 9.05(a), 1977.)

25.12.580 Owners shall not be deprived of reasonable economic use.

In no event shall the recommendation of the Hearing Examiner or any proceedings under or application of this chapter deprive any owner of a site, improvement or object of a reasonable economic use of such site, improvement or object.
(Ord. 106348 § 9.05(b), 1977.)

25.12.590 Factors to be considered.

Only the following factors may be considered in determining the reasonable return on a site, improvement or object:

A. The market value of the site, improvement or object in its existing condition taking into consideration the ability to maintain, operate or rehabilitate the site, improvement or object:

1. Before the imposition of controls or incentives, and
2. After the imposition of proposed

specific controls and/or incentives;

B. The owner's yearly net return on the site, improvement or object, to the extent available, during the five years prior to the imposition of specific controls and/or incentives;

C. Estimates of the owner's future net yearly return on the site, improvement or object with and without the imposition of proposed specific controls and/or incentives;

D. The net return and the rate of return necessary to attract capital for investment:

1. In such site, improvement or object and in the land on which the site, improvement or object is situated after the imposition of the proposed specific controls and/or incentives, if such information is available, or, if such information is not available,

2. In a comparable site, improvement or object and in the land on which such comparable site, improvement or object is situated; and

E. The net return and rate of return realized on comparable sites, improvements or objects not subject to controls imposed pursuant to this chapter.

(Ord. 106348 § 9.05(c), 1977.)

25.12.600 Information.

It shall be the responsibility of the owner or person in charge to provide the Hearing Examiner with such information as is necessary and sufficient to determine yearly net return under Section 25.12.590 B and C.
(Ord. 106348 § 9.05(d), 1977.)

25.12.610 Hearing Examiner recommendations—Referral to Council.

Within thirty days after the hearing, the Hearing Examiner shall serve on the Board and the owner and file with the Council for such action as the Council may deem appropriate, a decision setting forth a recommendation of the proposed controls and any economic incentives, findings with respect to the specific controls so recommended, the reasons and need for the controls and any incentives recommended, and the effect of such controls and incentives.
(Ord. 106348 § 9.06, 1977.)

25.12.620 Right of appeal to Council.

Any party of record may appeal the findings and recommendations of the Hearing Examiner regarding controls and/or economic incentives by filing with the Council and serving on other

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

parties of record a written notice of appeal within thirty days after the Hearing Examiner's decision is served on the party appealing. (Ord. 106348 § 10.01, 1977.)

25.12.630 Procedure on appeal to Council.

A. Any appeal from the findings and recommendation of the Hearing Examiner shall be considered by the Council on the record only. The Hearing Examiner shall promptly prepare, certify and file with the Council such record which shall consist of all documents and exhibits submitted to the Hearing Examiner (except to the extent that the same are already before the Council) and a transcript of all oral proceedings before the Hearing Examiner. The appellant shall be responsible for the reasonable costs of preparation of the record unless the appeal is successful, in which event the Council may apportion such reasonable costs as it deems appropriate.

B. The Council or committee to which such appeal is referred shall notify the Board and any appellant of the procedures established for such hearing and of the date and time when it will hear oral argument, if any, from the parties or their representatives upon the issues which are the subject of such appeal. Such notice shall be served upon the Board and the owner not less than twenty days before the date of such oral argument.

(Ord. 106348 § 10.02, 1977.)

25.12.640 Council action on appeal.

The Council may conclude such an appeal by enacting a designating ordinance as provided in Sections 25.12.650 and 25.12.660, adopting a committee report denying designation, or by such other action it deems appropriate. (Ord. 106348 § 10.03, 1977.)

25.12.650 Designating ordinance—Generally.

Pursuant to the procedures set forth in this chapter, the Council may by ordinance specify controls and economic incentives with respect to sites, improvements or objects designated by the Board and pursuant to such procedures the Council may by ordinance amend or repeal any such designating ordinance; provided:

A. That if an ordinance designating a landmark or a landmark site imposes specific controls upon such landmark or landmark site, no proceedings may be commenced under this chapter to impose other or further controls on

such landmark or landmark site within four years from the effective date of such designating ordinance without the agreement of the owner in writing; and

B. That if any landmark or landmark site is substantially destroyed by fire, earthquake or other casualty not envisioned at the time of designation, the owner may petition the Board to revoke the designation.

(Ord. 106348 § 11.01(a), 1977.)

25.12.660 Designating ordinance— Information required.

A. Each designating ordinance, and each ordinance amendatory thereof, shall include:

1. The legal description of the site, improvement or object;
2. The specific features or characteristics which are designated to be preserved;
3. The reasons and basis for such designation; and
4. The specific controls imposed and any economic incentives granted or to be granted or obtained with respect to such site, improvement or object.

B. A certified copy of each such ordinance shall be recorded with the King County Director of Records and Elections and served on the owner and on the person in charge of such landmark site or landmark.

(Ord. 106348 § 11.01(b), 1977.)

Subchapter VI Alterations or Significant Changes

25.12.670 Requirement of certificate of approval.

After the filing of an approval of nomination with the Superintendent and thereafter as long as proceedings for a designation are pending or a designating ordinance so requires, a certificate of approval must be obtained, or the time for denying a certificate of approval must have expired, before the owner may:

A. Make alterations or significant changes to specific features or characteristics of the site, improvement or object suggested for preservation in the approval of nomination, or thereafter specified in the report on approval of designation of the decision of the Hearing Examiner, whichever was issued most recently, while proceedings under this chapter are pending; or

B. Make alterations or significant changes which would be in violation of specific controls

imposed by a designating ordinance.
(Ord. 106348 § 12.01, 1977.)

25.12.680 Application for certificate of approval—Filing.

Application for a certificate of approval may be made by filing an application for such certificate with the Board, or by filing with the Superintendent an application for a permit to make alterations or significant changes for which a certificate of approval is required because of the pendency of designation proceedings, or the terms of a designating ordinance. The Board may consider or issue a certificate of approval without the submission of final drawings, plans or specifications.
(Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(a), 1977.)

25.12.690 Application for certificate of approval—In conjunction with permit application.

If before a certificate of approval is obtained, an application is made to the Superintendent for a permit for which a certificate of approval is required, the Superintendent shall promptly refer such application to the Board and such application shall be deemed an application for a certificate of approval. The Superintendent shall continue to process such application, but shall not issue any such permit until the time has expired for filing with the Superintendent the notice of denial of a certificate of approval or a certificate of approval has been issued pursuant to this chapter; provided that if by its terms or the provisions of Section 25.12.810 the operation of such certificate of approval is suspended the Superintendent shall not issue such permit until the suspension terminates.

(Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(b), 1977.)

25.12.700 Application for certificate of approval—Similar changes.

After the Board has commenced proceedings for the consideration of any application for a certificate of approval for a particular alteration or significant change, by giving notice of a hearing pursuant to Section 25.12.720 or otherwise, no other application for the same or a similar alteration or significant change may be made until such proceedings and all appeals therefrom

pursuant to this chapter have been concluded.
(Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(c), 1977.)

25.12.710 Fee for certificate of approval.

The fee for such certificate of approval shall be according to the Permit Fee Ordinance (106106).¹
(Ord. 106985 § 6(part), 1977: Ord. 106348 § 12.02(d), 1977.)

1. Editor's Note: Ord. 106106 has been repealed by Ord. 107379. The current Permit Fee Ordinance is codified in Title 22 of this Code.

25.12.720 Board hearing on certificate of approval.

Within thirty days after the filing of an application for a certificate of approval with the Board or the referral of an application to the Board pursuant to Sections 25.12.680 or 25.12.690, the Board shall hold a hearing thereon and shall serve notice of the hearing on the owner and the applicant not less than ten days before the date of the hearing; provided that no hearing shall be required if the Board, the owner and the applicant agree in writing to a stipulated certificate of approval approving the requested alterations or changes with such modifications as may be agreed upon. If an agreement on a stipulated certificate of approval is reached or if, after a hearing, the Board orders a certificate of approval, such certificate shall be issued forthwith and the Board shall file a certified copy of such certificate with the Superintendent.

(Ord. 106348 § 12.03, 1977.)

25.12.730 Board decision on certificate of approval.

The Board shall issue a written decision either granting or denying a certificate of approval not later than forty-five days after the filing of the application for permit with the Superintendent or after the filing of an application for a certificate of approval with the Board and shall serve a copy thereof upon the owner, the applicant and the Superintendent within three working days after such grant or denial. A decision denying a certificate of approval or attaching conditions to the grant of a certificate of approval shall contain an explanation of the reasons for the Board's decision and specific findings with respect to the factors enumerated in Section

25.12.750. Except by written agreement with the owner and the applicant, neither the Board nor the Hearing Examiner may attach any conditions to the grant or denial of the certificate of approval, if the effect of such conditions would be to impose controls which are prohibited by this chapter, or if such conditions would otherwise be inconsistent with the provisions of this chapter or any applicable designating ordinance. (Ord. 106348 § 12.04, 1977.)

25.12.740 Appeal to Hearing Examiner.

Any interested person of record may appeal to the Hearing Examiner the decision of the Board to grant, deny or attach conditions to a certificate of approval by serving written notice of appeal upon the Board and filing such notice and a copy of the Board's decision with the Hearing Examiner within fifteen days after such grant, denial or conditional grant. Except as otherwise specified in Sections 25.12.670 through 25.12.780, the Hearing Examiner shall hold a hearing in the same manner as provided in Sections 25.12.530 through 25.12.610 for hearings on the application of controls and economic incentives. (Ord. 106348 § 12.05, 1977.)

25.12.750 Factors to be considered by Board or Hearing Examiner.

In considering any application for a certificate of approval the Board, and the Hearing Examiner upon any appeal, shall take into account the following factors:

A. The extent to which the proposed alteration or significant change would adversely affect the specific features or characteristics specified in the latest of: the Board approval of nomination, the Board report on approval of designation, the stipulated agreement on controls, the Hearing Examiner's decision on controls, or the designating ordinance;

B. The reasonableness or lack thereof of the proposed alteration or significant change in light of other alternatives available to achieve the objectives of the owner and the applicant; and

C. The extent to which the proposed alteration or significant change may be necessary to meet the requirements of any other law, statute, ordinance, regulation, code or ordinance; and

D. Where the Hearing Examiner has made a decision on controls and economic incentives, the extent to which the proposed alteration or significant change is necessary or appropriate to achieving for the owner or applicant a reasonable return on the site, improvement or object, taking into consideration the factors specified in

Sections 25.12.570 through 25.12.600 and the economic consequences of denial; provided, that in considering the factors specified in Section 25.12.590 for purpose of this subsection, references to times before or after the imposition of controls shall be deemed to apply to times before or after the grant or denial of a certificate of approval.

(Ord. 106348 § 12.06, 1977.)

25.12.760 Hearing Examiner procedure.

A. The Hearing Examiner shall serve notice of the date of the hearing on the parties not less than twenty days before the hearing and shall hold a hearing not later than eighty days after the filing of the application for a certificate of approval. The Hearing Examiner shall issue a decision within fourteen days after the conclusion of the hearing and shall serve the decision on the Board, the owner and the applicant and file the same with the Superintendent within three working days thereafter.

B. The Hearing Examiner may appoint an expert or experts to provide advice or report concerning the economic effect of the denial of a certificate of approval or the imposition of proposed conditions. The Hearing Examiner shall receive evidence at the hearing upon the factors specified in Section 25.12.750 and in reaching a decision shall make findings on such factors. If the Hearing Examiner determines that there is no showing of a significant change in circumstances since a previous application for a similar certificate, the appeal shall be denied. (Ord. 106348 § 12.07, 1977.)

25.12.770 Failure of timely decision.

If the Board or Hearing Examiner fails to issue and serve a written decision upon the Superintendent, the owner, and the applicant within the times specified in Section 25.12.730, or as the same may be extended in accordance with Section 25.12.850D, an unconditional certificate of approval shall be deemed to have been granted and the Superintendent shall issue all necessary permits for the proposed alteration when all other requirements for issuance have been satisfied.

(Ord. 106348 § 12.08, 1977.)

25.12.780 Appeal to Council.

The decision of the Hearing Examiner shall be final unless the action proposed by the owner or applicant involves demolition of an improve-

ment, or destruction of an object, or an estimated cost of One Hundred Thousand Dollars (\$100,000.00) or more. In any such case, the owner or the applicant may appeal on the record to the Council any decision of the Hearing Examiner which denies, or attaches conditions to the grant of a certificate of approval, by filing written notice of appeal with the Hearing Examiner, the Board and the Council within fifteen days after such decision. The proceedings and procedure on such appeal shall be in accordance with Section 25.12.630 except that the Council shall adopt a resolution embodying its decision not later than two hundred thirty days after the filing of the application for a certificate of approval and shall serve a copy of such resolution upon the Superintendent, the owner, and the applicant not later than three working days thereafter.

(Ord. 106348 § 12.09, 1977.)

25.12.790 Suspension by the Board.

An order of the Board granting a certificate of approval for a proposed alteration which involves demolition of any protected features of a site, improvement or object may provide that the operation of the certificate shall be suspended for a period of time not to exceed sixty days unless extended pursuant to Section 25.12.810.

(Ord. 106348 § 13.01, 1977.)

