

OK
3-7-91

ORDINANCE No. 114180

See Department

COUNCIL BILL No. 106982

The City of

AN ORDINANCE relating to the Seattle Center Department; amending SMC 17.16.100, 17.16.110 and 17.16.120, to authorize the Director of Seattle Center to execute new agreements for the use of certain spaces in and adjacent to the Center House for theater, museum, or concession purposes, amendments to such agreements, and agreements authorizing the transfer to third parties of the interests of the other contracting parties in such agreements.

Honorable President:

Your Committee on PARKS

PARKS

to which was referred the within Council report that we have considered the same

10/5/88

Vote 6-0

COMPTROLLER FILE No.

Introduced: OCT 3 1988	By: SIBONGA
Referred: OCT 3 1988	To: PARKS & PUBLIC GROUND
Referred:	To:
Referred:	To:
Reported: OCT 10 1988	Second Reading: OCT 10 1988
Third Reading: OCT 10 1988	Signed: OCT 10 1988
Presented to Mayor: OCT 10 1988	Approved: OCT 25 1988
Returned to City Clerk: OCT 25 1988	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: OK

Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

President:

Committee on

Parks and Public Grounds

was referred the within Council Bill No.

106982

that we have considered the same and respectfully recommend that the same:

10/5/88 PASS 2-0

Sibong A. Yes
B. Williams Yes

Committee Chair

ORDINANCE 114180

1 AN ORDINANCE relating to the Seattle Center Department; amending SMC
2 17.16.100, 17.16.110 and 17.16.120, to authorize the Director of
3 Seattle Center to execute new agreements for the use of certain
4 spaces in and adjacent to the Center House for theater, museum, or
5 concession purposes, amendments to such agreements, and agreements
6 authorizing the transfer to third parties of the interests of the
7 other contracting parties in such agreements.

8 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

9 Section 1. SMC 17.16.100 (Section of Ordinance 122651) is hereby
10 amended as follows:

11 17.16.100 Concession, museum and theater space use agreements -

12 Authorized when - Fee/rent schedule. The Seattle Center Director is
13 hereby authorized to negotiate and to enter into new concession, museum,
14 and theater space use agreements and to modify existing ((concession))
15 agreements of those types for all ((Center-House-concessions-occupying))
16 spaces listed below in sub-section 1.C and to execute for and on behalf
17 of The City of Seattle all necessary documents in connection therewith;

18 Provided that:

- 19 A. Said new ((concession)) agreements shall be in the ((standard))
20 appropriate general form of agreement ((attached-hereto-and))
21 identified as "SEATTLE CENTER CONCESSION AGREEMENT", "MUSEUM LEASE
22 AGREEMENT", and "LICENSING AGREEMENT" and authorized by Ordinances
23 122651, 112242, and 112290, respectively, except when use of a
24 non-standard form has been approved by the City Attorney; and
25 B. No ((Seattle)) Center House concession, museum, or theater space
26 use agreement, whether now in existence or otherwise and whether
27 agreed to for a term of two or more days, and whether or not
28 extended or subject to extension, shall extend past December 31,
1991; and
C. The basic concession fee or rent for the following Center House
((concession)) spaces through October 31, 1988, shall not be less

1 than 8% of the concessionaire's gross receipts for merchandise
 2 operations and 10% of the concessionaire's gross receipts for food
 3 service operations or the minimum monthly fee or rental plus an
 4 annual percentage of the concessionaire's gross receipts over a
 5 specified breakpoint; and ((from-and-after))for full and partial
 6 months of use and occupancy beginning with November ((1;)) 1988,
 7 shall be not less than the ((stated)) monthly minimum ((monthly))
 8 fee plus the ((annual)) percentage of the ((concessionaire's
 9 given)) user's monthly or annual gross receipts over the indicated
 10 breakpoint((;-as-follows)) unless otherwise specified below:

Level	Space #	Supplementary Percentage ((%))Fee	Monthly Minimum Fee ((Minimum Monthly))	Supplementary Percentage ((%)) Fee Breakpoint*
((Fountain--103/104--))		8%	\$1,417	\$212,550
((Fountain--104-1/2-/105--))		8%	1,588	238,200
Fountain	106	8%	886	129,875A
Fountain	107	8%	1,001	150,125A
Fountain	108/110	8%	((2,005))1,830	((308,250))22,875
Fountain	109	8%	250	((37,500)) 3,125
Fountain	111	8%	((1,162)) 240	((174,300)) 3,000
Fountain	112/113/114	8%	((2,794))1,040	((419,063))13,000
Fountain	115	8%	((1,183)) 480	((177,568)) 6,000
Fountain	116	8%	((1,052)) 370	((153,000)) 4,625
Fountain	117	8%	482	57,800A

