

ORDINANCE No. 118793

COUNCIL BILL No. 111909

AN ORDINANCE relating to land use and shorelines, amending Sections 23.60.002, 23.60.012, 23.60.016, 23.60.020, 23.60.030, 23.60.034, 23.60.036, 23.60.060, 23.60.062, 23.60.066, 23.60.068, 23.60.070, 23.60.072, 23.60.074, 23.60.076, 23.60.122, 23.60.156, 23.60.196, 23.60.210, 23.60.244, 23.60.304, 23.60.365, 23.60.366, 23.60.426, 23.60.428, 23.60.486, 23.60.540, 23.60.574, 23.60.604, 23.60.608, 23.60.664, 23.60.724, 23.60.728, 23.60.730, 23.60.784, 23.60.844, 23.60.846, 23.60.902, 23.60.912, 23.60.932, 23.60.934, 23.60.936, 23.60.940, 23.60.944, 23.60.950, and 23.60.952, and adding Section 23.60.065 to the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal (Land Use) Code.

OK

over

Honorable President
Your Committee on

The City

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

COMPTROLLER FILE No.

Introduced: <u>OCT - 5 1997</u>	By: <u>DRAGO</u>
Referred: <u>OCT - 8 1997</u>	To: <u>Business, Economic & Community Development Committee</u>
Referred:	To:
Referred:	To:
Reported: <u>11-10-97</u>	Second Reading:
Third Reading: <u>11-10-97</u>	Signed: <u>11-10-97</u>
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Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

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11-10-97 Full Cou

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Law Department

The City of Seattle--Legislative Department

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REPORT OF COMMITTEE

Date Reported
and Adopted

able President:

320D

committee on

ch was referred the within Council Bill No.

11909

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

Do Pass as Amended (3-0) 11/4/97

0-97 Full Council Action: Passed 7-0

(excused: Chow, Donaldson)



Committee Chair

ORDINANCE 118793

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6 AN ORDINANCE relating to land use and shorelines, amending Sections 23.60.002,
7 23.60.012, 23.60.016, 23.60.020, 23.60.030, 23.60.034, 23.60.036, 23.60.060, 23.60.062,
8 23.60.066, 23.60.068, 23.60.070, 23.60.072, 23.60.074, 23.60.076, 23.60.122, 23.60.156,
9 23.60.196, 23.60.210, 23.60.244, 23.60.304, 23.60.365, 23.60.366, 23.60.426, 23.60.428,
10 23.60.486, 23.60.540, 23.60.574, 23.60.604, 23.60.608, 23.60.664, 23.60.724, 23.60.728,
11 23.60.730, 23.60.784, 23.60.844, 23.60.846, 23.60.902, 23.60.912, 23.60.932, 23.60.934,
12 23.60.936, 23.60.940, 23.60.944, 23.60.950, and 23.60.952, and adding Section 23.60.065 to
13 the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal (Land Use)
14 Code.

15
16 NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS
17 FOLLOWS:
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19
20 Section 1. Subsection B of Section 23.60.002 of the Seattle Municipal Code, which
21 Section was last amended by Ordinance 113764, is amended as follows:
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23 **23.60.002 Title and purpose.**

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25 * * *

26
27 B. Purpose. It is the purpose of this chapter to implement the policy and
28 provisions of the Shoreline Management Act ((of 1971)) and the Shoreline Goals and
29 Policies of the Seattle Comprehensive Plan by regulating development of the shorelines of
30 the City in order to:

- 31 1. Protect the ecosystems of the shoreline areas;
32 2. Encourage water-dependent uses;
33 3. Provide for maximum public use and enjoyment of the shorelines of
34 the City; and
35 4. Preserve, enhance and increase views of the water and access to the
36 water.

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39 Section 2. Section 23.60.012 of the Seattle Municipal Code, which Section was
40 adopted by Ordinance 113466, is amended as follows:
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42 **23.60.012 Liberal construction.**

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2 This chapter shall be exempted from the rule of strict construction, and it shall be
3 liberally construed to give full effect to the objectives and purposes of Chapter 90.58 RCW,
4 the State Shoreline Management Act (~~of 1971~~). This chapter shall not be used when
5 construing other chapters of this title (~~or Title 24~~) except for shoreline development or as
6 stated in Sections 23.60.014 and 23.60.022.
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9 **Section 3.** Section 23.60.016 of the Seattle Municipal Code, which Section was
10 adopted by Ordinance 113466, is amended as follows:
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12 **23.60.016 Inconsistent development prohibited.**
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14 No development shall be undertaken and no use shall be established in the Shoreline
15 District unless the Director has determined that it is consistent with the policy of the
16 Shoreline Management Act (~~of 1971~~) and the regulations of this chapter. This restriction
17 shall apply even if no substantial development permit is required.
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21 **Section 4.** Section 23.60.020 of the Seattle Municipal Code, which Section was last
22 amended by Ordinance 113764, is amended as follows:
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24 **23.60.020 Substantial development permit required.**
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26 A. No (~~substantial~~) development, except for those listed in subsection C below,
27 shall be undertaken in the Shoreline District without first obtaining a substantial
28 development permit from the Director. (~~A substantial development permit shall not be~~
29 ~~required where the Director determines that a development proposed on the shorelines is not~~
30 ~~a "substantial development" as defined in this chapter.~~) "Substantial development" means
31 any development of which the total cost or fair market value exceeds Two Thousand Five
32 Hundred Dollars (\$2,500.00) or any development which materially interferes with the
33 normal public use of the water or shorelines of the City.

34 B. Application and Interpretation of Exemptions.

35 1. Exemptions shall be construed narrowly. Only those developments
36 that meet the precise terms of one or more of the listed exemptions may be granted
37 exemption from the substantial development permit process.

38 2. An exemption from the substantial development permit process is not
39 an exemption from compliance with the Shoreline Management Act or provisions this
40 Chapter, nor from any other regulatory requirements. To be authorized, all uses and
41 developments must be consistent with the policies and provisions of the Seattle Shoreline
42 Master Program and the Shoreline Management Act. A development or use that is listed as

1 a conditional use pursuant to this Chapter or is an unlisted use, must obtain a conditional use
2 permit even though the development or use does not require a substantial development
3 permit. When a development or use is proposed that does not comply with the bulk,
4 dimensional and performance standards of this Chapter, such development or use can only
5 be authorized by approval of a variance.

6 3. The burden of proof that a development or use is exempt from the
7 permit process is on the applicant.

8 4. If any part of a proposed development is not eligible for exemption,
9 then a substantial development permit is required for the entire proposed development
10 project.

11 5. The Director may attach conditions to the approval of exempted
12 developments and/or uses as necessary to assure consistency of the project with the
13 Shoreline Management Act and this Chapter.

14 C. Exemptions. The following developments or activities shall not be
15 considered substantial development and are exempt from obtaining a substantial
16 development permit from the Director:

17 1. Normal maintenance or repair of existing structures or developments,
18 including damage by accident, fire or elements. Normal maintenance means those usual acts
19 to prevent a decline, lapse or cessation from a lawfully established state comparable to its
20 original condition, including but not limited to its size, shape, configuration, location, and
21 external appearance, within a reasonable period after decay or partial destruction, except
22 where repair causes substantial adverse effects to shoreline resources or environment.
23 Replacement of a structure or development may be authorized as repair where such
24 replacement is the common method of repair for the type of structure or development and
25 the replacement structure or development is comparable to the original structure or
26 development including but not limited to its size, shape, configuration, location and external
27 appearance and the replacement does not cause substantial adverse effects to shoreline
28 resources or environment.

29 2. Construction of the normal protective bulkhead common to single
30 family residences. A normal protective bulkhead means those structural and nonstructural
31 developments installed at or near, and parallel to, the ordinary high water mark for the sole
32 purpose of protecting an existing single family residence and appurtenant structures from
33 loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for
34 the purpose of creating dry land. When a vertical wall is being constructed or reconstructed,
35 not more than one cubic yard of fill per one foot of wall may be used as backfill. When an
36 existing bulkhead is being repaired by construction of a vertical wall fronting the existing
37 wall, it shall be constructed no further waterward of the existing bulkhead than is necessary
38 for construction of new footings. When a bulkhead has deteriorated such that an ordinary
39 high water mark has been established by the presence and action of water landward of the
40 bulkhead then the replacement bulkhead must be located at or near the actual ordinary high
41 water mark. Beach nourishment and bioengineered erosion control projects may be
42 considered a normal protective bulkhead when any structural elements are consistent with

1 the above requirements and when the project has been approved by the State Department of
2 Fish and Wildlife.

3 3. Emergency construction necessary to protect property from damage
4 by the elements. An emergency means an unanticipated and imminent threat to public
5 health, safety or the environment which requires immediate action within a time too short to
6 allow full compliance with this Chapter. Emergency construction does not include
7 development of new permanent protective structures where none previously existed. Where
8 new protective structures are deemed by the Director to be the appropriate means to address
9 the emergency situation, upon abatement of the emergency situation the new structure shall
10 be removed or any permit which would have been required, absent an emergency, pursuant
11 to Chapter 90.58 RCW or these regulations shall be obtained. All emergency construction
12 shall be consistent with the policies of Chapter 90.58 RCW and the Seattle Shoreline Master
13 Program. As a general matter, flooding or other seasonal events that can be anticipated and
14 may occur but that are not imminent are not an emergency;

15 4. Construction and practices normal or necessary for farming,
16 irrigation, and ranching activities, including agricultural service roads and utilities on
17 shorelands, and the construction and maintenance of irrigation structures including but not
18 limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of
19 any size, all processing plants, other activities of a commercial nature, alteration of the
20 contour of the shorelands by leveling or filling other than that which results from normal
21 cultivation, shall not be considered normal or necessary farming or ranching activities;

22 5. Construction or modification, by or under the authority of the Coast
23 Guard or a designated port management authority, of navigational aids such as channel
24 markers and anchor buoys;

25 6. Construction on shorelands by an owner, lessee or contract purchaser
26 of a single family residence, including those structures and developments within a
27 contiguous ownership which are a normal appurtenance, for his or her own use or for the use
28 of his or her family, which residence does not exceed a height of thirty-five feet (35') above
29 average grade level and which meets all requirements of the City other than requirements
30 imposed pursuant to this Chapter. A normal appurtenance is necessarily connected to the
31 use and enjoyment of a single family residence and is located landward of the ordinary high
32 water mark and the perimeter of a wetland. Normal appurtenances include, but are not
33 limited to, a garage, deck, driveway, utilities, fences, installation of a septic tank and
34 drainfield, and grading which does not exceed two hundred fifty (250) cubic yards and
35 which does not involve placement of fill in any wetland or waterward of the ordinary high
36 water mark;

37 7. Construction of a pier accessory to residential structures, including a
38 community pier, designed for pleasure craft only, for the private noncommercial use of the
39 owners, lessee or contract purchaser of a single family or multifamily residence. This
40 exception applies if either:

1 a. In salt waters, which include Puget Sound and all associated
2 bays and inlets, the fair market value of the pier accessory to residential structures does not
3 exceed two thousand five hundred dollars (\$2,500.00); or

4 b. In fresh waters, the fair market value of the pier accessory to
5 residential structures does not exceed ten thousand dollars (\$10,000.00), but if subsequent
6 construction having a fair market value exceeding two thousand five hundred (\$2,500.00)
7 occurs within five years of completion of the prior construction, the subsequent construction
8 shall be considered a substantial development for the purpose of this Chapter;

9 8. Operation, maintenance, or construction of canals, waterways, drains,
10 reservoirs, or other facilities that now exist or are hereafter created or developed as a part of
11 an irrigation system for the primary purpose of making use of system waters, including
12 return flow and artificially stored groundwater for the irrigation of lands;

13 9. The marking of property lines or corners on state-owned lands, when
14 such marking does not significantly interfere with normal public use of the surface of the
15 water;

16 10. Operation and maintenance of any system of dikes, ditches, drains, or
17 other facilities existing on June 4, 1975, which were created, developed or utilized primarily
18 as a part of an agricultural drainage or diking system;

19 11. Demolition of structures, except where the Director determines that
20 such demolition will have a major impact upon the character of the shoreline;

21 12. Any project with a certification from the Governor pursuant to
22 Chapter 80.50 RCW;

23 13. Site exploration and investigation activities that are prerequisite to
24 preparation of an application for development authorization under this Chapter, if:

25 a. The activity does not interfere with the normal public use of
26 the surface waters;

27 b. The activity will have no significant adverse impact on the
28 environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality,
29 and aesthetic values;

30 c. The activity does not involve the installation of any structure,
31 and upon completion of the activity the vegetation and land configuration of the site are
32 restored to conditions existing before the activity;

33 d. A private entity seeking development authorization under this
34 section first posts a performance bond or provides other evidence of financial responsibility
35 to the City of Seattle to ensure that the site will be restored to preexisting conditions; and

36 e. The activity is not subject to the permit requirements of RCW
37 90.58.550;

38 14. The process of removing or controlling aquatic noxious weeds, as
39 defined in RCW 17.26.020, and regulated in Section 23.60.210C of this Chapter.