25.12.800 Suspension by Hearing Examiner.

A. If an appeal has been taken from a Board decision granting, denying, or conditionally granting a certificate of approval for a proposed alteration which involves demolition of all or any part of the protected features of a site, improvement or object then:

1. During the appeal proceedings the Board shall investigate the feasibility of developing a plan meeting the requirements of Section 25.12.810A; and

2. The Board shall present evidence thereon to the Hearing Examiner.

B. If on such appeal the Hearing Examiner determines that a certificate of approval should be granted or that one or more of the conditions previously adopted by the Board should be revoked or modified and if there is a showing of a reasonable cause to believe that the subject plan is feasible, the order of the Hearing Examiner ordering the granting of a certificate of approval for such alteration may provide that

the operation of the certificate shall be suspended for a period not to exceed thirty days unless extended pursuant to Section 25.12.810. (Ord. 106348 § 13.02, 1977.)

25.12.810 Effect of suspension of certificate of approval.

When the operation of a certificate of approval is suspended, the following provisions shall apply:

A. The Board, in consultation with the owner and the applicant, shall attempt to prepare a plan under which the site, improvement or object or protected features thereof may be preserved or perpetuated in such manner or form as to both effectuate the purpose of this chapter and to render the site, improvement or object capable of realizing a reasonable return.

B. If written agreement on such a plan is not reached within thirty days of the issuance of such certificate the Board may, within ten days after the expiration of said time, file with the Mayor and Superintendent and serve on the owner and the applicant a written recommendation that the city acquire a specified appropriate protective interest in the property and the filing of such recommendation shall extend the period of suspension until termination in accordance with Section 25.12.820.

(Ord. 106348 § 13.03, 1977.)

25.12.820 Termination of suspension.

The suspension of a certificate of approval shall terminate:

A. If the recommendation provided for in Section 25.12.810B is not served and filed in a timely fashion; or

B. If within ninety days after the service and filing of such recommendation, the city neither commences a court action to condemn such interest or any other appropriate protective interest agreed upon by the Mayor and the Board, nor enters into a contract with the owner to acquire such interest; or

C. Upon the expiration of the period of suspension when no recommendation has been filed.

(Ord. 106348 § 13.04, 1977.)

25.12.830 Effect of termination of suspension.

Whenever a suspension terminates, the Superintendent shall forthwith issue the permit if all

other requirements for the issuance of a permit shall have been met.
(Ord. 106348 § 13.05, 1977.)

Subchapter VII General Provisions

25.12.840 Service of notices.

A. Notices, decisions, and any other instruments or documents required to be served upon the owner pursuant to this chapter shall be served by mailing the same: (1) to the person shown to be the owner on the records of the Department of Finance of King County, Washington, to the address therein given and to such other addresses as may be ascertained from telephone or Polk directory listings for the city; and (2) to the owner's attorney where the files or records of the Board, the Hearing Examiner, or the Council, reveal representation in such proceedings by an attorney; and (3) to the person in charge of a site, improvement or object. Notices, applications, other instruments or documents required to be served upon the Board shall be served by delivering the same to the Historic Preservation Officer or by mailing the same either to the Historic Preservation Officer or to the Landmarks Preservation Board at the then current address for such Officer or Board. Transmittals by mail shall be sent by first-class mail, certified with return receipt requested and with postage prepaid. Service shall be deemed to have been given when all of the steps specified above have been completed. Failure to send notice by mail to any owner whose address is not listed in the above sources, and failure to give actual notice to any owner whose name and address is unknown, shall not invalidate any proceedings in connection with the proposed designation.

B. Notice to parties of record shall include at least those documents sent to the owner. Such notice shall be served by first-class mail.

C. Notice to interested persons of record shall include at least the following: a description of the most recent action taken by the Board, the Hearing Examiner or Council; the time and place of the next public meeting or hearing, if any; the procedure to be followed at such meeting or hearing; the rights of appeal available, if applicable; and the time and place where documents in the record may be inspected. Such notice shall be served by first-class mail.

D. The Historic Preservation Officer may give

such other notice as he may deem desirable and practicable.
(Ord. 106348 § 14.01, 1977.)

25.12.850 Termination of proceedings.

A. In any case where a site, improvement or object is nominated for designation as a landmark site or landmark and thereafter the Board fails to approve such nomination or to adopt a report approving designation of such site, improvement or object, such proceeding shall terminate and no new proceeding under this chapter may be commenced with respect to such site, improvement or object within five years from the date of such termination without the written agreement of the owner.

B. In any case where a site, improvement or object has been designated by the Board, in the absence of a written agreement with the owner deferring consideration of the imposition of controls or Board approval of a negotiated agreement pursuant to Section 25.12.500, such proceeding shall terminate and no new proceeding under this chapter with respect to such site, improvement or object may be commenced within four years from the date of such termination without the written agreement of the owner if:

1. The Board fails to file with the Hearing Examiner its statement of proposed controls within the time prescribed in Section 25.12.530; or

2. The Hearing Examiner does not issue a decision which recommends controls, together with a proposed form of designating ordinance, within one hundred days after the filing of the Board's recommendations on controls and incentives, or within such further time as the Board and the owner may agree to by written stipulation; provided, that if the Hearing Examiner issues a decision which does not recommend controls such proceedings shall terminate if no appeal is filed with the City Council within the time limited for filing such appeal.

C. In any case where a designating ordinance imposing specific controls is enacted, no further proceedings under this chapter to impose other or further controls on such landmark or landmark site may be commenced within four years from the effective date of such designating ordinance without the written agreement of the owner.

D. When delays in the proceedings pursuant to this chapter result from any of the following:

1. The owner's request for a continuance or extension; or

2. The owner's stipulation to a continuance or extension; or

3. The requirements of any other ordinances or any statutes; or

4. The institution of court proceedings challenging any proceedings under any section of this chapter;

then, the time limits specified in this chapter shall be extended accordingly, and in the case of the institution of court proceedings such time periods will be stayed until the termination of such court action.

(Ord. 106348 § 14.02, 1977.)

25.12.860 Revision or revocation of designation, controls, incentives.

At the end of four years after the effective date of a designating ordinance, the owner may file with the Board an application to revoke designation of a site, improvement or object as a landmark site or landmark or an application to modify or revoke the controls or economic incentives previously established with respect thereto. Proceedings with respect to any such application shall proceed in the manner specified in Sections 25.12.380 through 25.12.640; provided that the burden shall be on the owner to demonstrate that a substantial change in circumstances has occurred to justify revision or revocation. Revocation of designation shall have the further effect of the termination of all controls and all present and future benefits from granted economic incentives. Termination of revocation or revision proceedings shall have the effects specified in Section 25.12.850.

(Ord. 106348 § 14.03, 1977.)

25.12.870 Staff reports and studies.

When a site, improvement or object is the subject of any proceeding pursuant to this chapter, the owner, upon request therefor, shall be promptly furnished with a copy of all Board staff reports, inspections, and studies prepared for the use of the Board with respect to the issues under consideration. Unless otherwise expressly specified by the owner, a request for a copy of such report, inspection and studies shall be treated as a continuing request for copies of all such documents prepared until the proceeding has terminated.

(Ord. 106348 § 14.04, 1977.)

25.12.880 Economic incentives—City authorities.

All city authorities, including the Council, to the extent that they have the power to do so, may take such action as may be necessary to grant economic incentives, and may make any such action or grant conditional upon the subsequent enactment of a designating ordinance. When any application is made for the granting of recommended, requested or required economic incentives, all responsible city authorities shall give such application priority on their respective schedules and shall reach their respective decisions with all possible speed.

(Ord. 106348 § 14.05, 1977.)

25.12.890 Conformance with general development.

In all proceedings under this chapter, the Board and the Hearing Examiner shall consider and in their respective reports or decisions make findings on the conformance or lack of conformance of the proposed action with the desirable long-term overall development of the city, including, without limitation, any then existing comprehensive plan.

(Ord. 106348 § 14.06, 1977.)

25.12.900 Advice and guidance to property owners.

The Board may, upon request of the owner of the site, improvement or object, render advice and guidance with respect to any proposed work on a landmark or landmark site.

(Ord. 106348 § 14.07, 1977.)

Subchapter VIII Enforcement and Penalties

25.12.910 Designated.

The Superintendent shall enforce this chapter and any designating ordinances enacted pursuant thereto or pursuant to Ordinance 102229¹ and may, in addition to any other remedy or penalty provided in this chapter, seek injunctive relief for such enforcement. Anyone violating or failing to comply with the provisions of this chapter or any designating ordinance shall, upon conviction thereof, be fined a sum not exceeding Five Hundred Dollars (\$500.00), and each day's violation or failure to comply shall constitute a separate offense; provided, however, that no penalty shall be imposed for any violation or failure to comply which occurs during the pendency of legal proceedings filed in any

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

court challenging the validity of the provision or provisions of this chapter, as to which such violation or failure to comply is charged. (Ord. 106348 § 14.08, 1977.)

1. Editor's Note: Ord. 102229 is the previous landmarks preservation ordinance.

Chapter 25.16

BALLARD AVENUE LANDMARK DISTRICT

Sections:

- 25.16.010 Legislative findings and purposes.
- 25.16.020 Legal description.
- 25.16.030 Criteria for designation of the District.
- 25.16.040 Ballard Avenue Landmark District Board—Created—Membership.
- 25.16.050 District Board—Rules of procedure.
- 25.16.060 District Board—Staffing.
- 25.16.070 Building alterations—Certificate of approval required.
- 25.16.080 Certificate of approval—Application.
- 25.16.090 Certificate of approval—Consideration by Board.
- 25.16.100 Certificate of approval—Issuance or denial.
- 25.16.110 Certificate of approval—Appeal if denied.
- 25.16.120 Development and design review guidelines.
- 25.16.130 Advice and guidance to property owners.
- 25.16.140 Enforcement and penalties.
- 25.16.150 Conflicting provisions.

Editor's Note: A map of the Ballard Avenue Landmark District is included at the end of this chapter.

25.16.010 Legislative findings and purposes.
Throughout the city there are a few areas that retain individual identity through consistent historical or architectural character. The protection, enhancement, and perpetuation of such areas is in the interest of the prosperity, civic pride, and general welfare of the citizens of Seattle. The aesthetic standing of this city cannot be maintained or enhanced by disregarding the heritage of its communities or by allowing the destruction or defacement of these cultural

assets. Ballard Avenue is an area of historical significance to the community of Ballard and The City of Seattle. The purposes for the creation of a Ballard Avenue Landmark District are:

A. To preserve, protect, enhance, and perpetuate those elements of the District's cultural, social, economic, architectural, historic, or other heritage;

B. To foster civic pride in the significance and accomplishments of the past;

C. To stabilize or improve the aesthetic and economic vitality and values of the District;

D. To promote and encourage continued private ownership and utilization of such buildings and other structures now so owned and used; and

E. To promote the local identity of the area to the extent that the objectives previously listed can be reasonably attained under such a policy.

(Ord. 105462 § 1, 1976.)

25.16.020 Legal description.

There is established the Ballard Avenue Landmark District whose boundaries are as follows:

Beginning at the intersection of the centerline of Northwest Market Street with the projection northwesterly of the southwestern margin of the alley in Block 72, Gilman Park Addition, thence southeasterly along said projection and margin to the west margin of 22nd Avenue Northwest, thence easterly across 22nd Avenue Northwest to the intersection of the east margin of 22nd Avenue Northwest and the midblock line of Block 71 Gilman Park Addition (said midblock line being that line which separates Lots 2 through 19 from Lots 21 through 37 in said Block 71), thence southeasterly along said midblock line through said Block 71 to the westerly margin of 20th Avenue Northwest, thence across 20th Avenue Northwest to the intersection of the easterly margin of 20th Avenue Northwest and the midblock line of Block 70, Gilman Park Addition (said midblock line being that line which separates Lots 2 through 8, from Lots 31 through 35 in said Block 70), thence southeasterly along said midblock line to the southernmost corner of Lot 8, Block 70, Gilman Park Addition, thence northeasterly along the southeasterly margin of said Lot 8 to the southwesterly margin of Ballard Avenue Northwest, thence easterly

across Ballard Avenue Northwest to the intersection of the northeasterly margin of Ballard Avenue Northwest and the southeasterly margin of Lot 22, Block 76, Gilman Park Addition, thence northeasterly along said southeasterly margin of said Lot 22, to the easternmost corner of said Lot 22, thence northwesterly along the northeasterly margin of said Lot 22 to its intersection with southeasterly margin of Northwest Dock Place, thence across Northwest Dock Place to the intersection of northwesterly margin of Northwest Dock Place and the midblock line of Block 75, Gilman Park Addition (said midblock line being that line which separates Lots 14 through 23, from Lots 2 through 13 in said Block 75), thence northwesterly along said midblock line to the easterly margin of 20th Avenue Northwest, thence across 20th Avenue Northwest to intersection of the westerly margin of 20th Avenue Northwest and the midblock line of Block 74 Gilman Park Addition (said midblock line being that line which separates Lots 21 through 37 from Lots 2 through 19), thence northwesterly along said midblock line to the easterly margin of 22nd Avenue Northwest, thence across 22nd Avenue Northwest to the intersection of the westerly margin of 22nd Avenue Northwest and the midblock line of Block 73, Gilman Park Addition (said midblock line being that line which separates Lots 5 through 8 from Lots 1 through 3 in said Block 73), thence northwesterly along said midblock line and its northwesterly projection to the centerline of Northwest Market Street, thence westerly along said centerline to the point of beginning.

all in Seattle, King County, Washington, and illustrated on a map attached as Exhibit "A" to Ordinance 105462 which is codified at the end of this chapter; and the custodian of the Official Zoning Map of the city is directed to add said District to the Official Zoning Map. All property within said District shall be subject to the controls, procedures and standards set forth or provided for in this chapter.
(Ord. 105462 § 2, 1976.)