23 * Stated in terms of "monthly gross" receipts unless the letter "A"
 24 follows the given figure, in which case the breakpoint and the
 25 percentage calculated shall be on an "annual gross receipt" basis.
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Balcony	304/305	8%	((460))	<u>300</u>	((69,000))	<u>3,750</u>
Balcony	306/307	8%	((585))	<u>150</u>	((87,625))	<u>1,875</u>
Balcony	308	8%	531		((79,650))	<u>6,638</u>
Balcony	310	8%	((715))	<u>490</u>	((107,250))	<u>6,125</u>
Balcony	311	8%	((730))	<u>400</u>	((103,687))	<u>5,000</u>
Balcony	312	8%	((691))	<u>440</u>	((103,650))	<u>5,500</u>
Balcony	313	8%	359		((50,000))	<u>4,488</u>
Balcony	314	8%	((675))	<u>700</u>	((81,000))	<u>7,000</u>
Balcony	315	8%	((675))	<u>380</u>	((81,000))	<u>3,800</u>
Balcony	316	8%	((833))	<u>230</u>	((100,000))	<u>2,300</u>
<u>Balcony</u>	<u>317-321</u>	<u>8%</u>		<u>1,560</u>		<u>19,500</u>
((<u>Balcony</u> -- <u>319/320/321</u> ----- <u>8%</u> ----- <u>1,884</u> ----- <u>226,000</u>))						
Balcony	322/323	8%	((557))	<u>200</u>	((83,593))	<u>2,500</u>
Balcony	324	8%	551		82,650A	
Balcony	325	8%	((1,050))	<u>140</u>	((157,500))	<u>1,750</u>
Balcony	326	8%	((1,050))	<u>720</u>	((157,500))	<u>9,000</u>
Balcony	327	8%	((219))	<u>225.83</u>	((32,850))	<u>2,823</u>
<u>Popcorn Wagon Spaces</u>		<u>9%</u>		<u>100</u>		<u>109,333</u>
<u>Kiosk</u>	<u>1</u>	<u>10%</u>		<u>209</u>		<u>25,000</u>
<u>Kiosk</u>	<u>2</u>	<u>15% of gross receipts</u>				

D. The basic rent or license fee for the following spaces shall not be less than the indicated amount:

Fountain Level Theater Space:

- 1988 or 1988-89 Season: 23% of monthly gross receipts
- 1989 or 1989-90 Season: 25% of monthly gross receipts
- 1990 or 1990-91 Season: 25% of monthly gross receipts
- 1991 Uses: 25% of monthly gross receipts

1 Fountain Level Museum Space:

2 \$500.00 per month.

3
4 E. Any museum use agreement or theater licensing agreement that
5 provides either concession sales opportunities, catering
6 opportunities, or both, to the other contracting party shall
7 condition the exercise of such opportunities on the payment to the
8 City of the following minimum fees, as appropriate:

9 For the preparation, service, and sale
10 of food and non-alcoholic beverages by
11 or through a caterer:

14% of the
 amount paid to
 the caterer for
 such service

14 For the preparation, service, and sale
15 of alcoholic beverages by or through
16 a caterer:

22% of the
 amount paid to
 the caterer for
 such service

19 Sale of concession merchandise and
20 services, including art work:

8% of the gross
 receipts of
 such sales.

23
24 Section 2. SMC 17.16.110 (Section 2 of Ordinance 112651) is
25 hereby amended as follows:

26
27 17.16.112 (~~(Concession))~~ Center House Space Use agreements - Sale or
28 Transfer of (~~(ownership))~~ interests. The Seattle Center Director is

1 authorized to enter into novation or similar agreements to effect the
2 sale or transfer of ~~((ownership-of-concessions-in))~~ the right to use and
3 occupy ~~((the))~~ any space((s)) listed in subsection 1.C to one or more
4 third parties that satisfy the financial capability and operating
5 standards that would be applied by Seattle Center in evaluating other
6 potential new ~~((concessionaires-for))~~ space users in Center House. Such
7 novation or other agreements shall be subject to the provisions of
8 subsections 1.B & C, hereof.