40 15. Watershed restoration projects that implement a watershed restoration
41 plan. The City of Seattle shall review the projects for consistency with its Shoreline Master
42 Program in an expeditious manner and shall issue its decision along with any conditions

1 within forty-five (45) days of receiving from the applicant all materials necessary to review
2 the request for exemption. No fee may be charged for accepting and processing requests for
3 exemption for watershed restoration projects as used in this section;

4 16. A public or private project, the primary purpose of which is to
5 improve fish or wildlife habitat or fish passage, when all of the following apply:

6 a. The project has been approved in writing by the State
7 Department of Fish and Wildlife as necessary for the improvement of the habitat or passage
8 and appropriately designed and sited to accomplish the intended purpose;

9 b. The project has received hydraulic project approval by the
10 State Department of Fish and Wildlife pursuant to Chapter 75.20 RCW; and

11 c. The project is consistent with the City's Shoreline Master
12 Program. This determination shall be made in a timely manner and provided to the project
13 proponent in writing; and

14 17. Hazardous substance remedial actions. The procedural requirements
15 of Chapter 90.58 RCW shall not apply to a project for which a consent decree, order or
16 agreed order has been issued pursuant to Chapter 70.105D RCW or to the State Department
17 of Ecology when it conducts a remedial action under Chapter 70.105D RCW. The State
18 Department of Ecology shall, in conjunction with the City of Seattle, assure that such
19 projects comply with the substantive requirements of Chapter 90.58 RCW and the Seattle
20 Shoreline Master Program.

21 ~~((B))~~D. Developments proposed in the Shoreline District may require permits from
22 other governmental agencies.

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25 **Section 5.** Section 23.60.030 of the Seattle Municipal Code, which Section was
26 adopted by Ordinance 113466, is amended as follows:

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28 **23.60.030 Criteria for substantial development permits.**

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30 **A.** A substantial development permit shall be ~~((issued))~~ granted only when the
31 development proposed is consistent with:

32 ~~((A))~~1. The policies and procedures of Chapter 90.58 RCW;

33 ~~((B))~~2. The regulations of this ~~((e))~~ Chapter; and

34 ~~((C))~~3. The provisions of Chapter 173-~~((14))~~27 WAC.

35 **B.** Conditions may be attached to the approval of a permit as necessary to assure
36 consistency of the proposed development with the Seattle Shoreline Master Program and the
37 Shoreline Management Act.

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40 **Section 6.** Section 23.60.034 of the Seattle Municipal Code, which Section was
41 adopted by Ordinance 113466, is amended as follows:

~~b. Terminate the permit.~~

~~3.~~

Pursuant to WAC 173-27-090, the following time requirements shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized under this Chapter.

A. Upon finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of WAC 173-27 and this Chapter, the Director may adopt different time limits from those set forth in subsection B below as part of the decision on a shoreline substantial development permit. The Director may also, with approval from DOE, adopt appropriate time limits as part of the decision on a shoreline conditional use or shoreline variance. "Good cause, based on the requirements and circumstances of the project," shall mean that the time limits established are reasonably related to the time actually necessary to perform the development on the ground and complete the project that is being permitted, and/or are necessary for the protection of shoreline resources.

B. Where the Director did not adopt different time limits on a permit decision, the following time limits shall apply:

1. Construction activities or substantial progress toward construction of a project or, where no construction activities are involved, the use or activity for which a permit has been granted pursuant to this Chapter shall be commenced within two (2) years of the effective date of a substantial development permit or the permit shall terminate. The Director may authorize a single extension of the two (2) year period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record on the substantial development permit and to DOE.

2. If a project for which permit has been granted pursuant to this Chapter has not been completed within five (5) years after the effective date of the substantial development permit, authorization to conduct construction activities shall expire unless the Director authorizes a single extension based on reasonable factors, for a period not to exceed one (1) year, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and to DOE.

3. The effective date of a substantial development permit shall be the date of filing as provided in RCW 90.58.140(6). The time periods in subsections A and B of this Section do not include the time during which a project, use or activity was not actually pursued due to the pendency of administrative appeals or legal actions or due to the need to obtain other government permits and approvals for the project, use or activity that authorize it to proceed, including all reasonably related administrative or legal actions on any such permits or approval.

4. The Plan Shoreline Permit shall be valid for a period of five (5) years or as otherwise permitted by WAC 173-((14-069))27-090. Project-specific shoreline permits must be applied for within that period to be considered pursuant to the determination made

1 under the Plan Shoreline Permit. Development under project-specific permits shall conform
2 to the time limits outlined in subsections A and B.
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5 **Section 16.** Subsections A, C, D, and E of Section 23.60.076 of the Seattle
6 Municipal Code, which Section was last amended by Ordinance 117789, is amended as
7 follows:
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9 **23.60.076 Revisions to permits.**
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11 When an applicant seeks to revise a permit, the Director shall request from the
12 applicant detailed plans and text describing the proposed changes in the permit.
13

14 A. If the Director determines that the proposed changes are within the scope and
15 intent of the original permit as defined in WAC 173-~~((14-064(2)))~~27-100(2), as now
16 constituted or hereafter amended, the Director shall approve the revision. Within eight (8)
17 days of the date of approval, the approved revision, along with copies of the revised site plan
18 and text, shall be submitted by certified mail to DOE, ~~((the Attorney General,))~~ and copies
19 provided to parties of record and to persons who have previously notified the Director of
20 their desire to receive notice of decision on the original application.
21

22 * * *

23
24 C. If the revision to the original permit involves a conditional use or variance,
25 either of which was conditioned by DOE, the Director shall submit the revision to DOE for
26 DOE's approval, approval with conditions or denial, indicating that the revision is being
27 submitted under the requirements of WAC 173-~~((14-064(5)))~~27-100(6). DOE shall transmit
28 to the City and the applicant its final decision within fifteen (15) days of the date of DOE
29 receipt of the submittal by the Director, who shall notify parties of record of DOE's final
30 decision.
31

32 D. The revised permit is effective immediately upon final action by the Director,
33 or when appropriate under WAC 173-~~((14-064(5)))~~27-100(6), by DOE.

34 E. Appeals shall be in accordance with RCW 90.58.180 and shall be filed with
35 the Shoreline Hearings Board within twenty-one (21) days from date of DOE's receipt of the
36 revision approved by the Director, or when appropriate under WAC 173-~~((14-064(5)))~~27-
37 100(6), the date DOE's final decision is transmitted to the City and the applicant. Appeals
38 shall be based only upon contentions of noncompliance with the provisions of WAC 173-
39 ~~((14-064(2)))~~27-100(2). Construction undertaken pursuant to that portion of a revised
40 permit not authorized under the original permit is a the applicant's own risk until the
41 expiration of the appeals deadline. If an appeal is successful in proving that a revision is not
within the scope and intent of the original permit, the decision shall have no bearing on the

1 original permit. The party seeking review shall have the burden of proving the revision was
2 not within the scope and intent of the original permit.
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5 **Section 17.** Subsection D of Section 23.60.122 of the Seattle Municipal Code,
6 which Section was adopted by Ordinance 113466, is amended as follows:
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8 **23.60.122 Nonconforming uses.**
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10 * * *

11
12 D. The change of one (1) nonconforming use to another use not permitted in the
13 shoreline environment may be authorized as a conditional use by the Director with the
14 concurrence of the Department of Ecology if the Director determines that the new use is no
15 more detrimental to the property in the shoreline environment and vicinity than the existing
16 use and the existing development is unsuited for a use permitted in the environment, and if
17 the criteria for conditional uses in WAC 173-~~((14-140))~~27-160 are satisfied. The new use
18 shall retain its nonconforming use status for the purposes of subsections A through C above.
19

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23 **Section 18.** Subsection A of Section 23.60.156 of the Seattle Municipal Code,
24 which Section was last amended by Ordinance 117571, is amended as follows:
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26 **23.60.156 Parking requirements.**
27

28 A. Required parking spaces and loading berths shall be provided for uses in the
29 Shoreline District as specified ~~((by))~~ in Chapter 23.54 ~~((or Title 24))~~ except that the
30 requirements may be waived or modified at the discretion of the Director: (1) if alternative
31 means of transportation will meet the parking demand of the proposed development in lieu
32 of such off-street parking and loading requirements, or (2) if parking to serve the proposed
33 uses is available within eight hundred feet (800') of the proposed development and if
34 pedestrian facilities are provided. Waivers shall not be granted if they encourage the use of
35 scarce, on-street parking in the neighborhood surrounding the development.
36

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40 **Section 19.** Subsection A of Section 23.60.196 of the Seattle Municipal Code,
41 which Section was last amended by Ordinance 118409, is amended as follows:
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1 **23.60.196 Floating homes.**
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4 A. General Standards.

5 1. Floating home moorages shall comply with (~~Chapter 58, Houseboats,~~
6 of) the Seattle Building Code (~~Supplement~~) adopted by Chapter 22.100 of the Seattle
7 Municipal Code, and the requirements of this chapter.

8 2. Moorage Location.

9 a. Except as provided below, every floating home moorage shall
10 be located on privately owned or privately controlled premises. No floating home shall be
11 located in any waterway or fairway or in the public waters of any street or street end.

12 b. Floating homes and floating home moorages which were
13 located in the public waters or any street or street end on January 1, 1974, or on property
14 later dedicated to the City for street purposes, and which have continuously remained in such
15 locations, comply with all other provisions of this chapter and are authorized by a use and
16 occupancy permit approved by (~~F~~)the (~~City~~) Director of Seattle (~~Engineering~~
17 Department) Transportation shall be permitted; provided that when any such floating home
18 so located and permitted to use such public waters is moved from its existing site the public
19 waters shall not be reoccupied.

20 c. Floating homes and floating home moorages located in
21 Portage Bay in a submerged street segment lying generally parallel to the shoreline that
22 terminates on the north and on the south in a submerged street area when the same person
23 owns or leases the property abutting on both sides thereof shall be permitted.