25.16.030 Criteria for designation of the District.

A. Ballard Avenue has significant interest and value as part of the development of Seattle. Lumber and other mills located in Ballard contributed significantly to the rebuilding of Seattle

following the 1889 fire. Certain commercial buildings on Ballard Avenue dating from the same era as those lumber and shingle industries are all that remain of the early "boomtown." Ballard Avenue therefore represents the early history and heritage of the Ballard community which has contributed greatly to the development of Seattle.

B. Ballard Avenue exemplifies the historic heritage of the Ballard community. It was the location of the first commercial development in Ballard before business interests moved further north to Northwest Market Street.

C. A significant number of buildings within the Ballard Avenue Landmark District embody the distinctive characteristics of turn-of-the-century modest commercial architecture. They possess integrity of location, compatibility of design, scale, and use of materials, and impart a feeling of association and sense of place.
(Ord. 105462 § 3, 1976.)

25.16.040 Ballard Avenue Landmark District Board—Created—Membership.

There is created the Ballard Avenue Landmark District Board (hereinafter called the "District Board"), which shall consist of seven members, five of whom shall be chosen at annual elections called and conducted by the Director of the Department of Community Development (hereinafter called the "Director") for such purpose and at which all residents, tenants, persons who operate businesses and property owners of the Ballard Avenue Landmark District, of legal voting age, shall be eligible to vote. The elected membership of the District Board shall include two property owners, two property owner-district business persons, and one tenant or resident. The remaining two members of the District Board shall be appointed by the Mayor and approved by the City Council, and shall be an architect and a Ballard historian or a person having a demonstrated interest in the Ballard community. Initial terms for two of the elected and one of the appointed members shall be for one year, and initial terms for the remaining four persons shall be for two years; thereafter all terms shall be for two years. In the event of a vacancy an appointment shall be made by the Mayor subject to Council confirmation for the remainder of the unexpired term. The Director shall consult with the District Board regarding the scheduling and conduct of elections and shall adopt rules and procedures regarding the

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

conduct of elections and shall file the same with the City Clerk.
(Ord. 105462 § 4(a), 1976.)

25.16.050 District Board—Rules of procedure.

The District Board shall elect its own chairman and adopt in accordance with the Administrative Code (Ordinance 102228)¹ such rules of procedure as shall be necessary in the conduct of its business, including: (A) a code of ethics, (B) rules for reasonable notification of public hearings on applications for certificates of approval and applications for permits requiring certificates of approval in accordance with Sections 25.16.070 through 25.16.110, and (C) rules for reasonable notification of public hearings on development and design review guidelines and amendment thereof. A majority of the currently qualified and acting members of the District Board shall constitute a quorum necessary for the purpose of transacting business. All decisions shall be made by majority vote of those members present, and in case of a tie vote, the motion shall be lost. The District Board shall keep minutes of all of its official meetings, which shall be filed with the Director.
(Ord. 105462 § 4(b), 1976.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.16.060 District Board—Staffing.

The District Board shall receive administrative assistance from the Director of Community Development, who shall assign a member of his staff to provide such assistance. Such staff member shall be the custodian of the records of the District Board, shall conduct official correspondence, and organize and supervise the clerical and technical work of the District Board as required to administer this chapter.
(Ord. 105462 § 4(c), 1976.)

25.16.070 Building alterations—Certificate of approval required.

No person shall make any change (including but not limited to alteration, demolition, construction, reconstruction, restoration, remodeling, painting, or signing) to the external appearance of any building or structure in the District, or to the external appearance of any other property in the District which is visible from a public street, alley or way, nor construct a new

building or structure in the District, nor shall any permit for such be issued, except pursuant to a certificate of approval issued by the Director pursuant to this chapter.
(Ord. 105462 § 5(a), 1976.)

25.16.080 Certificate of approval—Application.

All applications for a certificate of approval, and all applications for any permit requiring such a certificate of approval, (hereinafter both included in the words "such application") shall be submitted to the District Board. Within thirty days after receipt of each application the District Board shall hold a public hearing thereon and by duly approved motion recommend that the same be granted, denied or be referred to the Landmarks Preservation Board. Within thirty days after such referral of any such application, the Landmarks Preservation Board shall hold a public hearing thereon and recommend that the same be granted or denied.
(Ord. 105462 § 5(b), 1976.)

25.16.090 Certificate of approval—Consideration by Board.

In considering such application, the District Board or the Landmarks Preservation Board shall each keep in mind the purpose of this chapter, the criteria specified in Section 25.16.030, and the guidelines promulgated pursuant to this chapter, and among other things, the historical and architectural value and significance; architectural style and the general design; arrangement, texture, material and color of the building or structure in question and its appurtenant fixtures, including signs; the relationship of such features to similar features of other buildings within the Ballard Avenue Landmark District; and the position of such building or structure in relation to the street or public way and to other buildings and structures.
(Ord. 105462 § 5(c), 1976.)

25.16.100 Certificate of approval—Issuance or denial.

A. If after such hearing and upon consideration of the foregoing, the District Board or the Landmarks Preservation Board determines that the changes and any new construction proposed in any such application are consistent with the purpose of this chapter, the criteria specified in Section 25.16.030, and the guidelines promulgated pursuant to this chapter, it shall recom-

mend that a certificate of approval be granted and the Director shall forthwith issue such in accordance with such Board's recommendation. If the Board's recommendation is to deny such application, the Director shall issue a written notice of denial. If such Board does not recommend granting, denial or referral of any such application within the time provided for such recommendation, such application shall be deemed approved and the Director shall forthwith issue the certificate of approval in accordance with such application, unless the Board's action has been deferred in accordance with an agreement for consultation as follows: Before issuing a recommendation of denial, the Board may, upon agreement with the applicant, defer such action and consult with the applicant for the purpose of considering means of modifying the application and considering alternatives in keeping with the aforesaid purpose, criteria and guidelines. If at the end of an agreed upon period of time no acceptable solution has been reached, such application shall be finally denied and the applicant shall be so notified by letter.

B. Whenever an applicant is denied, the Director shall send copies of the notice of denial to the property owner, the Superintendent, and to the District Board if such application has been referred to the Landmarks Preservation Board and recommendation of denial made by that Board.
(Ord. 105462 § 5(d), 1976.)

25.16.110 Certificate of approval—Appeal if denied.

The applicant may appeal the final denial of any such application to the Hearing Examiner within twenty days of the date of notice of such denials, and the Hearing Examiner after a public hearing in accordance with the procedure for hearings in contested cases in the Seattle Administrative Code¹ (unless all parties of record affected by such Board's decision consent to such review and decision without a public hearing) may affirm, reverse or modify such denial, but may reverse or modify only if he finds that:

A. Such denial violates the terms of this chapter or guidelines adopted pursuant to the authority of this chapter; or

B. Such denial is based upon a recommendation made in violation of the procedures set forth in this chapter or procedures adopted pursuant to the authority of this chapter and such

procedural violation operates unfairly against the applicant.

The decision of the Hearing Examiner shall be final and copies thereof shall be mailed to all parties of record and transmitted to the Director, the District Board, the Landmarks Preservation Board if it considered such application, and the property owner if he is not a party of record.

(Ord. 105462 § 5(e), 1976.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.16.120 Development and design review guidelines.

A. The District Board shall draft, and after consideration and review at at least one public hearing shall adopt development and design review guidelines and amendments thereof, which shall become effective upon filing with the City Clerk. Notice of such public hearings shall be given in accordance with rules adopted by the District Board.

B. The development and design review guidelines shall identify the unique values of the District, shall include a statement of purpose and intent, and shall be consistent with the purposes of this chapter and the criteria specified in Section 25.16.030. The guidelines shall identify design characteristics which have either a positive or negative effect upon such unique values of the District and shall specify the materials, colors, signage, planting and other design-related considerations which will be allowed, encouraged, limited, or excluded from the District. If such design considerations are limited, the guidelines shall state either the reasons for such limitation or conditions under which such considerations will be permitted.
(Ord. 105462 § 6, 1976.)

25.16.130 Advice and guidance to property owners.

The District Board may, at its official meetings upon request of a District property owner or business tenant, render advice and guidance with respect to any proposed work within the District.

(Ord. 105462 § 7, 1976.)

25.16.140 Enforcement and penalties.

The Superintendent of Buildings shall enforce this chapter and anyone violating or fail-

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

ing to comply with its provisions shall, upon conviction thereof, be fined in any sum not exceeding Five Hundred Dollars (\$500.00). Each day's violation or failure to comply shall constitute a separate offense.

(Ord. 105462 § 8, 1976.)

25.16.150 Conflicting provisions.

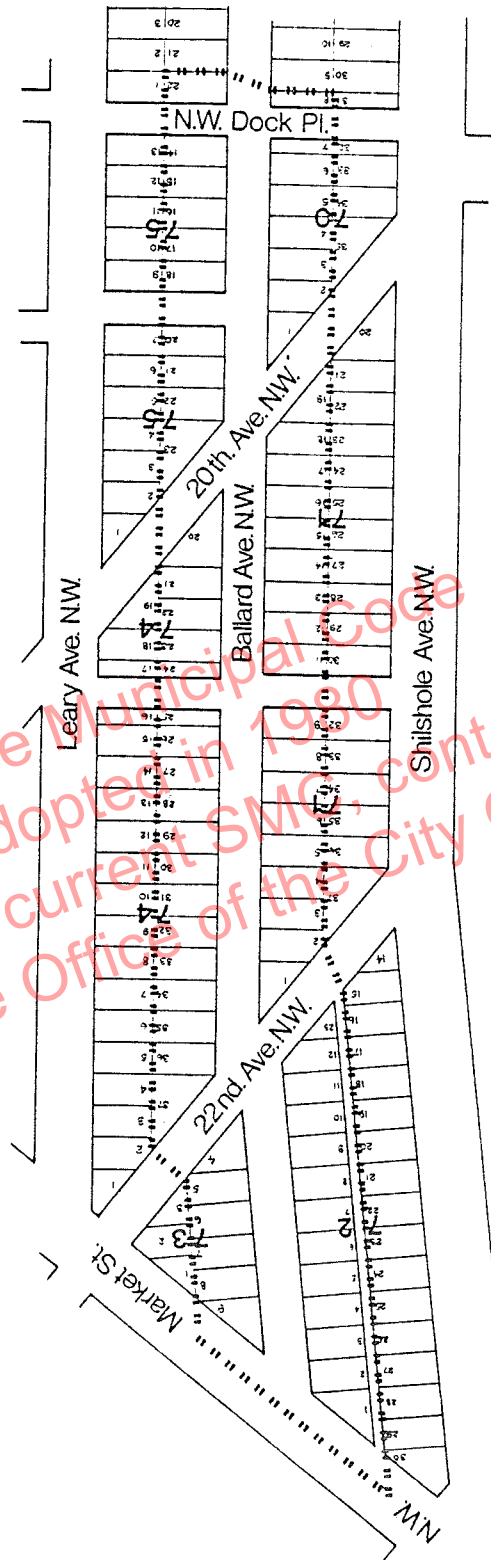
In case of conflict between this chapter and the Landmarks Preservation Ordinance (Ordinance 102229),¹ the provisions of this chapter shall govern the Ballard Avenue Landmark District.

(Ord. 105462 § 9, 1976.)

1. Editor's Note: Ord. 102229 was repealed by Ord. 106348, the new landmarks preservation ordinance codified in Chapter 25.12 of this Code.

Seattle Municipal Code
as adopted in 1980
For current SMC, contact
the Office of the City Clerk

BALLARD AVENUE LANDMARK DISTRICT



BALLARD AVENUE LANDMARK DISTRICT
EXHIBIT A

Chapter 25.20

COLUMBIA CITY LANDMARK DISTRICT

Sections:

- 25.20.010 Definitions.
- 25.20.020 Legislative findings and purposes.
- 25.20.030 Legal description.
- 25.20.040 Criteria for designation of the District.
- 25.20.050 Administration.
- 25.20.060 Development and design review guidelines.
- 25.20.070 Approval of changes to buildings, structures and other property.
- 25.20.080 Application for certificate of approval.
- 25.20.090 Board hearing on certificate of approval.
- 25.20.100 Issuance of Board decision.
- 25.20.110 Appeal to Hearing Examiner.
- 25.20.120 Enforcement and penalties.

Editor's Note: A map of the Columbia City Landmark District is included at the end of this chapter.