9 Section 3. SMC 17.16.120 (Section 3 of Ordinance 112651) is
10 hereby amended as follows:

11 **17.16.120 ~~((Concession))~~ Center House Space Use agreements - Amendment.**

12 The Seattle Center Director is authorized to amend ~~((concession))~~
13 agreements for the spaces listed in subsection 1.C, hereof, to exchange
14 and transfer to City ownership the value of undepreciated ~~((leasehold))~~
15 improvements to such spaces for up to an equivalent amount of money owed
16 to the City by the affected ~~((concessionaire))~~ user, and to make other
17 modifications to any such agreement, all contingent upon the Law
18 Department approving the form of such exchange and transfer or other
19 modifications and determining that an increase in City obligations or
20 decreases in City receipts as a consequence of such modifications is
21 accompanied by appropriate consideration in the form of changed user's
22 obligations or City responsibilities.

23 Section 4. Any act consistent with the authority and
24 prior to the effective date of this ordinance is hereby
25 ratified and confirmed.

26 214.DOC
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Section 5. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 10th day of October, 1988
and signed by me in open session in authentication of its passage this 10th day of October, 1988

[Signature]
President of the City Council.

Approved by me this 25th day of October, 1988
[Signature]
Mayor.

Filed by me this 25th day of October, 1988

Norward J. Brooks
Attest: City Comptroller and City Clerk.

(SEAL)

Published.....

By *Theresa Dunbar*
Deputy Clerk.

City of Seattle

Executive Department-Office of Management and Budget

James P. Ritch, Director
Charles Royer, Mayor

10,129



August 24, 1988

COPY RECEIVED

The Honorable Douglas Jewett
City Attorney
City of Seattle

AUG 29 1988

Douglas N. Jewett
CITY ATTORNEY

Davidson

Dear Mr. Jewett:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Seattle Center

SUBJECT: An ordinance relating to the Seattle Center Department; amending SMC 17.16.100, 17.16.110 and 17.16.120, to authorize the Director of Seattle Center to execute new agreements for the use of certain spaces in and adjacent to the Center House for theater, museum, or concession purposes, amendments to such agreements, and agreements authorizing the transfer to third parties of the interests of the other contracting parties in such agreements.

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Claire McKechnie.

Sincerely,

Charles Royer
Mayor

by

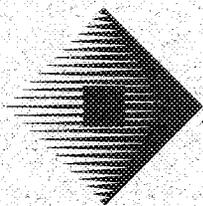
Claire McKechnie for

JAMES P. RITCH
Budget Director

JR/cm/ca

Enclosure

cc: Director, Seattle Center



August 19, 1988

SEATTLE CENTER

The Honorable Sam Smith
President, Seattle City Council
1100 Municipal Building
Seattle, WA 98104

Via: Mayor's Office

Attention: Jim Ritch, Director
Office of Management and Budget

Dear Councilmember Smith:

Subject: AMENDING EXISTING MERCHANTS' AGREEMENTS IN SEATTLE CENTER'S
CENTER HOUSE

The attached legislation amends Seattle Municipal Code 17.16.100 to change the concession fee adjustments currently scheduled to occur November 1, 1988, for Center House merchants, and extends the authority of the Seattle Center Director to execute new and modify existing agreements for the use of space in and adjacent to Center House.

The history of arrangements for the use and occupancy of space in Center House is complex. Center House was renovated in 1980-81 with proceeds from the 1977 Seattle Center improvement bond issue. Subsequently, Center management hired a consultant to determine a reasonable rental rate structure for the refurbished facility. The consultant used a basic model calling for payment of a minimum monthly fee plus a percentage of net revenue earned over a specified breakpoint based on market survey data.

By the end of 1982, it had become apparent that the adopted rate structure was unrealistic for the unique operations in Center House. Merchants were being charged rents which in some cases equalled 37% of adjusted gross sales. Sales, generally, did not achieve the levels anticipated in the 1977 consultant study. The merchants' inability to meet their financial obligations resulted in erratic cash flow to the Center.

Charles Royer
Mayor
C. David Hughbanks
Director

305 Harrison
Street

Seattle
Washington
98109

840372

The Honorable Sam Smith
August 19, 1988
page two

Ordinance 111424, adopted in November, 1983, required most merchants to pay a straight percentage of gross sales: 8% and 10% for retail and food merchants, respectively. By the terms and conditions of Ordinance 111424, the straight percentage arrangement lapses as of October 31, 1988. Without further intervention, merchant obligations will revert to the original terms specified prior to 1983.