24 d. Floating homes are permitted when located at an existing
25 floating home moorage and located partially on private property and partially in submerged
26 portions of Fairview Avenue East lying generally parallel to the shoreline, when the
27 occupant of the floating home owns or leases the private portion of the moorage site and has
28 obtained a long-term permit from City Council to occupy the abutting street area.

29 3. Views. Floating homes shall not be located or relocated in such a
30 manner as to block the view corridor from the end of a dock or walkway. In the location and
31 the design of remodeled floating homes, views of the water for moorage tenants and the
32 public shall be preserved.

33 4. Existing Floating Homes. An existing floating home, for the purposes
34 of this section, shall be one assigned a King County Assessor's (KCA) number and
35 established by that number as existing at an established moorage in Lake Union or Portage
36 Bay as of the effective date of the ordinance codified in this chapter. 1

37 5. Relocation. Two (2) floating homes may exchange moorage sites,
38 either within a moorage or between moorages, if:

39 a. Both floating homes are the same height or the relocation will
40 not result in a floating home, which is over eighteen feet (18') in height and higher than the
41 floating home being replaced, being located seaward of floating homes which are eighteen
42 feet (18') or less in height, provided that no floating home greater than eighteen feet (18') in

1 height shall be relocated to a nonconforming floating home moorage except to replace a
2 floating home of equal or greater height;

3 b. The minimum distance between adjacent floating home walls
4 and between any floating home wall and any floating home site line will meet the
5 requirements of the applicable moorage standards in subsections B or C of this section
6 below unless reduced for existing floating homes by the Director; and

7 c. The requirements of Chapter 7.20 of the Seattle Municipal
8 Code, Floating Home Moorages, have been met.

9 6. Moorage Plan. Any proposal to replace, remodel, rebuild, or relocate
10 a floating home, or expand a floating home moorage, shall be accompanied by an accurate,
11 fully dimensioned moorage site plan, at a scale of not less than one inch equals twenty feet
12 (1" = 20'), unless such plan is already on file with the Department. When the proposal is to
13 expand a moorage, the plan shall designate individual moorage sites for the entire moorage.
14

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18 **Section 20.** Section 23.60.210 of the Seattle Municipal Code, which Section was
19 adopted by Ordinance 113466, is amended as follows:
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21 **23.60.210 Aquatic noxious weed control.**
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23 The process of removing or controlling aquatic noxious weeds, as defined in RCW
24 17.26.020, may be accomplished through the following practices:

25 A. ~~((The control of aquatic weeds b))~~By hand-pulling, mechanical harvesting, or
26 placement of aquascreens if proposed to maintain existing water depth for navigation, which
27 shall be considered normal maintenance and repair and therefore exempt from the
28 requirement to obtain a shoreline substantial development permit((-)); or

29 B. ~~((The control of aquatic weeds b))~~By derooting, rotovating or other method
30 which disturbs the bottom sediment or benthos, which shall be considered development for
31 which a substantial development permit is required, unless proposed to maintain existing
32 water depth for navigation in an area covered by a previous permit for such activity, in
33 which case it shall be considered normal maintenance and repair and therefore exempt from
34 the requirement to obtain a substantial development permit((-); or

35 C. ~~((The use of herbicide or other chemicals to control aquatic weeds shall be~~
36 ~~prohibited.))~~ Through the use of herbicides or other treatment methods applicable to the
37 control of aquatic noxious weeds that are recommended in a final environmental impact
38 statement published by the State Department of Agriculture or the State Department of
39 Ecology jointly with other state agencies under Chapter 43.21 RCW, and subject to approval
40 from the State Department of Ecology. The approved permit from the Department of
41 Ecology shall specify the type of chemical(s) to be used and document that chemical

1 treatment for the control of aquatic noxious weeds shall be applied by a person or entity
2 licensed by the Department of Agriculture.
3
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5

6 **Section 21.** The introduction to Section 23.60.244 of the Seattle Municipal Code,
7 which Section was adopted by Ordinance 113466, is amended as follows:
8

9 **23.60.244 Conditional uses in the CN Environment.**

10
11 The following uses may be authorized in the CN Environment by the Director, with
12 the concurrence of the Department of Ecology, as principal or accessory uses if the criteria
13 for conditional uses of WAC 173-~~((14-140))~~27-160 are satisfied:
14

15 * * *

16
17
18 **Section 22.** The introduction of Section 23.60.304 of the Seattle Municipal Code,
19 which Section was adopted by Ordinance 113466, is amended as follows:
20

21 **23.60.304 Conditional uses in the CP Environment.**

22
23 The following uses may be authorized in the CP Environment by the Director, with
24 the concurrence of the Department of Ecology, as either principal or accessory uses if the
25 criteria for conditional uses of WAC 173-~~((14-140))~~27-160 are satisfied((:));
26

27 * * *

28
29
30 **Section 23.** The introduction of Section 23.60.365 of the Seattle Municipal Code,
31 which Section was adopted by Ordinance 116325, is amended as follows:
32

33
34 **23.60.365 Administrative Conditional Uses in the CR Environment.**

35
36 The following use may be authorized by the Director, with the concurrence of the
37 Department of Ecology, as principal or accessory use, if the criteria for administrative
38 conditional uses in WAC 173-~~((14-140))~~27-160 are satisfied:
39

40 * * *

Section 27. The introduction of Section 23.60.486 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.486 Conditional uses in the CW Environment.

The following uses may be authorized in the CW Environment by the Director with the concurrence of the Department of Ecology as principal or accessory uses if the criteria for conditional uses in WAC 173-~~((14-140))~~27-160 are satisfied:

Section 28. Section 23.60.540 of the Seattle Municipal Code, as adopted by Ordinance 113466, is amended as follows:

23.60.540 Uses permitted outright on waterfront lots in the UR Environment.

The following uses shall be permitted outright on waterfront lots in the Urban Residential Environment as either principal or accessory uses:

- A. The following residential uses:
 - 1. Floating home moorage in Lake Union or Portage Bay,
 - 2. Single((-) family and multi((-))family residences, and
 - 3. ~~((Special))~~ Congregate residences and nursing homes;
- B. Streets;
- C. Bridges;
- D. Railroads;
- E. The following utilities:
 - 1. Utility lines, and
 - 2. Utility service uses whose operations require a shoreline location; and
- F. Shoreline recreation uses.

Section 29. Subsection B of Section 23.60.574 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.574 Lot coverage in the UR Environment.

- 1 (1) Medical services,
- 2 (2) Animal services,
- 3 (3) Automotive retail sales and service,
- 4 (4) Parking, principal use,
- 5 (5) Lodging,
- 6 (6) Mortuary services,
- 7 (7) Nonhousehold sales and service,
- 8 (8) Wholesale showroom, miniwarehouse, warehouse and
9 outdoor storage uses, non-water-dependent,
- 10 (9) Research and development laboratories, and
- 11 (10) Ground-level offices in the Lake Union area;
- 12 c. Recycling collection stations;
- 13 d. Light and general manufacturing uses;
- 14 e. Institutional uses; and
- 15 f. Public facilities.

16
17 * * *

18
19
20 **Section 32.** Section 23.60.664 of the Seattle Municipal Code, which Section was
21 last amended by Ordinance 116907, is amended as follows:

22
23 **23.60.664 Conditional uses permitted on waterfront lots in the UH Environment.**

24
25 A. The following uses may be authorized over water or on dry-land portions of
26 waterfront lots in the UH Environment by the Director, with the concurrence of the
27 Department of Ecology, as either principal or accessory uses if the criteria for conditional
28 uses in WAC 173-((14-140))27-160 are satisfied:

- 29 1. The following commercial uses:
 - 30 a. Outdoor storage, water-related or water-dependent,
 - 31 b. Warehouses, water-related or water-dependent,
 - 32 c. Wholesale showrooms, and
 - 33 d. Research and development laboratories, non-water-dependent;
- 34 2. Non-water-dependent commercial uses on historic ships:
 - 35 a. The following uses may be permitted on an historic ship when
36 meeting the criteria in subsection C2 below:
 - 37 i. Sale of boat parts or accessories,
 - 38 ii. Personal and household retail sales and services,
 - 39 iii. Eating and drinking establishments;
 - 40 b. i. The ship is designated as historic by the Landmarks
41 Preservation Board or listed on the National Register of Historic Places,

Section 35. Subsections C and D of Section 23.60.730 of the Seattle Municipal Code, which Section was last amended by Ordinance 116907, is amended as follows:

23.60.730 Permitted uses on upland lots in the UM Environment.

C. Uses Permitted as Conditional Uses. The following uses may be authorized by the Director, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-~~((14-140))27-160~~ are satisfied:

1. Offices within the Lake Union area;
2. In structures designated as Landmarks, pursuant to Chapter 25.12, Historic Preservation, when the structure is not located over water, the following uses:
 - a. Non-water-dependent institutional uses,
 - b. Residential uses;
3. In structures designated as Landmarks, pursuant to Chapter 25.12, Historic Preservation, when the structure is located over water, the following uses:
 - a. Uses otherwise permitted outright on upland lots in the UM environment as specified in subsection A of Section 23.60.730,
 - b. Offices within the Lake Union area,
 - c. Non-water-dependent institutional uses,
 - d. Residential uses,
 - e. Parking accessory to uses located within the landmark structure.

D. Uses Permitted as Council Conditional Uses. The following uses may be authorized by the City Council, with the concurrence of the Department of Ecology, as either principal or accessory uses, if the criteria for conditional uses in WAC 173-~~((14-140))27-160~~ are satisfied:

1. Helistops and heliports when the following additional criteria are met:
 - a. The helistop or heliport is for takeoff and landing of helicopters which serve a public safety, news gathering, or emergency medical care function and, in the case of heliports, services provided for those helicopters; is part of an approved transportation plan and is a public facility; or is part of an approved transportation plan and is located at least two thousand feet (2,000') from a residential zone;
 - b. The helistop or heliport is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and particularly on residentially zoned lots, public parks, and other areas where substantial public gatherings may be held;

1
2 **23.60.912 "F."**
3

4 "Fair market value" of a development means the open market bid price for
5 conducting the work, using the equipment and facilities, and purchase of the goods, services
6 and materials necessary to accomplish the development. This would normally equate to the
7 cost of hiring a contractor to undertake the development from start to finish, including the
8 cost of labor, materials, equipment and facility usage, transportation, and contractor
9 overhead and profit. The fair market value of the development shall include the fair market
10 value of any donated, contributed or found labor, equipment or materials.
11

12 * * *

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14
15 **Section 41.** Section 23.60.932 of the Seattle Municipal Code, which Section was
16 adopted by Ordinance 113466, amends the following definition:
17

18 **23.60.932 "P."**
19

20 * * *

21
22 "Pier, accessory to residential structures" means a structure for swimming or for
23 landing and open wet moorage of watercraft ((or swimming)) accessory to single((-) family
24 or multi((-)family residential structures.
25

26 * * *

27
28
29 **Section 42.** Section 23.60.934 of the Seattle Municipal Code, which Section was
30 adopted by Ordinance 113466, is amended to amend one definition as follows:
31

32 **23.60.934 "R."**
33

34 * * *

35
36 "Residential use" means the following uses as defined in Chapter 23.84, Definitions:
37 -- Artist's studio/dwelling;
38 -- Boarding house;
39 -- Caretaker's quarters;
40 -- Floating home;
41 -- Mobile home park;
42 -- Multi((-)family structure;

- Single((-) family dwelling unit;
- ((Special)) Congregate residence.

* * *

Section 43. Section 23.60.936 of the Seattle Municipal Code, which Section was last amended by Ordinance 117789, is amended to amend two definitions as follows:

23.60.936 "S."