25.20.010 Definitions.

The following terms used in this chapter shall, unless the context clearly demands a different meaning, mean as follows:

- A. "Alteration" is any construction, modification, demolition, restoration or remodeling for which a permit from the Superintendent is required.
- B. "Application Review Committee" is the Committee established by this chapter to conduct informal reviews of applications for certificates of approval and make recommendations to the Landmarks Board.
- C. "Board" is the Seattle Landmarks Preservation Board as created by Ordinance 106348.¹
- D. "Certificate of approval" is written authorization which must be issued by the Board before any alteration or significant change may be made to the controlled features of a building or other property within the District.
- E. "Council" is the City Council of The City of Seattle.
- F. "Hearing Examiner" shall mean any person authorized to act as a hearing examiner pursuant to the Administrative Code of the city (Ordinance 102228)² or any ordinance amendatory or successor thereto.

G. "Significant change" is any change in external appearance, other than routine maintenance or repair in kind, not requiring a permit from the Superintendent, but for which a certificate of approval is expressly required by the Landmarks Board and by this chapter.

H. "Superintendent" is the Superintendent of Buildings of the city or such other official as may be designated from time to time to issue permits for construction, or demolition of improvements upon real property in the city. (Ord. 107679 § 1, 1978.)

1. Editor's Note: Ord. 106348 is codified in Chapter 25.12 of this Code.

2. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.20.020 Legislative findings and purposes.

Throughout this city there are few areas that have retained individual identity, historical continuity or consistency of architectural character. The protection, enhancement and perpetuation of such areas is in the interests of the prosperity, civic pride, urban and visual quality, and general welfare of the citizens of Seattle. The aesthetic standing of this city cannot be maintained or enhanced by disregarding the heritage of its communities or by allowing the destruction or defacement of its patrimony. The purposes of the creation of the Columbia City Landmark District are:

- A. To preserve, protect, enhance, and perpetuate those elements of the District's cultural, social, economic, architectural, and historic heritage;
- B. To foster community and civic pride in the significance and accomplishments of the past;
- C. To stabilize or improve the historic authenticity, economic vitality, and aesthetic value of the district;
- D. To promote and encourage continued private ownership and use of buildings and other structures;
- E. To ensure compliance with the District plan prepared in the spring of 1978 by The Richardson Associates;
- F. To encourage continued city interest and support in the District; and
- G. To promote the local identity of the area. (Ord. 107679 § 2, 1978.)

25.20.030 Legal description.

There is established the Columbia City Landmark District whose boundaries are particularly described as follows:

A piece of land lying in the northwest one-quarter of Section 22, Township 24 North, Range 4 East W.M., in the County of King, State of Washington; more particularly described as follows:

Beginning at the northeast corner of Lot 1702, Block 60, Columbia Supplemental No. 1 as recorded in Volume 8 of plats, page 12, records of King County, Washington; thence north on a straight line to the northeast corner of Lot 1622, Block 59 of said plat; thence west on the north line of said Block 59 to an intersection with the centerline of an alley produced south, said alley being in Block 56 of said plat; thence north on the last described line to an intersection with the centerline of South Alaska Street; thence east along said centerline to an intersection with the easterly line of Rainier Ave. South produced northwesterly; thence southeasterly along said easterly line of Rainier Ave. South to an intersection with the north line of South Angeline Street; thence east along said north line produced east to intersect with the centerline of 39th Ave. South; thence south along said centerline to an intersection with the south line of an alley produced east, said alley being in Block 9, Plat of Columbia as recorded in Volume 7 of plats, page 97, records of King County, Washington; thence west along said south line to the northwest corner of Lot 224, Block 9 of said plat; thence south along the west line of said Lot to the southwest corner of said Lot 224; thence east along the north line of South Ferdinand Street to the southeast corner of Lot 229, Block 9 of said plat; thence south on a straight line to the northeast corner of Lot 270, Block 15 of said plat; thence west along the south line of South Ferdinand Street to the northwest corner of Lot 272, Block 15 of said plat; thence south on a straight line produced through the southwest corner of Lot 291, Block 15 of said plat to a point on the south line of South Hudson Street; thence east along said south line to an intersection with the west line of 39th Ave. South; thence south along said west line, 252.72 feet to the point of curve; thence on a curve to the right, having a radius of 10.00 feet, an arc distance of 24.21 feet to a point of the end of curve, said point being on the northeasterly line of Rainier Ave. South; thence northwesterly

along said northeasterly line to an intersection with a line produced east, 0.10 feet south of and parallel with the south line of Tract 14, Morningside Acre Tracts as recorded in Volume 9 of plats, page 64, records of King County, Washington; thence west along said parallel line to the east line of Tract 16 of said plat; thence south along said east line, 13.59 feet to the southeast corner of said Tract 16; thence west 180.2 feet, more or less, along the south line of said Tract 16 to an intersection with a line produced south, said line being the extension south of west line of Lots 277 and 286, Block 16, Plat of Columbia as recorded in Volume 7 of plats, page 97, records of King County, Washington; thence north along the last described line to the northwest corner of Lot 277, Block 16 of said Plat of Columbia; thence west along the south line of South Ferdinand Street to the northeast corner of Lot 1702, Block 60, Columbia Supplemental No. 1, as recorded in Volume 8 of plats, page 12, records of King County, Washington, and the point of beginning;

all in Seattle, King County, Washington and illustrated on map, Exhibit A, attached to Ordinance 107679 and codified at the end of this chapter; and the custodian of the Official Zoning Map of the city is directed to add said district to the Official Zoning Map. All property within the District shall be subject to the controls, procedures, and standards set forth or provided for in this chapter, whether publicly or privately owned.

(Ord. 107679 § 3, 1978.)

25.20.040 Criteria for designation of the District.

A. Historical. Columbia City has significance and value as part of the development of Seattle. Its early growth, like that of Seattle, Ballard and other Puget Sound settlements, was as a pioneer mill town. But while Seattle grew and remained dominant in the region, because of its harbor, and later the railroads, Columbia City developed less dramatically only to be annexed by Seattle after fourteen years as an incorporated town. Nonetheless, Columbia City retained its identity even following annexation, and to this day remains a distinct and historic part of Greater Seattle. Columbia City as a separate municipality contributed to the historic growth of the Seattle Area from the time of

its incorporation in 1893 until its annexation in 1907, growing with logging and railroad development. When the Seattle, Renton and Southern Railways stretched the seven miles from Seattle to Columbia City in 1890 it claimed a lucrative two-way freight business. Columbia City shipped surplus lumber to a rebuilding Seattle (after 1889 fire) and Columbia City needed the finished goods Seattle could provide. Much of Columbia City's lumber, as well as the goods from Seattle, went into its own buildings and lakeshore summer residences. Remote Columbia City, thanks to nearby Lake Washington and Wetmore Slough, was a busy summer escape for the neighboring city's residents. Until the lowering of Lake Washington with the cutting of the Ship Canal, Wetmore Slough had been considered by Columbia City as its port to the sea.

B. Sociological. The District is associated with the lives of many of the region's pioneers through business, transportation and commercial activities and general pioneering efforts that were concentrated in the area.

C. Architectural. A significant number of buildings within the Columbia City Landmark District embody distinctive characteristics of turn-of-the-century modest commercial and residential architecture. They possess integrity of location, compatibility of design, scale, and use of materials, and impart a sense of historic continuity, a feeling of association and a sense of place. The area is significant for landmark designation not only because of its buildings, but especially because of the total quality of an earlier small town: a pleasant admixture of commercial buildings, churches, apartments and houses, and within its core a small and integral park.

(Ord. 107679 § 4, 1978.)

25.20.050 Administration.

Jurisdiction over changes and improvements in the District is vested in the Seattle Landmarks Preservation Board. In order, however, to maintain adequate community involvement and contact, an Application Review Committee is created which shall consist of two members of the Landmarks Board appointed by the Chairman, at least one of whom shall be an architect, and three members of the Columbia City Development Association, appointed by the President of that organization, to review all proposed changes to public and private property and to

make recommendations to the Landmarks Board for issuance or denial of certificates of approval. The two Board Members of the Committee shall be appointed for renewable two-year terms, and the Association Members shall also be appointed for two-year renewable terms, but appointments shall be staggered with one member of each group initially appointed for one year only. (Ord. 107679 § 5, 1978.)

25.20.060 Development and design review guidelines.

A. The Landmarks Preservation Board shall draft and, after consideration and review at no less than one public hearing, shall adopt development and design review guidelines and amendments which shall become effective upon filing with the City Clerk; these guidelines shall include at least by reference the Columbia City Business District Plan prepared by The Richardson Associates for guidance in reviewing public properties and new developments. Notice and conduct of such public hearing(s) shall be in accordance with rules adopted by the Landmarks Preservation Board.

B. The development and design review guidelines shall identify the unique values of the District, shall include a statement of purpose and intent, and shall be consistent with the purposes of this chapter and the criteria specified in Section 25.20.030. The guidelines shall identify design characteristics which have either a positive or negative effect upon the unique values of the District and shall specify the materials, colors, signage, planting, and other design-related considerations which will be allowed, encouraged, limited or excluded from the District. (Ord. 107679 § 6, 1978.)

25.20.070 Approval of changes to buildings, structures and other property.

No person shall make any change (including but not limited to alteration, demolition, construction, reconstruction, restoration, remodeling, and changes involving painting or signs, (but excluding in-kind maintenance and repairs which do not affect the appearance of the structure(s)) to the exterior of any building or structure in the District, or to the external appearance of any other property or public right-of-way in the District which is visible from a public street, alley, way, or other public property, nor construct any new building or structure in the District without first securing a certificate of approval from the Landmarks Preservation Board.

No city building permit or other permit for alterations or new construction shall be issued until the Landmarks Preservation Board has granted a certificate of approval for the proposed activity.

(Ord. 107679 § 7, 1978.)

25.20.080 Application for certificate of approval.

A. Application for a certificate of approval may be made by filing application for such certificates with the Board, or by filing with the Superintendent an application for a permit to make alterations or significant changes for which a certificate of approval is required. The Board may consider or issue a certificate of approval without the submission of final drawings, plans or specifications.

B. If before a certificate of approval is obtained, an application is made to the Superintendent for a permit for which a certificate of approval is required, the Superintendent shall promptly refer such application to the Board and such application shall be deemed an application for a certificate of approval. The Superintendent shall continue to process such application, but shall not issue any permit until a certificate of approval has been issued pursuant to this chapter, or the time has expired for filing with the Superintendent the notice of denial of a certificate of approval.

C. After the Board has commenced proceedings for the consideration of any application for a certificate of approval for a particular alteration or significant change, by giving notice of a hearing pursuant to this section or otherwise, no other application for the same or a similar alteration or significant change may be made until such proceedings and all appeals therefrom have been concluded.

(Ord. 107679 § 8, 1978.)

25.20.090 Board hearing on certificate of approval.

A. Within thirty days after the filing of an application for a certificate of approval with the Board or the referral of an application to the Board by the Superintendent, the Board shall hold a hearing thereon and shall serve notice of the hearing on the owner and the applicant not less than ten days before the date of the hearing.

B. In reviewing applications, the Application Review Committee and the Landmarks Preservation Board and the Hearing Examiner shall

consider: (1) the purposes of this chapter; (2) the criteria specified in Section 25.20.040; (3) any guidelines promulgated pursuant to this chapter; (4) the properties' historical and architectural value and significance; (5) the properties' architectural style and general design; (6) the arrangement, texture, material and color of the building or structure in question, and its appurtenant fixtures, including signs; (7) the relationship of such features to similar features of other buildings within the Columbia City Landmark District; and (8) the position of such buildings or structure in relation to the street or public way and to other buildings and structures.

(Ord. 107679 § 9, 1978.)

25.20.100 Issuance of Board decision.

The Board shall issue a written decision either granting or denying a certificate of approval not later than forty-five days after the filing of the application for permit with the Superintendent or after the filing of an application for a certificate of approval with the Board and shall serve a copy thereof upon the owner, the applicant and the Superintendent within three working days after such grant or denial. A decision denying a certificate of approval shall contain an explanation of the reasons for the Board's decision and specific findings with respect to this chapter and adopted guidelines for the District.

(Ord. 107679 § 10, 1978.)

25.20.110 Appeal to Hearing Examiner.

Any interested person of record may appeal to the Hearing Examiner the decision of the Board to grant, deny or attach conditions to a certificate of approval by serving written notice of appeal upon the Board and filing such notice and a copy of the Board's decision with the Hearing Examiner within fifteen days after such grant, denial or conditional grant. The Hearing Examiner shall hear and determine the appeal in accordance with the standards and procedures established for appeals to the Hearing Examiner under Sections 25.12.740 through 25.12.770 of this Code.

(Ord. 107679 § 11, 1978.)