Seattle Center is again concerned that the merchants' financial obligations as originally defined, and confirmed by Ordinance 112651, represent an unreasonable burden for many Center House businesses. Circumstances, similar to those which led to the revision of the rental structure in 1983, continue to prevail today. Gross sales in Center House have been essentially flat over the last four years. Forty-one percent of food merchants and 58% of retail merchants failed to meet the otherwise applicable breakpoint in any one of the past five years. Increased competition from the new downtown monorail terminus and the relocation of the Sonics is likely to further erode the sales base. It would be difficult to find new concessionaires for Center House space in light of the fact that, by ordinance, no concession agreement can extend beyond December, 1991, and it is increasingly difficult for a potential new merchant to amortize an initial investment over the remaining term of such a restricted concession opportunity.

Seattle Center is proposing to implement a revised use fee structure for those merchants who converted to the straight percentage rates. The revised structure is similar to that originally proposed, consisting of a minimum monthly fee and a supplementary percentage fee to be applied to all gross sales beyond a monthly breakpoint. Unlike the rates proposed in 1981, the new rates are based on the actual performance of individual merchants. Each proposed monthly minimum fee represents approximately 8% or 10%, respectively, of the actual adjusted 1987 gross sales of the indicated retail merchant or food service provider. Monthly revenues earned beyond the breakpoint would be subject to an 8% or 10% fee. In those cases where the original contract minimum is below the 1987 actual performance average, we propose to continue the contract amount but convert the breakpoint from an annual to a monthly base.

The proposed rate methodology improves the likelihood that the minimum monthly fee will be collectable. We will also continue to benefit from higher volumes associated with the busy summer season and Seattle Center events. The use of a monthly, rather than an annual, breakpoint will allow the Center to realize breakpoint revenues on an ongoing basis during the year. In consideration for this revised methodology, the merchants will waive claims they may assert with respect to preference in business opportunities

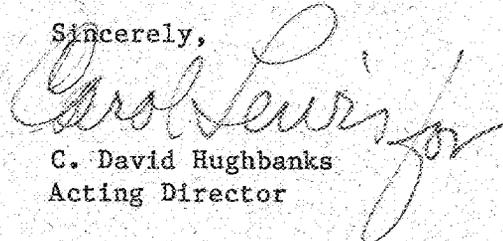
The Honorable Sam Smith
August 19, 1988
page three

outside the boundaries of Center House, and otherwise relating to past relations with the City. Finally, we believe the new schedule represents a reasonable approach to satisfying the interdependent needs of the Center and its merchants.

In addition to revising the use fee schedule for Center House, the attached ordinance would extend the Director's existing authority to negotiate, execute and modify Center House concession space use and occupancy agreements to cover agreements regarding business operations adjacent to Center House as well as non-concession uses (specifically, the Children's Museum and Center House Theatre space). The terms of any such agreement would be subject to the existing standards adopted by the City Council in Ordinance 112651. This revision would allow the Director the flexibility necessary to accommodate the variety of space users already occupying parts of Center House.

Seattle Center is anxious to move this legislation expeditiously to ensure that reasonable use fee rates are in effect before the current rate adjustment authorized by Ordinance 111424 expires. If you have any questions, please contact Carol Lewis or Terry McLaughlin at Ext. 7330. Thank you for your prompt consideration of this matter.

Sincerely,



C. David Hughbanks
Acting Director

CDH/npb

Attachment

Affidavit of Publication

STATE OF WASHINGTON KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

Ordinance No. 114180

was published on November 23, 1988

A. Spivey
Subscribed and sworn to before me on
November 23, 1988

Barbara L. Jones
Notary Public for the State of Washington,
residing in Seattle.