* * *

"Shoreline Master Program" means the comprehensive use plan for the shorelines of the ((C))city which consists of the ((general statement of shoreline goals and policies in Resolution 25173, the Implementation Guidelines in Resolution 25618,)) Shoreline Goals and Policies of the Seattle Comprehensive Plan and the specific regulations of this ((e))Chapter.

* * *

"Substantial development" means any development of which the total cost or fair market value exceeds Two Thousand Five Hundred Dollars (\$2,500.00), except as otherwise provided in subsection 23.60.020C7b, or any development which materially interferes with the normal public use of the water or shorelines of the City, ((-except that the following shall not be considered substantial developments for the purposes of this subtitle:

- A. ~~Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;~~
- B. ~~Construction of the normal protective bulkhead common to single-family residences;~~
- C. ~~Emergency construction necessary to protect property from damage by the elements;~~
- D. ~~Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A "feedlot" shall be an enclosure, or facility used or capable of being used for feeding livestock hay, grain, silage or other livestock feed, but shall not include land for growing crops or~~

1 ~~vegetation for livestock feeding and/or grazing, nor shall it include normal livestock~~
2 ~~wintering operations;~~

3 ~~E. Construction or modification of navigational aids such as channel~~
4 ~~markers and anchor buoys;~~

5 ~~F. Construction on shorelands by an owner, lessee or contract purchaser~~
6 ~~of a single family residence for his own use or for the use of his family, which residence~~
7 ~~does not exceed a height of thirty five feet (35') above average grade level and which meets~~
8 ~~all requirements of the City other than requirements imposed pursuant to this title;~~

9 ~~G. Construction of a dock designed for pleasure craft only, for the private~~
10 ~~noncommercial use of the owner, lessee or contract purchaser of a single family residence,~~
11 ~~the cost of which does not exceed Two Thousand Five Hundred Dollars (\$2,500.00);~~

12 ~~H. Operation, maintenance, or construction of canals, waterways, drains,~~
13 ~~reservoirs, or other facilities that now exist or are hereafter created or developed as a part of~~
14 ~~an irrigation system for the primary purpose of making use of system waters, including~~
15 ~~return flow and artificially stored groundwater for the irrigation of lands;~~

16 ~~I. The marking of property lines or corners on state owned lands, when~~
17 ~~such marking does not significantly interfere with normal public use of the surface of the~~
18 ~~water;~~

19 ~~J. Operation and maintenance of any system of dikes, ditches, drains, or~~
20 ~~other facilities existing on the effective date of Chapter 182, Laws of Washington 1975 (1st~~
21 ~~Ex. Session) which were created, developed or utilized primarily as a part of an agricultural~~
22 ~~drainage or diking system;~~

23 ~~K. Demolition of structures, except where the Director determines that~~
24 ~~such demolition will have a major impact upon the character of the shoreline.))~~

25
26 * * *

27
28
29 **Section 44.** Section 23.60.940 of the Seattle Municipal Code, which Section was
30 adopted Ordinance 113466, is amended to add the following definition in alphabetical order
31 as follows:

32
33
34 **23.60.940 "U"**

35
36 * * *

37
38 "Utility extension, limited" means the extension of a utility service that: (a) is
39 categorically exempt under Chapter 43.21C RCW for one or more of the following: natural
40 gas, electricity, telephone, water, or sewer; (b) will serve an existing use in compliance with
41 this Chapter; and (c) will not extend more than two thousand five hundred (2,500) linear feet
42 within the shoreline areas subject to this Chapter.

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Section 45. Section 23.60.944 of the Seattle Municipal Code, which Section was last amended by Ordinance 117789, is amended to add two definitions and amend one definition as follows:

23.60.944 "W."

* * *

"Watershed restoration plan" means a plan developed or sponsored by the State Department of Fish and Wildlife, the State Department of Ecology, the State Department of Natural Resources, the State Department of Transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to Chapter 43.21 RCW, the State Environmental Policy Act.

"Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or part of the plan and consists of one or more of the following activities:

A. A project that involves less than ten (10) miles of streamreach, in which less than twenty-five (25) cubic yards of sand, gravel or soil is removed, imported, disturbed, or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

B. A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

C. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.

* * *

1 "Wetlands" means those areas that are inundated or saturated by surface water or
2 ground water at a frequency and duration sufficient to support, and that under normal
3 circumstances do support, a prevalence of vegetation typically adapted for life in saturated
4 soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
5 Wetlands do not include those artificial wetlands intentionally created from non-wetland
6 sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals,
7 detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or
8 those wetlands created after July 1, 1990, that were unintentionally created as a result of the
9 construction of a road, street, or highway. Wetlands may include those artificial wetlands
10 intentionally created from non-wetland areas to mitigate the conversion of wetlands. (The
11 method for delineating wetlands shall follow the ~~((1989 Federal Manual for Delineating
12 Jurisdictional Wetlands until the Washington State Department of Ecology adopts a new
13 manual for the delineation of wetlands in conformance with Section 11 of Chapter 382 of the
14 Laws of 1995, in which case the methods for delineating wetlands shall follow such manual;
15 however, if prior to that time the King County Countywide Planning Policies are amended to
16 allow use of the 1987 U.S. Corps of Engineers Wetlands Delineation Manual in conjunction
17 with the U.S. Corps of Engineers Washington Regional Guidance on the 1987 Wetland
18 Delineation Manual, the method for delineating wetlands shall follow such manuals of the
19 Corps of Engineers until the Department of Ecology's manual is adopted)) most current
20 version of the "Washington State Wetlands Identification and Delineation Manual" as
21 adopted by the State Department of Ecology.)~~

22 * * *

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27 **Section 46.** Section 23.60.950 of the Seattle Municipal Code, which Section was
28 adopted by Ordinance 113466, is amended as follows:

29
30 **SMC 23.60.950 Measurements in the Shoreline District.**

31
32 Measurements of height, view corridors, lot coverage, and other shoreline
33 requirements in the Shoreline District shall be as described in this subchapter. These
34 measurement regulations supplement other regulations of this title ~~((and Title 24))~~ as
35 described in Section 23.60.014. When a development is partly within and partly without the
36 Shoreline District, measurement techniques for that portion of the development outside of
37 the Shoreline District shall be as required in the underlying zoning.
38
39

1 **Section 47.** Section 23.60.952 of the Seattle Municipal Code, which Section was
2 adopted by Ordinance 113466, is amended as follows:
3

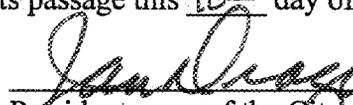
4 **23.60.952 Height.**
5

6 Height of structures shall be determined by measuring from the average grade of the
7 lot immediately prior to the proposed development to the highest point of the structure not
8 otherwise excepted from the height limits. Calculation of the average grade level shall be
9 made by averaging the elevations at the center of all exterior walls of the proposed building
10 or structure. In the case of structures to be built over water, average grade level shall be the
11 elevation of ordinary high water, except in the Urban Harborfront, as provided in Section
12 23.60.~~(3)~~666.
13
14

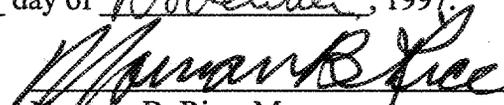
15 **Section 48.** The provisions of this ordinance are declared to be separate and
16 severable. The invalidity of any particular provision shall not affect the validity of any other
17 provision.
18

19
20 **Section 49.** This ordinance shall take effect and be in force on whichever is the later
21 of: the effective date of approval and adoption by the Department of Ecology; or thirty (30)
22 days from and after its approval by the Mayor, but if not approved and returned by the
23 Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal
24 Code Section 1.04.020.
25

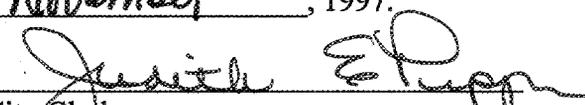
26 Passed by the City Council the 10th day of November, 1997, and signed by me
27 in open session in authentication of its passage this 10th day of November,
28 1997.

29 
30 _____
31 President of the City Council

32 Approved by me this 21 day of November, 1997.

33 
34 _____
35 Norman B. Rice, Mayor
36

37 Filed by me this 21 day of November, 1997.

38 
39 _____
40 City Clerk
41

42 (SEAL)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

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CITY CLERK

January 16, 1998

CERTIFIED MAIL

Rick Krochalis, Director
Seattle Department of Construction and Land Use
710 - 2nd Avenue, Ste. 700
Seattle, WA 98104-1703

Dear Mr. Krochalis:

Re: Shoreline Master Program Amendment
Ordinance 118793

It is my pleasure to inform you that the Department of Ecology (department) has approved the City of Seattle's Shoreline Master Program amendment as submitted. The amendment has been determined to be consistent with chapter 90.58 RCW and its implementing regulations. The amendment is effective as of the date of this letter.

As a reminder, please be advised that you are required to give public notice as stated in WAC 173-26-120. Public notice will initiate the appeal period which lasts sixty days. Easily incorporated amended text and maps are also required to be forwarded to Ecology. Should you have any questions please contact Bob Fritzen at (206) 649-7274. Thank you.

Sincerely,

Tom Fitzsimmons
Director - Department of Ecology

RF:rf
Enclosure

cc: Task Force/Interested Parties
Ken Davis - City of Seattle

From: Ken Davis
To: Celeste Zehr
Date: 1/29/98 10:22am
Subject: City Shoreline Ordinance #118793 approved by State

I received State approval of city shoreline ordinance #118793 last week, effective January 16, 1998. I'll send you and the Clerk's Office a copy of Ecology's approval letter for your files. Please send this ordinance on to Book Publishing for codification into the LUC.

Thanks!

This should be the only shoreline ordinance you're holding. Is that correct?

CC: Margaret Carter

Decision Agenda for BECD Committee
Consideration of DCLU Omnibus Legislation
Tuesday, November 4, 1997

9:30 am

DRAGO, PODLADOWSKI, ROBELER

- ✓ 1. (Item #2 in the staff memorandum) Should the rezone threshold criteria be retained, that permit consideration of zones already having a certain zone designation to be considered for that zone designation.

Committee Decision:

OK
AMEND

3-0

STAFF REC

- ✓ 2. (Item #4 in staff memorandum) Should access to parking in multi-family structures across an alley from a single-family zone be permitted from the alley?

Committee Decision:

↓

(3-0)

3. (Item #5 from staff memorandum) Should the staff recommended consent amendments be approved?

Committee Decision:

YES

(3-0)

4. Action on CB 111909 (Shoreline Program Omnibus amendments Ordinance)

Committee Decision:

(3-0)

5. Action on CB 111910 (Land Use Code, SEPA, Critical Areas Ordinance Omnibus amendments Ordinance)

Committee Decision:

(3-0)



**Legislative Department
Seattle City Council
Memorandum**

Date: October 22, 1997

To: Jan Drago, Chair and Members
BECD Committee

From: - *Bob*
Bob Morgan, Central Staff

Subject: Omnibus Ordinances, CB 111909 and CB 111910

In March of 1996 the City Council directed DCLU to establish an ongoing process for code maintenance and consideration of regulatory reform measures. That process includes twice annually submitting omnibus code amendment ordinances that include both housekeeping amendments, such as corrections of typographical errors, incorrect cross-references and text clarification, and amendments that are sufficiently minor as to not warrant a separate process, or are necessary to comply with state law.

I have reviewed, section by section, council bills 111909 and 111910 proposed by DCLU that would amend the Land Use, SEPA, Critical Areas, and Shorelines ordinances and present information and recommendations below. I have divided the information in this memo into two sections.

Section I below, "Issues" includes discussions of the more significant issues (including issues about which Councilmembers have asked for additional information), and "consent" changes to the proposed ordinance on which Council and Executive staff concur.