25.20.120 Enforcement and penalties.

The Superintendent of Buildings shall enforce this chapter and anyone violating or failing to comply with its provisions shall, upon conviction thereof, be fined in any sum not exceeding

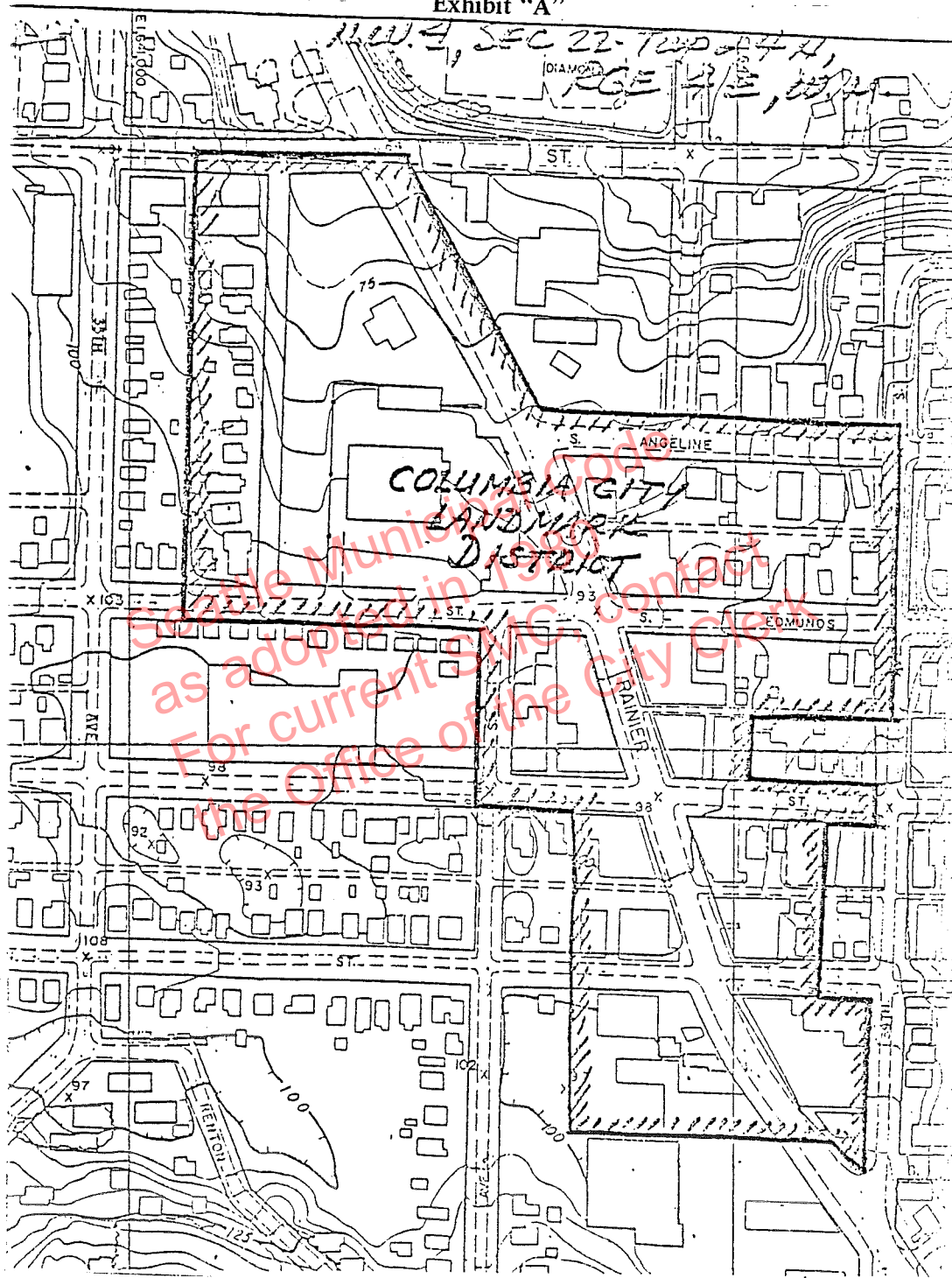
ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

Five Hundred Dollars (\$500.00). Each day's violation or failure to comply shall constitute a separate offense.
(Ord. 107679 § 12, 1978.)

Seattle Municipal Code
as adopted in 1980
For current SMC, contact
the Office of the City Clerk

COLUMBIA CITY LANDMARK DISTRICT

Exhibit "A"



ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

Chapter 25.24

PIKE PLACE MARKET HISTORICAL DISTRICT¹

Sections:

- 25.24.010 Purpose.
- 25.24.020 Historical District designated.
- 25.24.030 Commission created.
- 25.24.040 Criteria.
- 25.24.050 Commission procedures.
- 25.24.060 Approval of changes to buildings, structures and other visible elements.
- 25.24.070 Issuance of certificate of approval.
- 25.24.080 Appeal to Hearing Examiner.
- 25.24.090 Enforcement.
- 25.24.100 Violation—Penalty.

Severability: If any section, paragraph, subdivision, clause, phrase or provision of this chapter shall be adjudged to be invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional. (Ord. 100475 § 9, 1971.)

Editor's Note: A map of the Pike Place Market Historical District is included at the end of this chapter.

1. Cross-reference: For regulations regarding the use of the Pike Place Market, see Chapter 17.32 of this Code.

25.24.010 Purpose.

In order to promote the educational, cultural, farming, marketing, other economic resources, and the general welfare; and to assure the harmonious, orderly, and efficient growth and development of the municipality, it is deemed essential by the people of the city that the cultural, economic, and historical qualities relating to the Pike Place Markets and the surrounding area, and an harmonious outward appearance and market uses which preserve property values and attracts residents and tourists be preserved and encouraged; some of the qualities being: the continued existence and preservation of historical areas and buildings; continued construction and use of buildings for market activities, especially on street levels; and a general harmony as to style, form, color, proportion, texture, material, occupancy and use between existing buildings and new construction. (Ord. 100475 § 1, 1971.)

25.24.020 Historical District designated.

There is created a Pike Place Market Historical District (hereafter called "Historical District") whose physical boundaries are illustrated on a map attached as Exhibit "A" to Ordinance 100475 which is codified at the end of this chapter.

(Ord. 100475 § 2, 1971.)

25.24.030 Commission created.

There is created a Market Historical Commission (hereafter called "Commission") appointed by the Mayor with the consent of a majority of the City Council and to be composed of two representatives each from the Friends of the Market, Inc., Allied Arts of Seattle, Inc., and the Seattle Chapter of the American Institute of Architects; and two owners of property within the Historical District, two merchants of the markets, and two residents of the Historical District. The Mayor shall make his appointments of the representatives of Friends of the Market, Allied Arts, and the Seattle Chapter of the American Institute of Architects, from a list of four nominees submitted by each of the said organizations. The members shall serve three-year terms with the terms of the first Commission to be staggered. The Commission shall have for its purpose the preservation, restoration, and improvement of such buildings and continuance of uses in the Historical District, as in the opinion of the Commission shall be deemed to have architectural, cultural, economic, and historical value as described in Section 25.24.040, and which buildings should be preserved for the benefit of the people of Seattle. The Commission shall also make rules, regulations, and guidelines according to the criteria as contained in this chapter for the guidance of property owners within the Historical District. The Commission shall also develop plans for the acquisition and perpetuation of the Pike Place Markets and of market activities through either public ownership or other means and shall make recommendations to the City Council from time to time concerning their progress. Staff assistance and other services shall be provided by the Department of Community Development to the Commission as requested.

(Ord. 100475 § 3, 1971.)

25.24.040 Criteria.

A. In carrying out its function, the Commission shall consider the purposes of this chapter

as outlined in the chapter and the nature, function, and history of the District as described in this section.

B. The Historical District has played and continues to play a significant role in the development of Seattle and the Puget Sound Region since the inception of the Public Market in 1907. It has served as the center of local farm marketing, and other marketing businesses through varied economic times. It is significant in the culture of the region drawing together a broad spectrum of people from all ethnic, national, economic, and social backgrounds as a prototype of truly cosmopolitan urban life. It promotes local farming while making available local produce to shoppers and others. The District provides considerable housing for a community of low-income residents who are part of the life and color of the market. It has achieved world-wide fame as an uniquely American market and serves as the source of inspiration for markets elsewhere.

C. The Historical District is associated with the lives of many Seattle and Puget Sound region families and persons as farmers, merchants, and shoppers through marketing activities. It is an outstanding example of small independent businesses operating in the best tradition of American enterprise.

D. The buildings with their marketing activities and residential uses combine to form a distinctive area focusing on the central Market buildings which although humble and anonymous in character are an example of intriguing, dramatic architectural space servicing and adjusting to the varied and varying characteristic marketing activities. The central building spaces are particularly unique in form and character having grown to their present form through years of anonymous and functional creation to conform to the changing market activities always serving low-income consumers along with other special needs of the public. The District possesses integrity of location, original construction, use, and of feeling and association.

E. The preservation of the Historical District will yield information of educational significance regarding our culture and our ecology as well as retaining its color, attraction, and interest for the City. Preservation of the District will retain a characteristic environment of a period of Seattle's history while continuing a vital cultural and economic aspect of the city.
(Ord. 100475 § 4, 1971.)

25.24.050 Commission procedures.

The Commission shall adopt rules and regulations for its own government, not inconsistent with the provisions of this chapter or any other ordinance of the city. Meetings of the Commission shall be open to the public and shall be held at the call of the Chairman and at such other times as the Commission may determine. All official meetings of the Commission shall keep minutes of its proceedings, showing the action of the Commission upon each question, and shall keep records of its proceedings and other official actions taken by it, all of which shall be immediately filed in the Office of Community Development and shall be a public record. All actions of the Commission shall be by resolution which shall include the reasons for each decision. A majority vote shall be necessary to decide in favor of an applicant on any matter upon which it is required to render a decision under this chapter.

(Ord. 100475 § 5, 1971.)

25.24.060 Approval of changes to buildings, structures and other visible elements.

No structure or part thereof shall be erected, altered, extended, or reconstructed, and no structure or lot shall be used or occupied except pursuant to a certificate of approval authorized by the Commission; and no building permit shall issue except in conformance with a valid certificate of approval. However, no regulation nor any amendment thereof shall apply to any existing building, structure, or use of land to the extent to which it is used at the time of the adoption of such regulation or amendment or any existing division of land, except that such regulation or amendment may regulate nonuse or a nonconforming use so as not to unduly prolong the life thereof. No new off-premises advertising signs shall be established within the boundaries of the Historical District except where areas have been reserved for groups of signs or for signs which identify the Market District as a whole, as determined by the Pike Place Market Historical District Commission. The fee for certificates of approval shall be according to the Permit Fee Ordinance (106106).¹ Applications for certificates of approval involving structures or sites within the Historical District shall be forwarded immediately by the Superintendent of Buildings to the Commission for review. The Commission shall review and make

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

recommendations regarding appropriateness of each proposed change or addition and a certificate of approval shall be issued by the Commission as provided in this chapter. The Commission in considering the appropriateness of any alteration, demolition, new construction, reconstruction, restoration, remodeling, or other modification of any building shall refer to the purpose of this chapter and shall consider among other things the historical and architectural value and significance, architectural style, the general design, arrangement, texture, material, occupancy and use, and color of the building or structure in question or its appurtenant fixtures, including signs, the relationship of such features to similar features of the other buildings within the Historical District and the position of such building or structure in relation to the street, public way, or semipublic way and to other buildings and structures. The Commission shall also make no recommendations or requirements except for the purpose of preventing developments inconsistent with the criteria of this chapter. Where modification of the appearance of a structure within the Historical District does not require a building or demolition permit, an application for a certificate of approval shall nonetheless be filed with the Superintendent of Buildings, who shall forward the same to the Commission.

(Ord. 106985 § 7(part), 1977; Ord. 106309 § 1(part), 1977; Ord. 104658 § 1(part), 1975; Ord. 100475 § 6(part), 1971.)

1. Editor's Note: Ord. 106106 has been repealed by Ord. 107-379. The current Permit Fee Ordinance is codified in Title 22 of this Code.

25.24.070 Issuance of certificate of approval.

The Commission shall consider and approve or disapprove applications for a certificate of approval as contemplated in this chapter not later than thirty days after receipt of any such application, and a public hearing shall be held on each such application. If after such hearing and upon review of the Commission it determines that the proposed changes are consistent with the criteria for historic preservation as set forth in Section 25.24.040, the Commission shall issue the certificate of approval at this time and after such a decision, the Superintendent of Buildings is then authorized to issue a permit.

(Ord. 106985 § 7(part), 1977; Ord. 106309 § 1(part), 1977; Ord. 104658 § 1(part), 1975; Ord. 100475 § 6(part), 1971.)

25.24.080 Appeal to Hearing Examiner.

Any party of interest appearing before the Commission at a public hearing on an application for a certificate of approval may appeal an action of the Commission on such application by filing an appeal with the Hearing Examiner within seventeen days of the mailing of notice of such Commission action, citing applicable criteria of Section 25.24.040. Within ten days of receiving notice of appeal, the Hearing Examiner shall set a date for hearing on appeal, such hearing to take place no later than thirty days after filing of the appeal. Such hearing shall be in accordance with the procedure for hearings in contested cases in the Seattle Administrative Code (Ordinance 102228)¹ unless all parties of record affected by the Commission's decision consent to such review and decision without a public hearing. The Hearing Examiner shall render his decision in writing within fourteen days after the hearing, mailing copies of his decision to parties of record at the hearing, the Director, the Superintendent of Buildings and the Commission. The Hearing Examiner may reverse or modify an action of the Commission only if he finds that:

A. Such action of the Commission violates the terms of this chapter or rules, regulations or guidelines adopted pursuant to the authority of this chapter; or

B. Such action of the Commission is based upon a recommendation made in violation of the procedures set forth in this chapter or procedures established by rules, regulations or guidelines adopted pursuant to the authority of this chapter and such procedural violation operates unfairly against the applicant.

The decision of the Hearing Examiner shall be final.