City of Seattle

ORDINANCE 114188

AN ORDINANCE relating to the Seattle Center Department; amending SMC 17.16.100, 17.16.110 and 17.16.120, to authorize the Director of Seattle Center to execute new agreements for the use of certain spaces in and adjacent to the Center House for theater, museum, or concession purposes, amendments to such agreements, and agreements authorizing the transfer to third parties of the interests of the other contracting parties in such agreements.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. SMC 17.16.100 (Section of Ordinance 122651) is hereby amended as follows:

17.16.100 Concession, museum and theater space use agreements -

Authorized when - Fee/rent schedule. The Seattle Center Director is hereby authorized to negotiate and to enter into new concession, museum, and theater space use agreements and to modify existing ~~((concession))~~ agreements of those types for all ~~((Center House concessions occupying))~~ spaces listed below in sub-section 1.C and to execute for and on behalf of The City of Seattle all necessary documents in connection therewith;

Provided that:

- A. Said new ~~((concession))~~ agreements shall be in the ~~((standard))~~ appropriate general form of agreement ~~((attached hereto and))~~ identified as "SEATTLE CENTER CONCESSION AGREEMENT", "MUSEUM LEASE AGREEMENT", and "LICENSING AGREEMENT" and authorized by Ordinances 122651, 112242, and 112290, respectively, except when use of a non-standard form has been approved by the City Attorney; and
- B. No ~~((Seattle))~~ Center House concession, museum, or theater space use agreement, whether now in existence or otherwise and whether agreed to for a term of two or more days, and whether or not extended or subject to extension, shall extend past December 31, 1991; and
- C. The basic concession fee or rent for the following Center House ~~((concession))~~ spaces through October 21, 1988, shall not be less than 8% of the concessionaire's gross receipts for merchandise operations and 10% of the concessionaire's gross receipts for food service operations or the minimum monthly fee or rental plus an annual percentage of the concessionaire's gross receipts over a specified breakpoint; and ~~((from and after))~~ for full and partial months of use and occupancy beginning with November ~~((1,))~~ 1988, shall be not less than the ~~((stated))~~ monthly minimum ~~((monthly))~~ fee plus the ~~((annual))~~ percentage of the ~~((concessionaire's))~~ user's monthly or annual gross receipts over the indicated breakpoint ~~((as follows))~~ unless otherwise specified below:

Level	Space #	Supplementary Percentage ((%)) Fee	Monthly Minimum Fee ((Monthly))	Supplementary Percentage ((%)) Fee Breakpoint*
((Fountain))	103/104	8%	\$1,417	\$212,550
((Fountain))	104-1/2 - 105	8%	\$1,588	238,200
Fountain	106	8%	886	129,875A
Fountain	107	8%	1,001	150,125A
Fountain	108/110	8%	((2,005)) 1,830	((388,250)) 322,875
Fountain	109	8%	250	((37,500)) 3,125

Balcony	324	8%	551	82,650A
Balcony	325	8%	((1,060)) 140	((157,500)) 1,750
Balcony	326	8%	((1,050)) 720	((157,500)) 9,000
Balcony	327	8%	((219)) 225.83	((92,850)) 2,823
Popcorn Wagon Spaces		9%	100	199,333
Kiosk	1	10%	209	25,000
Kiosk	2	15% of gross receipts		

D. The basic rent or license fee for the following spaces shall not be less than the indicated amount:

Fountain Level Theater Space:

- 1988 or 1988-89 Season: 25% of monthly gross receipts
- 1989 or 1989-90 Season: 25% of monthly gross receipts
- 1990 or 1990-91 Season: 25% of monthly gross receipts
- 1991 Uses: 25% of monthly gross receipts

Fountain Level Museum Space:

\$500.00 per month.

E. Any museum use agreement or theater licensing agreement that provides either concession sales opportunities, catering opportunities, or both, to the other contracting party shall condition the exercise of such opportunities on the payment to the City of the following minimum fees, as appropriate:

- for the preparation, service, and sale of food and non-alcoholic beverages by or through a caterer: 14% of the amount paid to the caterer for such service
- for the preparation, service, and sale of alcoholic beverages by or through a caterer: 27% of the amount paid to the caterer for such service
- Sale of concession merchandise and services, including art work: 8% of the gross receipts of such sales.

Section 2. SMC 17.16.110 (Section 2 of Ordinance 112651) is hereby amended as follows:
 17.16.112 ~~((Concession))~~ Center House Space Use agreements - Sale or Transfer of ~~((ownership))~~ interests. The Seattle Center Director is authorized to enter into novation or similar agreements to effect the sale or transfer of ~~((ownership of concessions in))~~ the right to use and occupy ~~((the))~~ any space~~((s))~~ listed in subsection 1.C to one or more third parties that satisfy the financial capability and operating standards that would be applied by Seattle Center in evaluating other