Section II below is information about all those provisions in the ordinances that have some, even minor, substantive effect. All changes to the proposed ordinances that are referred to in Section II are covered by the actions discussed in Section I.

Section I: Issues

(Section numbers refer to sections in CB 111910, except in the discussion of consent amendments to CB 111909, at the end of this Section I.)

1. Provision for Unit Subdivisions (Sections 6, 23, and 55)

These provisions permit the subdivision of a lot on which townhouses, cottage housing, clustered housing or, in lowrise zones, single family residences are constructed. The purpose is to allow sale of the land with each unit separately in such a development.

The amendments have been written so that their sole effect will be to permit the separate sale of the land under individual units.

The code amendments would not allow the construction of these types of housing in any zone where it is not already permitted. Nor would the amendments change the number of units that may be constructed on a given lot, the setback limitations, lot coverage limits, height, or any other development standard currently applied to the parent lot. Future redevelopment of the individual unit lots still would have to comply with regulations that apply to the parent lot.

The provision may make it more desirable to build the housing types affected in the zones in which they are allowed. This might have the effect of lowering number of units constructed in the higher density multi-family zones if these types of housing are constructed instead of apartments, or perhaps increasing the number of units constructed in townhouse zones, or small lot zones, if townhouses or cottage housing become more desirable relative to single-family dwellings in these zones.

Staff Recommendation: Council and Executive staff recommend, in the consent amendments, a clarification that reinforces the intent that any future development must meet the development standards of the parent lot.

2. Rezone Criteria Amendments: (Sections 8 - 13)

The term "area" is currently used in the rezone criteria to refer variously to the property to be rezoned, the immediate area in which the property to be rezoned is located, and a more extensive surrounding area, depending on which criterion one is reading.

The proposed changes would use the term "properties" when referring to the land proposed to be rezoned itself, and "area" to refer to the areas in which the properties are located, in order to be less ambiguous.

These changes are intended to make clear what is already the interpretation of the criteria used in rezone evaluations. They would not change the effect of the rezone criteria, with one exception discussed below. For instance, staff would not expect the outcome of the Svetich rezone to be different as a result of this change.

Mr. Don Svetich commented on the proposed amendments at the Council's public hearing. It should be noted that council and executive staff do not concur with Mr. Svetich's interpretation of the intent of the proposed amendments, or his suggested revisions. The L3 rezone criteria require that a property be located in an area which is developed predominantly to the permitted density and where the L3 scale is well established to meet the threshold criteria, not as Mr. Svetich suggests that a property proposed for rezone be developed to L3 density and scale. This is the existing interpretation of the rezone criteria, and the interpretation that the proposed amendments are meant to clarify.

One part of the change as drafted would have a substantive effect upon rezone evaluations. The change is to the criteria for the L3, L4, Midrise, and Highrise zones, that define minimum, threshold, standards that properties must meet to be considered for each designation. (Additional criteria are then able to be reviewed.) The first threshold criterion for each of these zones today allows properties already having the zone designation to be considered, even if they are neither in an urban village, nor in an area already developed to the scale of the zone. The reason for this criterion is to carry out a Comprehensive Plan policy to permit properties having zone designations intended for urban village zones to retain their existing designation even if they are outside of a village.

The change to the threshold criteria was proposed by Law Department because the criteria in question do not appear to be necessary, unless one is aware of the fairly obscure reason explained in the paragraph above.

Staff Recommendation: Restore the threshold criteria. Approve other amendments as proposed.

While it may be desirable to require the rezone of properties that do not fit other locational criteria for their current zone designation, this is contrary to a Comprehensive Plan policy, and would constitute a substantive change that has not been effectively publicized.

3. Change to Permit Extension of Eaves 18" into Side Yards (Section 16)

This change would allow eaves to extend 18" into required side yards in single-family zones. Other external architectural details such as chimneys, cornices, and columns are already permitted to protrude into side yards. Existing code language could be interpreted as permitting this as an "architectural feature;" the amendment makes it clear.

At Councilmember Pageler's request, the fire department has been consulted about this change. Russel Byrd of the Fire Department indicates that SFD is comfortable with the requirements of the Building Code. This provision is within the limitations of the building code (which prohibits protrusions within two feet of a property line).

Staff Recommendation: Approve the amendment as proposed.

4. Permitting Parking Access to Multi-family Structures Via Alleys Adjacent to Single-family zones. (Section 27)

The proposed amendment would allow access to multi-family structures via alleys adjacent to single-family zones. Today, access is required from the street side, if a multi-family structure abuts a single-family zone across an alley.

The amendment is proposed to make the multi-family zone provisions consistent with those of the Commercial zones where parking access is permitted via alleys. The further intent is to limit the number of curb cuts on the street side of structures to improve the pedestrian environment. The proposed change requires a trade-off between street pedestrian environment, and the impacts of traffic on adjacent single-family zones.

Under current regulations, a departure from the prohibition of alley access to parking is possible, but not guaranteed through the design review process.

Options include:

- a) The proposed amendment that would make multi-family zones consistent with the provisions of commercial zones, by permitting access to parking from the alley even when adjacent to a single-family zone;
- b) Retaining the status quo - requiring access to multi-family structure parking from the street, when the alley abuts a single-family zone, permitting exceptions through the design review process; and

- c) Amending the commercial zone code to be consistent with the current multi-family code revisions, prohibiting alley access, except through the Design Review process.

Staff Recommendation: Option b, retain existing requirements. In my weighing of the tradeoff between impacts of traffic on adjacent single-family zones and promoting a pedestrian friendly street front, I prefer the former. The design review process allows for exceptions where circumstances would warrant access via the alley.

One might just as easily weigh pedestrian street character more highly, and prefer option a., the amendment as proposed.

I believe it is more important to maintain an environment friendly to pedestrians in commercial zones, than in multi-family zones, and so do not recommend option c.

5. Consent Amendments.

Council and executive staff recommend a number of minor changes to the amendments that were submitted in the omnibus council bills: CB 111910 and 111909. The amendments include the following:

CB 111910 (Land Use, SEPA, ECAs):

- a) Language that ensures that what gets recorded on the plat for a unit subdivided lot indicates that it is not a separate buildable lot (Section 6);
- b) Correction of an incorrect usage of the term "which" (Section 17);
- c) Language to clarify the intent of amendments permitting minor structural work on conditional use structures in single family zones (Section 18)
- d) A clarification of the provisions permitting certain accessory dwelling unit to exceed 1,000 square feet (Section 20);
- e) Language to continue to apply the ground related housing open space standards from each separate lowrise zone to single-family structures in each respective zone (Section 22); and
- f) A change that would continue to include in the definition of environmentally sensitive areas, in SEPA, areas that are identified as sensitive in City codes other than the ECA ordinance (Section 61).

CB 111909 (Shoreline Program):

- a) Deleting certain language that would have been added from the state WAC. The language appears to require a case-by-case finding that "overriding considerations" that "the public interest will be served" exist before approving projects over 35' that obstruct the view of a substantial number of residences. When the City's shoreline program was adopted, it included zones that permit height greater than 35'. It was the City's position that the determination of overriding public interest was established at the time of adoption of the city Shoreline program for the areas where such heights are permitted. This shoreline program was accepted by the state, which implies acceptance of the City's interpretation of the WAC. (This WAC provision is an existing provision that was repeated in the new WAC. The Law Department indicates that, unlike the new WAC provisions, the language in question does not need to be included in the City's Shorelines Program.) (Section 3);
- b) Including information about the license required, and permit needed from the State of Washington for the application of herbicides for aquatic noxious weed removal (Section 20); and
- c) Adding text inadvertently omitted when transcribing State WAC language into 23.60.944 (Section 45).

**Section II: Description of Substantive Amendments
In DCLU Omnibus Council Bills 111909 and 111910**

A. COUNCIL BILL 111910 Amending the Land Use, SEPA, and Environmentally Critical Areas Ordinances

1. Provision Regarding Cul de Sac Standards (Section 4)

This amendment replaces the standards for improvement of cul-de-sac turnarounds to reference the Street Improvement Manual, instead of requiring a minimum turnaround radius of forty feet and a minimum roadway radius of twenty-eight feet. DCLU staff indicate that the Street Improvement Manual Requirement is more stringent than the deleted requirement.

2. Provision for Unit Subdivisions (Sections 6, 23, and 55)

These provisions permit the subdivision of a lot on which townhouses, cottage housing, clustered housing or, in lowrise zones, single family residences are constructed. The purpose is to allow sale of the land with each unit separately in such a development.

The amendments have been written so that their sole effect will be to permit the separate sale of the land under individual units.

The code amendments would not allow the construction of these types of housing in any zone where it is not already permitted. Nor would the amendments change the number of units that may be constructed on a given lot, the setback limitations, lot coverage limits, height, or any other development standard currently applied to the parent lot. Future redevelopment of the individual unit lots still would have to comply with regulations that apply to the parent lot.

See issues Section I above for further discussion of this amendment.

3. Rezone Criteria Amendments: (Sections 8 - 13)

The term "area" is currently used in the rezone criteria to refer variously to the property to be rezoned, the immediate area in which the property to be rezoned is located, and a more extensive surrounding area, depending on which criterion one is reading.

The proposed changes would use the term "properties" when referring to the land proposed to be rezoned itself, and "area" to refer to the areas in which the properties are located, in order to be less ambiguous.

These changes are intended to make clear what is already the interpretation of the criteria used in rezone evaluations. They would not change the effect of the rezone

criteria, with one exception discussed below. For instance, staff would not expect the outcome of the Svetich rezone to be different as a result of this change.

One part of the change as drafted would have a substantive effect upon rezone evaluations. The change is to the criteria for the L3, L4, Midrise, and Highrise zones, that define minimum, threshold, standards that properties must meet to be considered for that each designation. (Additional criteria are then able to be reviewed.) The first threshold criterion for each of these zones today allows properties already having the zone designation to be considered, even if they are neither in an urban village, nor in an area already developed to the scale of the zone. The reason for this criterion is to carry out a Comprehensive Plan policy to permit properties having zone designations intended for urban village zones to retain their existing designation even if they are outside of a village.

Staff recommendation: Restore the threshold criteria that the amendment would delete. Approve other amendments as proposed. See Section I above for more information.

4. Change to Permit Extension of Eaves 18" into Side Yards (Section 16)

This change would allow eaves to extend 18" into required side yards in single-family zones. Other external architectural details such as chimneys, cornices, and columns are already permitted to protrude into side yards. Existing code language could be interpreted as permitting this as an "architectural feature;" the amendment makes it clear.

At Councilmember Pageler's request, the fire department has been consulted about this change. Russel Byrd of the Fire Department indicates that SFD is comfortable with the requirements of the Building Code. This provision is within the limitations of the building code (which prohibits protrusions within two feet of a property line).

5. Width of Bay Windows Limited to 8' (Sections 16, and 25)

Language is added to provide that bay windows in single-family and lowrise zones may not be wider than 8'. Bay windows are already permitted to protrude by 2' into required yards. The width limitation prevents this provision from permitting the extension of the entire building facade into the required yard.

6. Permitting Minor Structural Work on Conditional Use Structures in Single-Family Zones, without Conditional Use Approval. (Sections 18 and 19)

The provision would allow roof repair or replacement, or the construction of uncovered decks, porches, bay window, dormers, or eaves, that do not increase usable floor area or seating capacity, without considering them to be "expansions." Expansion of a conditional use requires a conditional use approval.

The proposed provision is already available to institutional uses.