(Ord. 106985 § 7(part), 1977; Ord. 106309 § 1(part), 1977; Ord. 104658 § 1(part), 1975; Ord. 100475 § 6(part), 1971.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.24.090 Enforcement.

The provisions of this chapter shall be enforced by the Superintendent of Buildings.
(Ord. 100475 § 7, 1971.)

25.24.100 Violation—Penalty.

Anyone failing to comply with any provisions of this chapter shall upon conviction thereof be subject to the penalties as provided by the laws

PIKE PLACE MARKET HISTORICAL DISTRICT

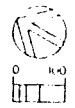
of the city for failure to obtain a use permit
from the Superintendent of Buildings.
(Ord. 100475 § 8, 1971.)

Seattle Municipal Code
as adopted in 1980
For current SMC, contact
the Office of the City Clerk



Seattle Municipal Code
 as adopted in 1990
 For current SMC, contact
 the Office of the City Clerk

- d BUILDING DESIGNATION
- (1) PARCEL NUMBER
- (B) BLOCK NUMBER
- HISTORIC PROJECT AREA
- HISTORICAL DISTRICT



DEPARTMENT OF COMMUNITY DEVELOPMENT
 CITY OF SEATTLE
 KING COUNTY, WASHINGTON

PIKE PLACE
 REDEVELOPMENT PROJECT
 WASHINGTON R-17

BOUNDARIES

EXHIBIT A

25-64

69

Chapter 25.28

PIONEER SQUARE HISTORICAL DISTRICT

Sections:

Subchapter I Historical District

- 25.28.010 Purpose.
- 25.28.020 Historic Preservation Board established—Planning Commission authority.
- 25.28.030 Historic District—Boundary description.
- 25.28.040 General criteria as proposed by the National Trust for Historic Preservation.
- 25.28.050 Criteria evaluation for the Historic District.
- 25.28.060 Approval of changes to buildings, structures and other visible elements.
- 25.28.070 Application for building or demolition permit—Filing of intention.
- 25.28.080 Review of application—Recommendations to Commission.
- 25.28.090 Hearing on applications.
- 25.28.100 Consideration of appropriateness of alteration.
- 25.28.110 Issuance or denial of certificate of approval.
- 25.28.120 Meetings—Standards and procedures.
- 25.28.130 Enforcement.
- 25.28.140 Application of other ordinances.
- 25.28.150 Violation—Penalty.

Severability: In the event that any section, paragraph or part of Subchapter I shall be for any reason declared invalid or held unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect. (Ord. 98852 § 10, 1970.)

Subchapter II Minimum Maintenance Regulations

- 25.28.200 Short title.
- 25.28.210 Declaration of findings and purpose.
- 25.28.220 Scope.

- 25.28.230 Definitions.
- 25.28.240 Enforcement.
- 25.28.250 Right of entry.
- 25.28.260 Minimum Maintenance Historic Building Revolving Fund.
- 25.28.270 Conditions contributing to “substandard” designation.
- 25.28.280 Determination of maintenance requirements.
- 25.28.290 Method of service of notice and order.
- 25.28.300 Appeals.
- 25.28.310 Final order.
- 25.28.320 Supplemental notice and order.
- 25.28.330 Enforcement of final order.
- 25.28.340 Civil penalty.
- 25.28.350 Abatement.
- 25.28.360 Remedies not exclusive.

Severability: The several provisions of Subchapter II are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, or portion of Subchapter II, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of Subchapter II or the validity of its application to other persons or circumstances. (Ord. 107323 § 5.02, 1978.)

Subchapter I Historical District

- 25.28.010 Purpose.
During The City of Seattle’s relatively brief history, it has had little time in which to develop many areas of consistent historical or architectural character; it is recognized that the Pioneer Square area of Seattle contains many of these rare attributes that do exist and consequently is an area of great historical and cultural significance to the city. Therefore, in order that the Pioneer Square area and buildings within that area may not be injuriously affected; to promote the public welfare, and to provide for the enhancement of this area and its structures, thereby contributing to the social, cultural and economic welfare of the citizens of Seattle by developing an awareness of its historic heritage, returning unproductive structures to useful purposes and attracting visitors to the city; and in order that a reasonable degree of control may be exercised over the site development and architecture of the private and public buildings erected therein, there is created a Pioneer Square Historic District (hereafter called “Historic District”). (Ord. 98852 § 1, 1970.)

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

25.28.020 Historic Preservation Board established—Planning Commission authority.

A. The City Planning Commission (hereafter called "Commission") is designated as the official body to make recommendations to the Director of the Department of Community Development (hereafter called "Director") on matters concerning preservation of the Historic District and of the buildings and structures within its bounds, except as to "minor work" as provided in Section 25.28.080. The Mayor shall, subject to Council confirmation, appoint an Historic Preservation Board (hereafter called "Board"), which is established, consisting of a representative of the local historical society, an owner of property in the Historic District, two architects, one person who operates a retail business on leased premises within the Historic District, and two city residents at large, which Board shall review and act upon all architectural and historic preservation matters within the Historic District with the assistance of the Department of Community Development and make recommendations to the Commission or to the Director as provided in Section 25.28.080 and 25.28.100.

B. Members of the Board shall serve without compensation for a term of three years from June 1st of the year in which appointed. The five existing members of the Board on the effective date of the amendatory ordinance codified in this section¹ shall be reappointed and reconfirmed as follows: three existing members for terms of one year from June 1, 1974; one existing member for a term of two years from June 1, 1974; and one existing member for a term of three years from June 1, 1974. The five existing members of the Board shall by majority vote determine which members shall serve which terms, and report such determination to the Mayor and City Council prior to their reappointment and reconfirmation. (Ord. 103393 § 1, 1974; Ord. 99846 § 1, 1971; Ord. 98852 § 2, 1970.)

1. Editor's Note: Ord. 103393 became effective on June 28, 1974.

25.28.030 Historic District—Boundary description.

The geographic boundaries of the Historic District are established as follows:

Beginning at the intersection of a line 33 feet west of and parallel with the east line of 5th Avenue South and a line 120 feet south of and parallel with the production west of the south line of South King Street; thence west along last described parallel line to a line 244 feet east of and parallel with the production south of the east line of Second Avenue South; thence north along last described parallel line to the south line of South King Street; thence west along said south line and same produced west to the west line of Alaskan Way South; thence north along said west line to the south line of South Washington Street; thence west along said south line to the Inner Harbor Line of Elliott Bay; thence northerly along said Inner Harbor Line to the north line of South Washington Street; thence east along said north line to the westerly line of Alaskan Way South; thence northerly along said westerly line and along the westerly line of Alaskan Way to the production southwesterly of the northwesterly line of Columbia Street; thence northeasterly along said produced and northwesterly line to a line 116 feet southwesterly of and parallel with the southwesterly line of Second Avenue South; thence southeasterly along last described parallel line to the northwesterly line of Cherry Street; thence northeasterly along said northwesterly line to a line 119 feet southwesterly of and parallel with the southwesterly line of Third Avenue; thence southeasterly along last described parallel line to the northwesterly line of James Street; thence northeasterly along said northwesterly line to the northeasterly line of Third Avenue; thence southeasterly along said northeasterly line to the northwesterly line of Jefferson Street; thence northeasterly along said northwesterly line to the northeasterly line of Fourth Avenue; thence southeasterly along said northeasterly line to the northwesterly line of Terrace Street; thence northeasterly along said northwesterly line to northeasterly line of Fifth Avenue; thence southeasterly along said northeasterly line to its intersection with the production north of the east line of Fifth Avenue South; thence south along said produced line to the south line of Yesler Way; thence west along said south line to a line drawn midway between Fourth Avenue South and Fifth Avenue South; thence south along said midway line to the south line of South

Washington Street; thence west along said south line to a line 128 feet east of and parallel with the east line of Third Avenue South and same produced south; thence south along said parallel line to northeasterly line of Second Avenue South extension; thence southeasterly along said northeasterly line to the north line of South Jackson Street; thence east along said north line to a line 33 feet west of and parallel with the east line of Fourth Avenue South; thence south along last described parallel line to the production west of the north line of South Jackson Street; thence east along said produced and north line and same produced east to a line 33 feet west of and parallel with the east line of Fifth Avenue South; thence south along last described parallel line to the beginning;

all in Seattle, King County, Washington, and illustrated on a map attached as Exhibit "B" to Ordinance 103655 which is made a part of this subchapter.

(Ord. 103655 § 1, 1974; Ord. 103392 § 1, 1974; Ord. 98852 § 3, 1970.)

25.28.040 General criteria as proposed by the National Trust for Historic Preservation.

The following criteria as proposed by the National Trust for Historic Preservation for determination of historic districts are adopted as general guidelines for the Historic District.

Districts, sites, buildings, structures, and objects of national, state, and local importance are of historic significance if they possess integrity of location, design, setting, materials, workmanship, feeling and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of persons significant in history; or

C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded, or may be likely to yield, information important in prehistory or history.

(Ord. 98852 § 4, 1970.)

25.28.050 Criteria evaluation for the Historic District.

A. The Historic District has played a significant role in the development of Seattle, the Puget Sound Region and the state as the place of the beginning of Seattle; the place of the first industry, business and homes; the focus of commerce and transportation for more than a half century; the area that was rebuilt after the fire of 1889.

B. The Historic District is associated with the lives of many of the Seattle pioneers through property, business and commercial activities that were concentrated in that area.

C. Most of the buildings within the Historic District embody the distinctive characteristics of the late Victorian style and many are the work of one architect, Elmer H. Fisher. For these and other reasons, the buildings combine to create an outstanding example of an area in Seattle which is significant and distinguishable in style, form, character, and construction, representative of its era. The Historic District possesses integrity of location, original construction, and of feeling and association.

D. The restoration and preservation of the Historic District will yield information of educational significance regarding the way of life and the architecture of the late Nineteenth Century as well as adding interest and color to the city. Restoration of the Historic District will preserve the environment which was characteristic of an important era of Seattle's history and will be considerably more meaningful and significant educationally than if done for individual buildings.

(Ord. 98852 § 5, 1970.)

25.28.060 Approval of changes to buildings, structures and other visible elements.

A. No person shall alter, demolish, construct, reconstruct, restore, or remodel or make any material and visible change in the exterior appearance of any existing structure or construct any new structures or erect or place any sign or change the message on any existing sign in the Historic District and no permit for same shall be issued except pursuant to a certificate of approval issued by the Director.

B. The fee for such certificate of approval shall be according to the Permit Fee Ordinance.¹

C. For the purposes of this subchapter a "sign" is any medium, including its structure

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

and component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes, consisting of words, letters, figures, designs, symbols, motions, illuminations or projected images, and including but not limited to banners, pennants, balloons, streamers, and strings of light bulbs, but not including the flag, crest or other similar symbols of governmental agencies or of any organization of such agencies, or to merchandise in a customary window display or on a site where such merchandise is customarily displayed or sold out of doors, or to an object of art which in no way identifies a product or service. The provisions of this subchapter are intended to apply to any sign which is located out of doors, or if indoors, within three feet of a window and visible from a street, sidewalk or other public place. (Ord. 106985 § 8, 1977; Ord. 103393 § 2, 1974; Ord. 99846 § 2, 1971; Ord. 98852 § 6, 1970.)

1. Editor's Note: The Permit Fee Ordinance is codified in Title 22 of this Code.

25.28.070 Application for building or demolition permit—Filing of intention.

All applications for building or demolition permits involving structures or sites within the Historic District shall be forwarded immediately by the Superintendent of Buildings to the Board. Where modification of the exterior appearance of a structure within the Historic District does not require a building or demolition permit, notice of such intention shall nonetheless be filed with the Superintendent of Buildings and referred by him to the Board. (Ord. 103393 § 3(part), 1974; Ord. 98852 § 6A(part), 1970.)

25.28.080 Review of application—Recommendations to Commission.

The Board shall review and make recommendations to the Commission regarding appropriateness of each proposed change or addition, provided that the Board's recommendations as to "minor work" shall be made to the Director, and such applications shall not be considered by the Commission. "Minor work" is any work resulting in a modification of the exterior appearance of a building, including painting, where

such work may lawfully be done without a building or demolition permit. (Ord. 103393 § 3(part), 1974; Ord. 98852 § 6A(part), 1970.)

25.28.090 Hearing on applications.

The Commission shall hold a public hearing on all applications referred to it, and the recommendations of the Commission and of the Board shall be forwarded to the Director not later than thirty days after receipt of the application by the Board. (Ord. 103393 § 3(part), 1974; Ord. 98852 § 6A(part), 1970.)

25.28.100 Consideration of appropriateness of alteration.

The Board and Commission in considering the appropriateness of any alteration, demolition, new construction, reconstruction, restoration, remodeling, or other modification of exterior appearance of any building shall keep in mind the purpose of this subchapter and shall consider among other things the historical and architectural value and significance, architectural style, the general design, arrangement, texture, material and color of the building or structure in question or its appurtenant fixtures, including signs, the relationship of such features to similar features of other buildings within the Historic District, and the position of such building or structure in relation to the street or public way and to other buildings and structures. The Board and Commission shall not be concerned with the content of the messages on signs, and permanent rather than temporary signs shall be encouraged. The Board and Commission shall make no recommendations or requirements except for the purpose of preventing developments obviously incongruous to the historic aspects of the Historic District. (Ord. 103393 § 3(part), 1974; Ord. 98852 § 6A(part), 1970.)