Conditional uses in single-family zones are:

- a) Institutions, including:
 - i) community centers, child care centers, private schools, religious facilities, public or private libraries, existing institutes for advanced study, and other similar institutions;
- b) Existing major institutions,
- c) Public schools,
- d) Clustered housing,
- e) Use of landmark structures,
- f) Existing structures unsuited to uses permitted in the zone,
- g) Park and Pool lots,
- h) Planned residential developments,
- i) Communications utilities, and
- j) Public projects and city facilities.

The structural work that would be permitted under the proposed amendment would be required to conform to the development standards applicable to the use. Some uses, such as public schools, clustered housing, planned residential developments, and existing major institutions with master plans are subject to different development standards than uses permitted outright. The proposed language, like the existing language that applies to institutions, would continue to consider the structural work in question an expansion, if it would exceed the basic height limit of the zone under the standards applicable to one of these conditional uses.

Recommendation: Council and executive staff recommend in the consent ordinance some edits to the proposed language intended to clarify its intent. Otherwise staff recommend approval of the proposed amendment.

7. Size of Accessory Dwelling Units (Section 20)

The proposed language was previously approved by the Council, but omitted from the ordinance. The current language in the code permits ADUs in existing structures to exceed 1000 sf, whereas ADUs in portions of structures permitted after May 31 1996 may not exceed 1000 sf. The effect of the change is to require that any accessory dwelling unit in an existing structure that exceeds 1000 sf must be located on one level in the structure.

Recommendation: Council and Executive staff recommends an editorial clarification of the language in the consent amendments.

8. Standards for Single-family Structures in Lowrise Zones (Section 22)

An amendment is proposed to apply the development standards of the Lowrise Duplex/Triplex (LDT) zone to single-family structures in all lowrise zones. Existing code language applies standards for "ground related housing" to single-family structures in lowrise zones. However, the provisions for ground related housing were removed from the code in the late 1980s, with the exception of provisions for open space.

The open space requirements of the other lowrise zones for ground related housing differ from LDT zone requirements for single-family residences. The effect of the language change would be to increase (from 200 or 300 sf, depending on the zone, to 600 sf) the amount of landscaped area required if a single-family structure is constructed in the L-1 - L4 zones. Also, the landscaped area required for single-family structures in LDT is not required to be "private usable" open space or directly accessible to each unit, as it is for ground related housing in the L1 zone. One of the permitted kinds of open space meeting the definition of "usable" is landscaping.

The effect on the open space requirement of the amendment is inadvertent.

Recommendation: Continue to apply the ground related housing open space standards for each separate lowrise zone to single-family structures in each respective zone, and, as proposed, that all other standards for single-family structures in the LDT zone apply to single-family structures in the other lowrise zones. Language for this recommendation is contained in the consent package.

9. Permitting a Lot Coverage Exception in Lowrise Zones for Decks and Parts of Decks less than 18" in Height (Section 24)

This change would extend to the lowrise zones a provision that currently applies in single-family zones: ground level decks (less than 18" in height) are exempt from lot coverage limits.

It is a matter of subjective judgment as to whether or not low level decks affect the impression of open space that lot coverage limits provide. Fences are already permitted that could obscure the ground level from view from adjacent streets or property. Also, lot coverage limits in lowrise zones are 40% - 50% of the lot. In single-family zones the limit is 35%.

Staff Recommendation: Approve the proposed amendment.

10. Permitting Parking Access to Multi-family Structures Via Alleys Adjacent to Single-family zones. (Section 27)

The proposed amendment would allow access to multi-family structures via alleys adjacent to single-family zones. Today, access is required from the street side, if a multi-family structure abuts a single-family zone across an alley.

The amendment is proposed to make the multi-family zone provisions consistent with those of the Commercial zones where parking access is permitted via an alley. The further intent is to limit the number of curb cuts on the street side of structures to improve the pedestrian environment. The proposed change requires a trade-off between street pedestrian environment, and the impacts of traffic on adjacent single-family zones.

Staff Recommendation: Do not approve proposed amendment.

Further discussion of this issue can be found in Section I of this memorandum, above.

11. Limitations on Location and Use of Rooftop Antennae as Open Space (Section 26 and Section 38)

These provisions would prohibit an area where a rooftop telecommunications antenna is located, from qualifying as a required open space area. The provisions also establish fencing and distance requirements between open space and such an antenna. Distance requirements were taken from FCC regulations and from DCLU's telecommunications consultants.

**12. Allowing Modifications to Single-family Structures in Commercial 2 Zones
(Section 35)**

This is a substantive change that would allow modifications to existing single-family structures in Commercial 2 (C2) zones. Such modifications are already permitted in Neighborhood Commercial and Commercial 1 (C1) zones.

The different regulations in existence today are intended to discourage even the retention of single-family structures in the C2 zone, because it is a more commercially intense zone than the C1 zone.

Recommendation: Approve amendment as proposed. The change would have minimal effect on the functioning of the C2 zone.

**13. Adding Inadvertently Omitted Language from the Density Provisions for
the Sand Point Overlay District. (Section 47)**

The proposed amendment would add language that provides that "Residential uses provided by the University of Washington shall not count toward the maximum density established in this subsection." The subsection otherwise limits dwelling units to a maximum of 200.

According to Executive and Council staff this provisions was part of the decision on the Sand Point overlay, and was publicly well known when the decision was made, but was inadvertently omitted.

14. Reporting Requirement for Proposed Transmitting Antennae (Section 48)

The proposed amendment would require that applicants for transmitting antennae submit a signed copy of compliance with FCC requirements, and, if an antenna is required to have Health Department review, a letter from the Department certifying that the facility does not exceed FCC radiation standards.

Staff Recommendation: Approve proposed amendment.

15. Cleanup of SEPA Environmentally Sensitive Areas Ordinance (Section 61)

Proposed amendments would eliminate language that repeats verbatim the provisions of the Environmentally Critical Areas ordinance, and instead, apply that language by reference.

BECD Committee Members
Omnibus Ordinances - Attachment
October 21, 1997

The changes would also eliminate from the definition of environmentally sensitive areas under SEPA, any areas designated as sensitive in City codes other than the Environmentally Critical Areas (ECA) ordinance. The intent was not to change the definition environmentally sensitive areas, under the assumption that they would all be covered in the ECA ordinance. However, executive staff are not completely certain that other city codes do not refer to environmentally sensitive areas not included in the ECA definitions.

Staff Recommendation: Council and Executive recommend the restoration of the "other City codes" language, until such time as the impact of the change is known for certain. The Language is restored in the consent package.

B. COUNCIL BILL 111909 Amending the Shoreline Ordinance

1. Amendments Required by State Law

Most of the amendments in CB 111909 are required to bring the City's shoreline code into compliance with state regulatory reform law, including ESHB 1724 of 1995, and WAC 173-27. According to our Law Department the City does not have discretion with respect to incorporating those provisions of this bill that codify the WAC provisions.

There are a number of substantive provisions in this bill that result from the state requirements, including the following:

- a) Adding more exemptions to the requirement for a substantial development permit including:
 - i) Exempting residential piers in fresh water that cost over \$2,500, up to \$10,000,
 - ii) limited site exploration and investigation activities,
 - iii) removing or controlling aquatic noxious weeds including approved chemical treatment,
 - iv) watershed restoration projects that implement a watershed restoration plan,
 - v) fish and wildlife habitat or fish passage projects either approved by the state or consistent with the shoreline program, and
 - vi) hazardous substance remedial actions;
- b) Shorter approval and appeal periods for limited utility extensions and bulkheads;
- c) Granting greater authority to the DCLU Director to establish different permit life limits for a project upon a finding of good cause;
- d) Permitting the use of limited herbicides or other chemical control of aquatic weeds. Seattle's current shoreline program prohibits these. The specific chemicals permitted were the subject of environmental review by the state. To apply these chemicals, a person must both be licensed by and receive a permit from the State.

2. Other Amendments: Housekeeping

The Shoreline program omnibus ordinance includes a number of additional housekeeping changes including the following:

- a) Correction of an error that listed offices among prohibited uses on waterfront lots in the Urban Maritime environment - which are conditional uses in this environment;
- b) Replacement of the defunct term "special residences" with the terms "congregate residences," and "nursing homes."
- c) Miscellaneous corrections of cross references and text clarifications.

Council, executive, and Law Department staff recommend several "consent" changes to the shoreline omnibus ordinance text as introduced. They include the following:

- a) Deleting certain language from the state WAC that would have been added in the proposed council bill. The language appears to require a case-by-case finding that "overriding considerations" that "the public interest will be served" exist before approving projects over 35' that obstruct the view of a substantial number of residences. When the City's shoreline program was adopted, it included zones that permit height greater than 35'. It was the City's position that the determination of overriding public interest was established at the time of adoption of the city Shoreline program for the areas where such heights are permitted. This shoreline program was accepted by the state, which implies acceptance of the City's interpretation of the WAC. (This WAC provision is an existing provision that was repeated in the new WAC. The Law Department indicates that, unlike the new WAC provisions, the language in question does not need to be included in the City's Shorelines Program.) (Section 3);
- b) Including information about the license required, and permit needed from the State of Washington for the application of herbicides for aquatic noxious weed removal (Section 20); and
- c) Adding text inadvertently omitted when transcribing State WAC language into 23.60.944 (Section 45).

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CONSENT CHANGES

TO CB 111909
Amending the Seattle Shoreline Master Program Ordinance

Council and Executive Staff Recommendations

Changes from the bill as introduced are shown in bold type.

ORDINANCE _____

AN ORDINANCE relating to land use and shorelines, amending Sections 23.60.002, 23.60.012, 23.60.016, 23.60.020, 23.60.030, 23.60.034, 23.60.036, 23.60.060, 23.60.062, 23.60.066, 23.60.068, 23.60.070, 23.60.072, 23.60.074, 23.60.076, 23.60.122, 23.60.156, 23.60.196, 23.60.210, 23.60.244, 23.60.304, 23.60.365, 23.60.366, 23.60.426, 23.60.428, 23.60.486, 23.60.540, 23.60.574, 23.60.604, 23.60.608, 23.60.664, 23.60.724, 23.60.728, 23.60.730, 23.60.784, 23.60.844, 23.60.846, 23.60.902, 23.60.912, 23.60.932, 23.60.934, 23.60.936, 23.60.940, 23.60.944, 23.60.950, and 23.60.952, and adding Section 23.60.065 to the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal (Land Use) Code.

Section 3. Section 23.60.016 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.016 Inconsistent development prohibited.

No development shall be undertaken and no use shall be established in the Shoreline District unless the Director has determined that it is consistent with the policy of the Shoreline Management Act ((of 1971)) and the regulations of this chapter. This restriction shall apply even if no substantial development permit is required.

(Proposed new text removed from here.)

Section 20. Section 23.60.210 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

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2 **23.60.210 Aquatic noxious weed control.**
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4 The process of removing or controlling aquatic noxious weeds, as defined in RCW
5 17.26.020, may be accomplished through the following practices:

6 A. ~~((The control of aquatic weeds b))~~ By hand-pulling, mechanical harvesting, or
7 placement of aquascreens if proposed to maintain existing water depth for navigation, which
8 shall be considered normal maintenance and repair and therefore exempt from the
9 requirement to obtain a shoreline substantial development permit((-)); or

10 B. ~~((The control of aquatic weeds b))~~ By derooting, rotovating or other method
11 which disturbs the bottom sediment or benthos, which shall be considered development for
12 which a substantial development permit is required, unless proposed to maintain existing
13 water depth for navigation in an area covered by a previous permit for such activity, in
14 which case it shall be considered normal maintenance and repair and therefore exempt from
15 the requirement to obtain a substantial development permit((-)); or

16 C. ~~((The use of herbicide or other chemicals to control aquatic weeds shall be~~
17 ~~prohibited.))~~ Through the use of herbicides or other treatment methods applicable to
18 the control of aquatic noxious weeds that are recommended in a final environmental
19 impact statement published by the State Department of Agriculture or the State
20 Department of Ecology jointly with other state agencies under Chapter 43.21 RCW,
21 and subject to approval from the State Department of Ecology. The approved permit
22 from the Department of Ecology shall specify the type of chemical(s) to be used and
23 document that chemical treatment for the control of aquatic noxious weeds shall be
24 applied by a person or entity licensed by the Department of Agriculture.
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29 **Section 45.** Section 23.60.944 of the Seattle Municipal Code, which Section was
30 last amended by Ordinance 117789, is amended to add two definitions and amend one
31 definition as follows:
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33 **23.60.944 "W."**
34

35 * * *

36
37 "Watershed restoration plan" means a plan developed or sponsored by the State
38 Department of Fish and Wildlife, the State Department of Ecology, the State Department of
39 Natural Resources, the State Department of Transportation, a federally recognized Indian
40 tribe acting within and pursuant to its authority, a city, a county, or a conservation district
41 that provides a general program and implementation measures or actions for the
42 preservation, restoration, re-creation, or enhancement of the natural resources, character and

1 ecology of a stream, stream segment, drainage area, or watershed for which agency and
2 public review has been conducted pursuant to Chapter 43.21 RCW, the State Environmental
3 Policy Act.

4 "Watershed restoration project" means a public or private project authorized by the
5 sponsor of a watershed restoration plan that implements the plan or part of the plan and
6 consists of one or more of the following activities:

7 A. A project that involves less than ten (10) miles of streamreach, in
8 which less than twenty-five (25) cubic yards of sand, gravel or soil is removed, imported,
9 disturbed, or discharged, and in which no existing vegetation is removed except as
10 minimally necessary to facilitate additional plantings;

11 B. A project for the restoration of an eroded or unstable stream bank that
12 employs the principles of bioengineering, including limited use of rock as stabilization only
13 at the toe of the bank, and with primary emphasis on using native vegetation to control the
14 erosive forces of flowing water; or

15 C. A project primarily designed to improve fish and wildlife habitat,
16 remove or reduce impediments to migration of fish, or enhance the fishery resource available
17 for use by all of the citizens of the state, provided that any structure, other than a bridge or
18 culvert or instream habitat enhancement structure associated with the project, is less than
19 two hundred (200) square feet in floor area and is located above the ordinary high water
20 mark of the stream.

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22 * * *

23
24 "Wetlands" means those areas that are inundated or saturated by surface water or
25 ground water at a frequency and duration sufficient to support, and that under normal
26 circumstances do support, a prevalence of vegetation typically adapted for life in saturated
27 soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
28 Wetlands do not include those artificial wetlands intentionally created from non-wetland
29 sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals,
30 detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or
31 those wetlands created after July 1, 1990, that were unintentionally created as a result of the
32 construction of a road, street, or highway. Wetlands may include those artificial wetlands
33 intentionally created from non-wetland areas to mitigate the conversion of wetlands. (The
34 method for delineating wetlands shall follow the ((1989 Federal Manual for Delineating
35 Jurisdictional Wetlands until the Washington State Department of Ecology adopts a new
36 manual for the delineation of wetlands in conformance with Section 11 of Chapter 382 of the
37 Laws of 1995, in which case the methods for delineating wetlands shall follow such manual;
38 however, if prior to that time the King County Countywide Planning Policies are amended to
39 allow use of the 1987 U.S. Corps of Engineers Wetlands Delineation Manual in conjunction
40 with the U.S. Corps of Engineers Washington Regional Guidance on the 1987 Wetland
41 Delineation Manual, the method for delineating wetlands shall follow such manuals of the
42 Corps of Engineers until the Department of Ecology's manual is adopted)) most current

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version of the "Washington State Wetlands Identification and Delineation Manual" as adopted by the State Department of Ecology.)

ORDINANCE _____

AN ORDINANCE relating to land use and shorelines, amending Sections 23.60.002, 23.60.012, 23.60.016, 23.60.020, 23.60.030, 23.60.034, 23.60.036, 23.60.060, 23.60.062, 23.60.066, 23.60.068, 23.60.070, 23.60.072, 23.60.074, 23.60.076, 23.60.122, 23.60.156, 23.60.196, 23.60.210, 23.60.244, 23.60.304, 23.60.365, 23.60.366, 23.60.426, 23.60.428, 23.60.486, 23.60.540, 23.60.574, 23.60.604, 23.60.608, 23.60.664, 23.60.724, 23.60.728, 23.60.730, 23.60.784, 23.60.844, 23.60.846, 23.60.902, 23.60.912, 23.60.932, 23.60.934, 23.60.936, 23.60.940, 23.60.944, 23.60.950, and 23.60.952, and adding Section 23.60.065 to the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal (Land Use) Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection B of Section 23.60.002 of the Seattle Municipal Code, which Section was last amended by Ordinance 113764, is amended as follows:

23.60.002 Title and purpose.

* * *

B. Purpose. It is the purpose of this chapter to implement the policy and provisions of the Shoreline Management Act ((of 1971)) and the Shoreline Goals and Policies of the Seattle Comprehensive Plan by regulating development of the shorelines of the City in order to:

1. Protect the ecosystems of the shoreline areas;
2. Encourage water-dependent uses;
3. Provide for maximum public use and enjoyment of the shorelines of the City; and
4. Preserve, enhance and increase views of the water and access to the water.

Section 2. Section 23.60.012 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.012 Liberal construction.

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2 This chapter shall be exempted from the rule of strict construction, and it shall be
3 liberally construed to give full effect to the objectives and purposes of Chapter 90.58 RCW,
4 the State Shoreline Management Act (~~of 1971~~). This chapter shall not be used when
5 construing other chapters of this title (~~or Title 24~~) except for shoreline development or as
6 stated in Sections 23.60.014 and 23.60.022.
7

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9 **Section 3.** Section 23.60.016 of the Seattle Municipal Code, which Section was
10 adopted by Ordinance 113466, is amended as follows:
11

12 **23.60.016 Inconsistent development prohibited.**
13

14 A. No development shall be undertaken and no use shall be established in the
15 Shoreline District unless the Director has determined that it is consistent with the policy of
16 the Shoreline Management Act (~~of 1971~~) and the regulations of this chapter. This
17 restriction shall apply even if no substantial development permit is required.

18 B. No permit shall be issued for any new or expanded building or structure of
19 more than thirty-five feet (35') above average grade level on shorelines of the state that will
20 obstruct the view of a substantial number of residences on areas adjoining such shorelines
21 except where the Seattle Shoreline Master Program does not prohibit the same and then only
22 when overriding considerations of the public interest will be served.
23

24
25 **Section 4.** Section 23.60.020 of the Seattle Municipal Code, which Section was last
26 amended by Ordinance 113764, is amended as follows:
27

28 **23.60.020 Substantial development permit required.**
29

30 A. No (~~substantial~~) development, except for those listed in subsection C below,
31 shall be undertaken in the Shoreline District without first obtaining a substantial
32 development permit from the Director. (~~A substantial development permit shall not be~~
33 required where the Director determines that a development proposed on the shorelines is not
34 a "substantial development" as defined in this chapter.)) "Substantial development" means
35 any development of which the total cost or fair market value exceeds Two Thousand Five
36 Hundred Dollars (\$2,500.00) or any development which materially interferes with the
37 normal public use of the water or shorelines of the City.

38 B. Application and Interpretation of Exemptions.

39 1. Exemptions shall be construed narrowly. Only those developments
40 that meet the precise terms of one or more of the listed exemptions may be granted
41 exemption from the substantial development permit process.

1 2. An exemption from the substantial development permit process is not
2 an exemption from compliance with the Shoreline Management Act or provisions this
3 Chapter, nor from any other regulatory requirements. To be authorized, all uses and
4 developments must be consistent with the policies and provisions of the Seattle Shoreline
5 Master Program and the Shoreline Management Act. A development or use that is listed as
6 a conditional use pursuant to this Chapter or is an unlisted use, must obtain a conditional use
7 permit even though the development or use does not require a substantial development
8 permit. When a development or use is proposed that does not comply with the bulk,
9 dimensional and performance standards of this Chapter, such development or use can only
10 be authorized by approval of a variance.

11 3. The burden of proof that a development or use is exempt from the
12 permit process is on the applicant.

13 4. If any part of a proposed development is not eligible for exemption,
14 then a substantial development permit is required for the entire proposed development
15 project.

16 5. The Director may attach conditions to the approval of exempted
17 developments and/or uses as necessary to assure consistency of the project with the
18 Shoreline Management Act and this Chapter.

19 C. Exemptions. The following developments or activities shall not be
20 considered substantial development and are exempt from obtaining a substantial
21 development permit from the Director:

22 1. Normal maintenance or repair of existing structures or developments,
23 including damage by accident, fire or elements. Normal maintenance means those usual acts
24 to prevent a decline, lapse or cessation from a lawfully established state comparable to its
25 original condition, including but not limited to its size, shape, configuration, location, and
26 external appearance, within a reasonable period after decay or partial destruction, except
27 where repair causes substantial adverse effects to shoreline resources or environment.
28 Replacement of a structure or development may be authorized as repair where such
29 replacement is the common method of repair for the type of structure or development and
30 the replacement structure or development is comparable to the original structure or
31 development including but not limited to its size, shape, configuration, location and external
32 appearance and the replacement does not cause substantial adverse effects to shoreline
33 resources or environment.

34 2. Construction of the normal protective bulkhead common to single
35 family residences. A normal protective bulkhead means those structural and nonstructural
36 developments installed at or near, and parallel to, the ordinary high water mark for the sole
37 purpose of protecting an existing single family residence and appurtenant structures from
38 loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for
39 the purpose of creating dry land. When a vertical wall is being constructed or reconstructed,
40 not more than one cubic yard of fill per one foot of wall may be used as backfill. When an
41 existing bulkhead is being repaired by construction of a vertical wall fronting the existing
42 wall, it shall be constructed no further waterward of the existing bulkhead than is necessary

1 for construction of new footings. When a bulkhead has deteriorated such that an ordinary
2 high water mark has been established by the presence and action of water landward of the
3 bulkhead then the replacement bulkhead must be located at or near the actual ordinary high
4 water mark. Beach nourishment and bioengineered erosion control projects may be
5 considered a normal protective bulkhead when any structural elements are consistent with
6 the above requirements and when the project has been approved by the State Department of
7 Fish and Wildlife.