25.28.110 Issuance or denial of certificate of approval.

If after considering the foregoing recommendations the Director determines that the proposed changes are consistent with the criteria for historic preservation as set forth in Section 25.28.050, he shall issue the certificate of approval. In the event of a determination to deny a certificate of approval, the Director shall request the Commission or Board to consult

with the owner within a period of sixty days for the purpose of considering means of preservation that will be in keeping with the criteria. If additional time is necessary, the Commission or Board may, before the sixty days have expired, request the Director to extend the time not to exceed an additional thirty days. If, at the end of this time, an acceptable solution has not been achieved, the certificate of approval shall finally be denied and the applicant shall be so notified by letter, providing the applicant may appeal to the City Council within seventeen days of the date of the letter denying the application, and the City Council may, with or without a public hearing, reverse or modify the decision of the Director only if it finds that:

A. Every reasonable effort has been made by the applicant to agree to the recommendations of the Director; and

B. Owing to special conditions pertaining to his specific piece of property, the full application of the recommended requirements will cause undue and unnecessary hardship; in which case the certificate of approval shall be issued notwithstanding such prior determination.

(Ord. 103393 § 3(part), 1974; Ord. 98852 § 6A(part), 1970.)

25.28.120 Meetings—Standards and procedures.

A. The Board or Commission shall meet for purposes of historic preservation at such times as it may determine, or upon call of the Chairman. In addition, the Board or Commission may establish such standards and procedures as it may deem necessary to further the purposes of this subchapter. All plans, elevations, specifications and sketches or other information necessary for the review by the Board or Commission of architectural details, colors and building materials, signs, or other features subject to public view shall be made available to the Board or Commission by the applicant or appropriate departments of the city, along with a copy of the application for building, modification, or demolition permit.

B. The Board and Commission shall also consider and make recommendations on all modifications or additions to public areas, including street furniture, lighting fixtures and paving materials.

(Ord. 102902 § 5, 1973; Ord. 99846 § 3, 1971; Ord. 98852 § 7, 1970.)

25.28.130 Enforcement.

A. The provisions of this subchapter shall be enforced by the Superintendent of Buildings.

B. The Board shall advise and assist the Superintendent of Buildings in the enforcement of this subchapter.

C. The Board is designated as the Board of Appeals for the Pioneer Square Historic District to hear and decide appeals from orders of the Superintendent of Buildings in the exercise of powers assigned by this subchapter in relation to the rehabilitation, preservation and maintenance of Historic District buildings and structures endangered by neglect and disrepair.

D. Upon presentation of proper credentials, the Superintendent of Buildings or his duly authorized representative may, with the consent of the occupant, or with the consent of the owner of an unoccupied building, or pursuant to a lawfully issued warrant, enter at reasonable times any building or other structure in the Historic District to perform any duty imposed upon him by this subchapter.

(Ord. 102902 § 6, 1973; Ord. 98852 § 8, 1970.)

25.28.140 Application of other ordinances.

A. Any repair or replacement of structural elements in buildings required under this subchapter, shall be done in accordance with the applicable provisions of the Building Code,¹ unless otherwise provided in this subtitle. Occupancy requirements shall be as provided by the Building Code.

B. Nothing in this subchapter shall permit any violation of the Zoning Ordinance.² Compliance with this subchapter shall not in itself constitute compliance with any other code or ordinance to which a building may be subject, nor shall compliance with such other applicable codes or ordinances constitute compliance with this subchapter.

(Ord. 102902 § 4, 1973; Ord. 98852 § 6D, 1970.)

1. Editor's Note: The Building Code is codified in Title 22 of this Code.

2. Editor's Note: The Zoning Ordinance is codified in Title 24 of this Code.

25.28.150 Violation—Penalty.

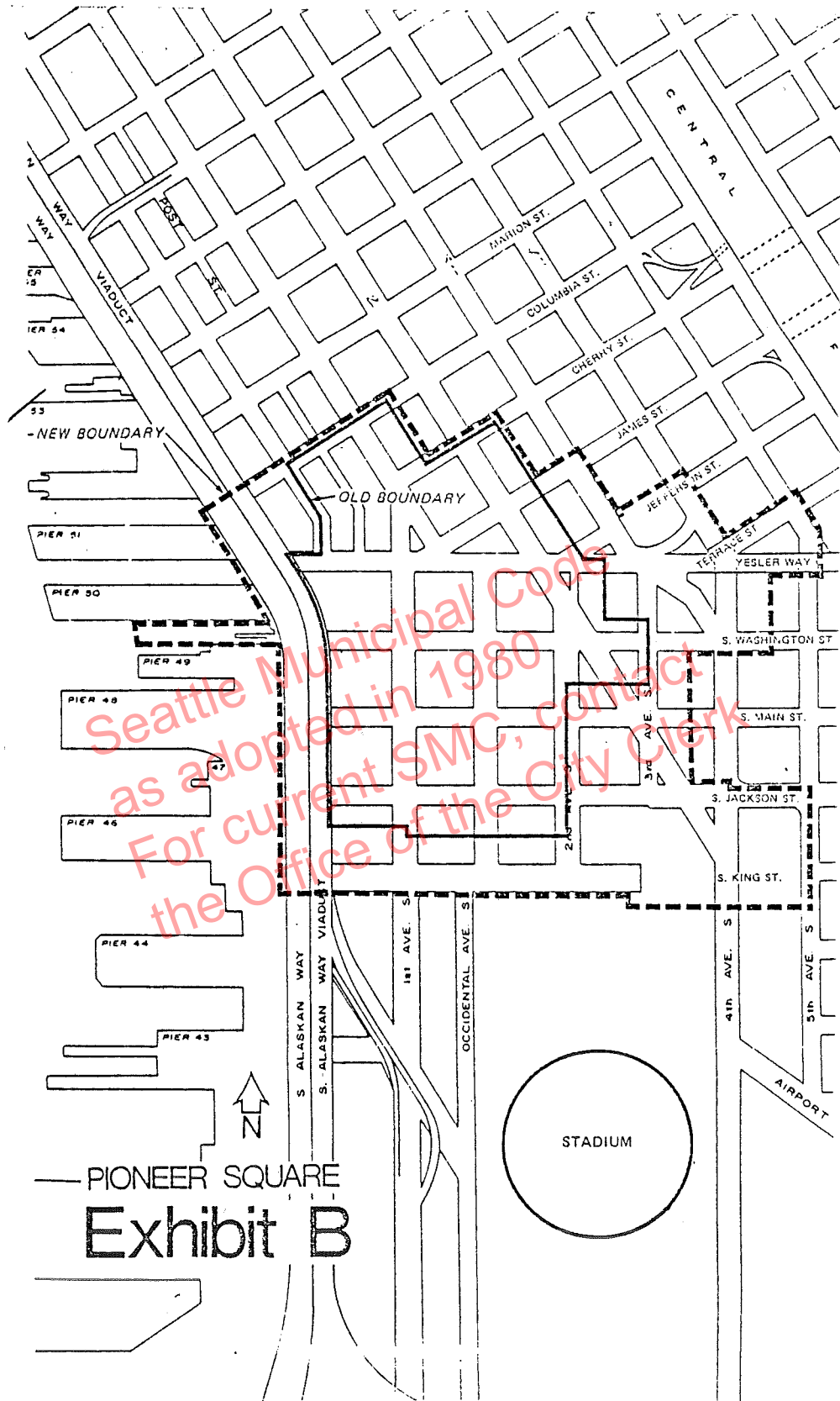
Anyone violating or failing to comply with the provisions of this subchapter shall, upon conviction thereof, be punished by a civil fine or forfeiture not to exceed Five Hundred Dollars

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

(\$500.00), and each day's violation or failure to comply shall constitute a separate offense. (Ord. 103393 § 4, 1974; Ord. 102902 § 7, 1973; Ord. 98852 § 9, 1970.)

Seattle Municipal Code
as adopted in 1980
For current SMC, contact
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POINEER SQUARE HISTORICAL DISTRICT



ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

Subchapter II Minimum Maintenance Regulations

25.28.200 Short title.

This subchapter shall be known and may be cited as the "Pioneer Square Minimum Maintenance Ordinance" and is referred to herein as "this subchapter."
(Ord. 107323 § 1.01, 1978.)

25.28.210 Declaration of findings and purpose.

A. It is found and declared that historic buildings which reflect significant elements of the city's cultural, aesthetic, social, economic, political, architectural, engineering, historic and other heritage should be preserved, protected, enhanced, and perpetuated.

B. It is further found and declared that some buildings and structures located within the Pioneer Square Historic District are substandard, in danger of decay and deterioration occasioned by neglect, in danger of causing or contributing to the creation of blight adverse to the health, safety, and general welfare of the public.

C. It is further found and declared that certain conditions and circumstances endanger the preservation of the building or structure and the public safety; and it is the purpose of this subchapter to establish procedures for the correction of such conditions.

D. For the achievement of these purposes, certain minimum maintenance standards are established, and a building or structure which fails to meet such standards is identified in this subchapter as a "substandard historic building."
(Ord. 107323 § 1.02, 1978.)

25.28.220 Scope.

This subchapter shall apply to the buildings or structures within the geographic boundaries of the Pioneer Square Historic District established by Ordinance 98852, as amended.¹
(Ord. 107323 § 1.03, 1978.)

1. Editor's Note: Ord. 98852 is codified in Subchapter I of this chapter.

25.28.230 Definitions.

A. For the purpose of this subchapter certain abbreviations, terms, phrases, words, and their derivations shall be construed as specified in this section. Words used in the singular include the plural and the plural the singular.

Words used in the masculine gender include the feminine and the feminine the masculine.

B. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.

C. "Hearing Examiner" means the Hearing Examiner of the city created by Ordinance 102228,¹ or his duly authorized representative.

D. "Owner" means any person who, alone or jointly or severally with others, has title or interest in any building, with or without accompanying actual possession thereof, and includes any person who as agent, or executor, administrator, trustee, or guardian of an estate has charge, care, or control of any building.

E. "Party affected" means any owner, tenant, or other person having a direct financial interest in the subject building or any adjacent property or any person whose health or safety is directly affected by the subject building, or the Pioneer Square Historic Preservation Board established by Ordinance 98852.²

F. "Permit" means any form of certificate, approval, registration, license, or other written permission which is required by law, ordinance or regulation to be obtained before engaging in any activity.

G. "Person" means any individual, firm, corporation, association or partnership and their agents or assigns.

H. "Superintendent" means the Superintendent of Buildings and shall also include any duly authorized representative of such Superintendent.

(Ord. 107323 § § 3.01-3.08, 1978.)

1. Editor's Note: Ord. 102228 is codified in Chapter 3.02 of this Code.

2. Editor's Note: Ord. 98852 is codified in Subchapter I of this chapter.

25.28.240 Enforcement.

A. The Superintendent of Buildings is designated as the officer to exercise the powers assigned by this subchapter in relation to substandard historic buildings.

B. The Superintendent is authorized and directed to adopt, promulgate, amend and rescind in accordance with the Administrative Code of the city (Ordinance 102228),¹ as now or hereafter amended, administrative rules consistent with this subchapter and necessary to carry out the duties of the Superintendent hereunder.

(Ord. 107323 § 2.01, 1978.)

POINEER SQUARE HISTORICAL DISTRICT

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.28.250 Right of entry.

A. Whenever necessary to make an inspection to enforce any of the provisions of this subchapter or whenever the Superintendent has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises a substandard historic building as defined in Section 25.28.270, and upon presentation of proper credentials, the Superintendent may with the consent of the occupant or with the consent of the owner or person in charge of an unoccupied building or pursuant to a lawfully issued warrant, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Superintendent by this subchapter.

B. No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand pursuant to a lawful warrant is made, to promptly permit entry therein by the Superintendent for the purpose of inspection and examination pursuant to this subchapter. (Ord. 107323 § 2.02, 1978.)

25.28.260 Minimum Maintenance Historic Building Revolving Fund.

There is created in the City Treasury a special fund designated the "Minimum Maintenance Historic Building Revolving Fund," from which fund shall be paid costs and expenses incurred by the city in connection with the repair, alteration or preservation of any substandard historic building as defined by this subchapter and ordered repaired, altered or preserved, and into which fund shall be deposited:

A. Such sums as may be recovered by the city as reimbursement for costs and expenses of repair, alteration or improvement of historic buildings and structures found to be substandard;

B. Such other sums as may by ordinance be appropriated to or designated as revenue of such fund; and

C. The unencumbered balance remaining as of the effective date of the ordinance codified in this subchapter¹ in the Pioneer Square Historic District Revolving Fund created by Ordinance 98852,² which fund is abolished and said balance transferred; and

D. Such other sums as may by gift, bequest or grants be deposited in such fund. (Ord. 107323 § 2.03, 1978.)

1. Editor's Note: The effective date of Ord. 107323 is May 31, 1978.

2. Editor's Note: Ord. 98852 is codified in Subchapter I of this chapter.

25.28.270 Conditions contributing to "substandard" designation.

Any building in which there exists any of the following conditions to the degree that the preservation of the building or the safety of the public is substantially endangered is declared for the purposes of this subchapter to be a "substandard historic building":

A. Structural defects or hazards, including but not limited to the following:

1. Footing or foundations which are weakened, deteriorated, insecure, or inadequate or of insufficient size to carry imposed loads with safety,

2. Flooring or floor supports which are defective, deteriorated, or of insufficient size or strength to carry imposed loads with safety,

3. Members of walls, partitions, or other vertical supports that split, lean, list, buckle, or are of insufficient size or strength to carry imposed loads with safety,

4. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, buckle, or are of insufficient size or strength to carry imposed loads with safety,

5. Fireplaces or chimneys which list, bulge, settle or are of insufficient size or strength to carry imposed loads with safety;

B. Defective or inadequate weather protection, including but not limited to the following:

1. Crumbling, broken, loose, or falling interior wall or ceiling covering,

2. Broken or missing doors and windows,

3. Deteriorated, ineffective or lack of waterproofing of foundations or floors,

4. Deteriorated, ineffective, or lack of exterior wall covering, including lack of paint or other approved protective coating,

5. Deteriorated, ineffective, or lack of roof covering,

6. Broken, split, decayed or buckled exterior wall or roof covering;

C. Defects increasing the hazards of fire or accident, including, but not limited to the following:

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

1. Accumulation of rubbish and debris,
 2. Any condition which could cause a fire or explosion or provide a ready fuel to augment the spread or intensity of fire or explosion arising from any cause.
- (Ord. 107323 § 4.01, 1978.)

25.28.280 Determination of maintenance requirements.

A. Commencement of Proceedings. Whenever the Superintendent of Buildings has inspected or caused to be inspected any building, structure, premises, land, or portion thereof, and determines that it is a substandard historic building used or maintained in violation of this subchapter, he shall commence proceedings to cause the abatement of each violation.

B. Notice and Order. The Superintendent of Buildings shall issue a written notice and order directed to the owner of the building as shown upon the records of the Department of Records and Elections of King County in the manner prescribed in Section 25.28.290, with a copy to the Pioneer Square Historic Preservation Board. The notice and order shall contain:

1. The street address when available and a legal description of real property and/or description of personal property sufficient for identification of where the violation occurred or is located;

2. A statement that the Superintendent has found the building to be in violation of this subchapter with a brief and concise description of the conditions found to be in violation;

3. A statement of the corrective action required to be taken. If the Superintendent has determined that corrective work is required, the order shall require that all required permits be secured and the work physically commenced within such time and be completed within such time as the Superintendent shall determine is reasonable under the circumstances;

4. A statement specifying the amount of any civil penalty that would be assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent;

5. A statement informing the recipient that he must comply with required permit procedures for historic buildings, including requirements for a certificate of approval;

6. Statements advising that: (a) if any required work is not commenced or completed within the time specified, the Superintendent

will proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property, if not previously paid;

7. A statement advising that the order shall become final unless no later than thirty days after the notice and order are served, any party affected by the order requests in writing an appeal hearing before the Hearing Examiner.

(Ord. 107323 § 4.02, 1978.)

25.28.290 Method of service of notice and order.

Service of the notice and order shall be made upon all persons having an interest in the property in the manner provided for the service of notices in Section 5.03 of the Housing Code (Ordinance 106319);¹ provided, that when personal service is obtained upon all persons having an interest in the property, it shall not be necessary to post a copy of the notice and order of the property.

(Ord. 107323 § 4.03, 1978.)

1. Editor's Note: The Housing Code is codified in Title 22 of this Code.

25.28.300 Appeals.

A. Any party affected by an order of the Superintendent shall have the right to appeal to the Hearing Examiner.

B. In order for an appeal to be perfected the following provisions must be followed:

1. The appeal must be filed with the Hearing Examiner not later than the thirtieth day following the service of the notice and order of the Superintendent;

2. The appeal must be in writing and state in a clear and concise manner the specific exceptions and objections to the notice and order of the Superintendent.

C. The Hearing Examiner shall set a date for hearing the appeal in a timely manner and shall provide no less than twenty days' written notice to the parties.

D. The appeal hearing shall be conducted pursuant to the contested case provisions of the Administrative Code (Ordinance 102228, as amended).¹ The Hearing Examiner is authorized to promulgate procedural rules for the appeal hearing pursuant to the Administrative Code.

E. The appeal hearing shall be a new or de novo hearing. Substantial weight shall be given to the notice and order of the Superintendent

and the burden of establishing the contrary shall be upon the appealing party.

F. The Hearing Examiner shall have the authority to affirm, modify, reverse, or remand the notice and order of the Superintendent, or to grant other appropriate relief.

G. Within fourteen days after the hearing, a written decision containing findings of fact and conclusions shall be transmitted to the parties.

(Ord. 107323 § 4.04, 1978.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

25.28.310 Final order.

A. Any order duly issued by the Superintendent pursuant to the procedures contained in this subchapter shall become final thirty days after service of the notice and order unless a written request for an appeal hearing is received by the Hearing Examiner within that thirty-day period.

B. An order which is subject to the appeal procedures shall become final twenty days after mailing of the Hearing Examiner's decision unless within that time period an aggrieved person initiates review in King County Superior Court.

C. Any final order shall be filed by the Superintendent with the Department of Records and Elections of King County, and the filing shall have the same effect as provided by laws for other lis pendens notices.

(Ord. 107323 § 4.05, 1978.)

25.28.320 Supplemental notice and order.

The Superintendent may at any time add to, rescind in part, or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders contained in this subchapter.

(Ord. 107323 § 4.06, 1978.)

25.28.330 Enforcement of final order.

A. If, after any order duly issued by the Superintendent has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, the Superintendent may:

1. Institute an action in municipal court to collect a civil penalty assessed under this subchapter; and/or

2. Abate the violation using the procedures of this subchapter.

B. Enforcement of any notice and order of the Superintendent issued pursuant to this subchapter shall be stayed during the pendency of any appeal under this subchapter, or under Ordinance 98852,¹ except when the Superintendent determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued.

C. In the event that the Minimum Maintenance Historic Building Revolving Fund does not contain funds and/or the Superintendent elects not to abate the violation through repair, alteration or improvement of the building in the manner specified in Section 25.28.350, he shall file a statement with the Department of Records and Elections of King County stating that there is no money currently available to fund such abatement and that the action will be held in abeyance until such time as funding is available.

(Ord. 107323 § 4.07, 1978.)

1. Editor's Note: Ord 98852 is codified in Subtitle I of this chapter.

25.28.340 Civil penalty.

A. In addition to or as an alternative to any other judicial or administrative remedy provided in this subchapter or by law or other ordinance, any person who violates this subchapter, or rules and regulations adopted hereunder, or by any act of commission or omission procures, aids or abets such violation shall be subject to a civil penalty in an amount of Fifty Dollars (\$50.00) per day for each continuous violation to be directly assessed until such violation is corrected. All civil penalties assessed shall be enforced and collected by civil action, brought in the name of the city and commenced in the municipal court, and the Superintendent of Buildings shall notify the City Attorney in writing of the name of any person subject to the penalty and the amount thereof, and the City Attorney shall, with the assistance of the Superintendent of Buildings, take appropriate action to collect the penalty.

B. The defendant in the action may show, in 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

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

2. That correction of the violation was commenced promptly upon receipt of 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 building, or other condition or circumstances beyond the control of the defendant; and upon a showing of the above described conditions, the court may remit all or part of the accumulated penalty. (Ord. 107323 § 4.08, 1978.)

25.28.350 Abatement.

A. In addition to or as an alternative to any other judicial or administrative remedy provided in this subchapter or by law or other ordinance, the Superintendent may order conditions which constitute a violation of this subchapter to be abated. The Superintendent may order any owner of a building in violation of this subchapter, or rules and regulations adopted hereunder, to commence corrective work and to complete the work within such time as the Superintendent determines reasonable under circumstances. If the owner fails to comply with a final order, the Superintendent, by such means and with such assistance as may be available to him, is authorized to cause such building to be repaired, altered or improved and the costs thereof shall be recovered by the city in the manner provided by law.

B. The cost of such work shall be paid from amounts appropriate for abatement purposes. Unless the amount of the costs thereof are repaid within sixty days of the completion of the work, they shall be assessed against the real property as to which such costs were incurred. Upon certification by the Superintendent to the City Treasurer of the assessment amount being due and owing, the City Treasurer shall certify the amount to the County Treasurer, who shall enter the amount of such assessment upon the tax rolls against such real property for the current year to be collected at the same time and with interest at such rates and in such manner as provided for in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected, shall be deposited in the General Fund and credited to the Minimum Maintenance Historic Building Fund as provided in Section 25.28.260. The assessment shall constitute a lien against the property of equal rank with state,

county, and municipal taxes. (Ord. 107323 § 4.09, 1978.)

25.28.360 Remedies not exclusive.

The remedies provided for in this subchapter to accomplish preservation of substandard historic structures are not exclusive and this subchapter shall not be construed to supersede or repeal by implication the remedies available for enforcement of the Housing Code (Ordinance 106319)¹ or any other ordinance of the city. (Ord. 107323 § 4.10, 1978.)

1. Editor's Note: The Housing Code is codified in Title 22 of this Code.

TABLE OF HISTORICAL LANDMARKS

Chapter 25.32

TABLE OF HISTORICAL LANDMARKS

- I Residences
- II Buildings
- III Churches
- IV Schools
- V Firehouses
- VI Bridges and Waterways
- VII Boats
- VIII Miscellaneous

Seattle Municipal Code
as adopted in 1980
For current SMC, contact
the Office of the City Clerk

ENVIRONMENTAL PROTECTION AND HISTORIC PRESERVATION

TABLE OF CITY LANDMARKS

I Residences	Address	Ord. No.
Anhalt Apartments	1014 East Roy	108227
Charles Bussell House	Block 4, Lots 3,4,5,6 and 7 in vacated alley adjacent at Rosedale Addition	108212
Bystrom House	Block 18, Lot 13, East Park Addition	108214
Chelsea Apartments	620 West Olympic Place	107755
Cotterill House	2501 Westview Drive West	107751
Del a Mar Apartments	115 West Olympic Place	107752
Ballard Howe House	22 West Highland Drive	108226
P.P. Ferry Mansion (St. Mark's Deanery)		108213
Italianate Victorian Pair	208 and 210 13th Avenue South	108225
New Pacific Apartments	2600-04 1st Avenue	108517
Nowell House	Block 7, Lot 4, Summit Heights First Addition, Ballard	108210
Myron Ogden Residence	702 35th Avenue	107522
Stimson-Green House	1204 Minor Avenue	106068
Ellsworth Storey Houses	260, 270 Dorfell Drive	106071
Thompson/La Turner House	3119 South Day Street	107613
Victorian Group	2000, 2006, 2010, 2014 and 2016 14th Avenue West	108211
The Victorian Row Apartments	1236 38th South King Street	108224
Ward House	1423 Boren Avenue	106067
II Buildings	Address	Ord. No.
Austin A. Bell Building	2320-2326 1st Avenue	107753
Barnes Building	2320 1st Avenue	107754
Coliseum Theater	5th Avenue and Pike Street	107526
Eastern Hotel	506½-510 Maynard Avenue	107750
Flatiron Building (Triangle Hotel)	551 1st Avenue	106141
Fremont Hotel	3421-3429 Fremont Avenue North	107993
Holyoke Building	107 Spring Street	107521
Hull Building	2401-05 1st Avenue	108518
III Churches	Address	Ord. No.
Capitol Hill United Methodist Church	128 16th Avenue East	106144
Epiphany Chapel	3719 East Denny Way	107756
First Church of Christ, Scientist	1519 East Denny Way	106145
Immaculate Conception Church	812 23rd Avenue	106142
St. Nicholas Cathedral	1714 13th Avenue	106098
St. Spiridon Cathedral	400 Yale North	106099
Seattle Buddhist Church	4275 Main Street	106100
Seattle Hebrew Academy	1617 Interlaken Drive East	108519
Trinity Parish Episcopal Church	609 8th Avenue	106087
IV Schools	Address	Ord. No.
Old Main Street School	307 6th Avenue South	106147
West Queen Anne Elementary School	515 West Galer	106146
V Firehouses	Address	Ord. No.
Old Firehouse #3	301 Terry Avenue	106051

TABLE OF HISTORICAL LANDMARKS

Old Firehouse # 18	5427 Russell Northwest	106052
Old Firehouse # 23	722 18th Avenue	106050
Old Firehouse # 25	1400 Harvard Avenue	106054
Old Firehouse # 33	Rainier Beach	106053
VI Bridges and Waterways		
Arboretum Aqueduct	Address	Ord. No.
Montlake Bridge and Montlake Cut	Lake Washington Boulevard	106070
Lacey V. Murrow Bridge, West Plaza, Mt. Baker Tunnels, and East Tunnel Portals (Mercer Island Floating Bridge)	24th East and Montlake Boulevard	107995
20th Avenue Northeast Bridge	20th Avenue Northeast and Northeast 62nd	108270 106143
VII Boats		
Arthur Foss Tug		Ord. No. 106276
Relief Lightship		106275
San Mateo Steam Ferry		106273
Virginia V Excursion Boat		106278
Wawona Schooner		106274
W.T. Preston Snagboat		106277
VIII Miscellaneous		
Brill Trolley # 798	Address	Ord. No. 107621
Chinese Community Bulletin Board	511 7th Avenue South	106072
West Queen Anne Walls		106069

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