8 3. Emergency construction necessary to protect property from damage
9 by the elements. An emergency means an unanticipated and imminent threat to public
10 health, safety or the environment which requires immediate action within a time too short to
11 allow full compliance with this Chapter. Emergency construction does not include
12 development of new permanent protective structures where none previously existed. Where
13 new protective structures are deemed by the Director to be the appropriate means to address
14 the emergency situation, upon abatement of the emergency situation the new structure shall
15 be removed or any permit which would have been required, absent an emergency, pursuant
16 to Chapter 90.58 RCW or these regulations shall be obtained. All emergency construction
17 shall be consistent with the policies of Chapter 90.58 RCW and the Seattle Shoreline Master
18 Program. As a general matter, flooding or other seasonal events that can be anticipated and
19 may occur but that are not imminent are not an emergency;

20 4. Construction and practices normal or necessary for farming,
21 irrigation, and ranching activities, including agricultural service roads and utilities on
22 shorelands, and the construction and maintenance of irrigation structures including but not
23 limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of
24 any size, all processing plants, other activities of a commercial nature, alteration of the
25 contour of the shorelands by leveling or filling other than that which results from normal
26 cultivation, shall not be considered normal or necessary farming or ranching activities;

27 5. Construction or modification, by or under the authority of the Coast
28 Guard or a designated port management authority, of navigational aids such as channel
29 markers and anchor buoys;

30 6. Construction on shorelands by an owner, lessee or contract purchaser
31 of a single family residence, including those structures and developments within a
32 contiguous ownership which are a normal appurtenance, for his or her own use or for the use
33 of his or her family, which residence does not exceed a height of thirty-five feet (35') above
34 average grade level and which meets all requirements of the City other than requirements
35 imposed pursuant to this Chapter. A normal appurtenance is necessarily connected to the
36 use and enjoyment of a single family residence and is located landward of the ordinary high
37 water mark and the perimeter of a wetland. Normal appurtenances include, but are not
38 limited to, a garage, deck, driveway, utilities, fences, installation of a septic tank and
39 drainfield, and grading which does not exceed two hundred fifty (250) cubic yards and
40 which does not involve placement of fill in any wetland or waterward of the ordinary high
41 water mark;

1 7. Construction of a pier accessory to residential structures, including a
2 community pier, designed for pleasure craft only, for the private noncommercial use of the
3 owners, lessee or contract purchaser of a single family or multifamily residence. This
4 exception applies if either:

5 a. In salt waters, which include Puget Sound and all associated
6 bays and inlets, the fair market value of the pier accessory to residential structures does not
7 exceed two thousand five hundred dollars (\$2,500.00); or

8 b. In fresh waters, the fair market value of the pier accessory to
9 residential structures does not exceed ten thousand dollars (\$10,000.00), but if subsequent
10 construction having a fair market value exceeding two thousand five hundred (\$2,500.00)
11 occurs within five years of completion of the prior construction, the subsequent construction
12 shall be considered a substantial development for the purpose of this Chapter;

13 8. Operation, maintenance, or construction of canals, waterways, drains,
14 reservoirs, or other facilities that now exist or are hereafter created or developed as a part of
15 an irrigation system for the primary purpose of making use of system waters, including
16 return flow and artificially stored groundwater for the irrigation of lands;

17 9. The marking of property lines or corners on state-owned lands, when
18 such marking does not significantly interfere with normal public use of the surface of the
19 water;

20 10. Operation and maintenance of any system of dikes, ditches, drains, or
21 other facilities existing on June 4, 1975, which were created, developed or utilized primarily
22 as a part of an agricultural drainage or diking system;

23 11. Demolition of structures, except where the Director determines that
24 such demolition will have a major impact upon the character of the shoreline;

25 12. Any project with a certification from the Governor pursuant to
26 Chapter 80.50 RCW;

27 13. Site exploration and investigation activities that are prerequisite to
28 preparation of an application for development authorization under this Chapter, if:

29 a. The activity does not interfere with the normal public use of
30 the surface waters;

31 b. The activity will have no significant adverse impact on the
32 environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality,
33 and aesthetic values;

34 c. The activity does not involve the installation of any structure,
35 and upon completion of the activity the vegetation and land configuration of the site are
36 restored to conditions existing before the activity;

37 d. A private entity seeking development authorization under this
38 section first posts a performance bond or provides other evidence of financial responsibility
39 to the City of Seattle to ensure that the site will be restored to preexisting conditions; and

40 e. The activity is not subject to the permit requirements of RCW
41 90.58.550;

1 14. The process of removing or controlling aquatic noxious weeds, as
2 defined in RCW 17.26.020, and regulated in Section 23.60.210C of this Chapter.

3 15. Watershed restoration projects that implement a watershed restoration
4 plan. The City of Seattle shall review the projects for consistency with its Shoreline Master
5 Program in an expeditious manner and shall issue its decision along with any conditions
6 within forty-five (45) days of receiving from the applicant all materials necessary to review
7 the request for exemption. No fee may be charged for accepting and processing requests for
8 exemption for watershed restoration projects as used in this section;

9 16. A public or private project, the primary purpose of which is to
10 improve fish or wildlife habitat or fish passage, when all of the following apply:

11 a. The project has been approved in writing by the State
12 Department of Fish and Wildlife as necessary for the improvement of the habitat or passage
13 and appropriately designed and sited to accomplish the intended purpose;

14 b. The project has received hydraulic project approval by the
15 State Department of Fish and Wildlife pursuant to Chapter 75.20 RCW; and

16 c. The project is consistent with the City's Shoreline Master
17 Program. This determination shall be made in a timely manner and provided to the project
18 proponent in writing; and

19 17. Hazardous substance remedial actions. The procedural requirements
20 of Chapter 90.58 RCW shall not apply to a project for which a consent decree, order or
21 agreed order has been issued pursuant to Chapter 70.105D RCW or to the State Department
22 of Ecology when it conducts a remedial action under Chapter 70.105D RCW. The State
23 Department of Ecology shall, in conjunction with the City of Seattle, assure that such
24 projects comply with the substantive requirements of Chapter 90.58 RCW and the Seattle
25 Shoreline Master Program.

26 ((B))D. Developments proposed in the Shoreline District may require permits from
27 other governmental agencies.

28
29
30 **Section 5.** Section 23.60.030 of the Seattle Municipal Code, which Section was
31 adopted by Ordinance 113466, is amended as follows:

32
33 **23.60.030 Criteria for substantial development permits.**

34
35 A. A substantial development permit shall be ((issued)) granted only when the
36 development proposed is consistent with:

37 ((A))1. The policies and procedures of Chapter 90.58 RCW;

38 ((B))2. The regulations of this ((e)) Chapter; and

39 ((C))3. The provisions of Chapter 173-((14))27 WAC.

40 B. Conditions may be attached to the approval of a permit as necessary to assure
41 consistency of the proposed development with the Seattle Shoreline Master Program and the
42 Shoreline Management Act.

1
2 As required by WAC 173-27-120, an application for a substantial development
3 permit for a limited utility extension or for the construction of a bulkhead or other measures
4 to protect a single family residence and its appurtenant structures from shoreline erosion
5 shall be subject to all of the requirements of this Chapter except that the following time
6 periods and procedures shall be used:

7 A. The public comment period shall be twenty (20) days. The notice provided
8 shall state the manner in which the public may obtain a copy of the decision on the
9 application no later than two (2) days following its issuance;

10 B. The decision to grant or deny the permit shall be issued within twenty-one
11 (21) days of the last day of the comment period specified in subsection A above; and

12 C. If there is an appeal of the decision to grant or deny the permit to the Hearing
13 Examiner, the appeal shall be finally determined within thirty (30) days.
14

15
16 **Section 11.** Subsections B and E of Section 23.60.066 of the Seattle Municipal
17 Code, which Section was adopted by Ordinance 113466, is amended as follows:
18

19 **23.60.066 Procedure for determination of feasible or reasonable alternative locations.**
20

21 * * *

22
23 B. Application Requirements for Plan Shoreline Permits.

24 1. Application for a Plan Shoreline Permit shall include the scope and
25 intent of proposed projects within the Shoreline District and the appropriate non-shoreline
26 alternative(s) identified by the applicant or the Director.

27 2. The application shall be accompanied by the necessary environmental
28 documentation, as determined by the Director, including an assessment of the impacts of the
29 proposed projects and of the non-shoreline alternative(s), according to the State and local
30 SEPA guidelines.

31 3. For projects within the Shoreline District, the application shall
32 provide the information specified in WAC 173-~~(14-110)~~27-180 and this title. The
33 application shall include information on the overall system which outlines the
34 interrelationship of shoreline and non-shoreline facilities. Schematic plans outlining
35 dimensions, elevations, locations on site and similar specifications shall be provided for
36 projects within the Shoreline District and for the non-shoreline alternative(s) which may be
37 changed at the time of the project-specific shoreline permit(s) within the limitations of
38 subsection G of this section.
39

40 * * *
41

1 E. Criteria for Decision. The decision as to the feasibility or reasonableness of
2 alternatives shall be based upon the ~~((goals and policies of Resolution 25173 as amended,))~~
3 Shoreline Goals and Policies in the Seattle Comprehensive Plan and the Shoreline
4 Management Act ((of 1971)), as amended, and a full consideration of the environmental,
5 social and economic impacts on the community.

6
7 * * *

8
9
10 **Section 12.** Subsection D of Section 23.60.068 of the Seattle Municipal Code,
11 which Section was adopted by Ordinance 113466, is amended as follows:

12
13 **23.60.068 Procedure for Council conditional use authorization.**

14
15 Projects required by this chapter to obtain Council conditional use authorization shall be
16 processed in the following manner:

17
18 * * *

19
20 D. Upon receipt of Council's findings, conclusions and decisions from the City
21 Clerk, the Director shall file the decision to approve, deny, or condition the shoreline
22 substantial development permit with the State Department of Ecology as required by
23 Chapter 173-~~((14))~~27 WAC. The Director shall be bound by and incorporate the terms and
24 conditions of the Council's decision in the shoreline substantial development permit. The
25 Council's findings, conclusions and decisions shall constitute the City report on the
26 application.

27
28 * * *

29
30
31 **Section 13.** Section 23.60.070 of the Seattle Municipal Code, which Section was
32 last amended by Ordinance 117789, is amended as follows:

33
34 **23.60.070 Decisions to State of Washington -- Review.**

35
36 A. Any decision on an application for a permit under authority of this
37 chapter, whether it be an approval or denial shall, concurrently with the
38 transmittal of the ruling to the applicant, be filed by the Director with
39 DOE ~~((and the Attorney General))~~ according to the requirements contained in WAC 173-27-
40 130. For shoreline conditional use and variance decisions, the Director shall provide final
41 notice of DOE's decision according to WAC 173-27-200(3).

1 request from the applicant filed before the expiration date, the Director may extend the two
2 (2) year period for up to one (1) year if the failure to undertake the project was based on
3 reasonable factors, or as provided in WAC 173-14-060.

4 ~~2. If a project for which a permit has been granted pursuant to the~~
5 ~~chapter has not been completed within five (5) years after the effective date of the permit, or~~
6 ~~within a shorter time period required by the permit, the Director shall review the permit, and~~
7 ~~upon a showing of good cause, do either of the following, as provided in WAC 173-14-060:~~

8 ~~a. Extend the permit for one (1) year; or~~

9 ~~b. Terminate the permit.~~

10 ~~3.~~

11
12 Pursuant to WAC 173-27-090, the following time requirements shall apply to all
13 substantial development permits and to any development authorized pursuant to a variance
14 or conditional use permit authorized under this Chapter.

15 A. Upon finding of good cause, based on the requirements and circumstances of
16 the project proposed and consistent with the policy and provisions of WAC 173-27 and this
17 Chapter, the Director may adopt different time limits from those set forth in subsection B
18 below as part of the decision on a shoreline substantial development permit. The Director
19 may also, with approval from DOE, adopt appropriate time limits as part of the decision on
20 a shoreline conditional use or shoreline variance. "Good cause, based on the requirements
21 and circumstances of the project," shall mean that the time limits established are reasonably
22 related to the time actually necessary to perform the development on the ground and
23 complete the project that is being permitted, and/or are necessary for the protection of
24 shoreline resources.

25 B. Where the Director did not adopt different time limits on a permit decision,
26 the following time limits shall apply:

27 1. Construction activities or substantial progress toward construction of
28 a project or, where no construction activities are involved, the use or activity for which a
29 permit has been granted pursuant to this Chapter shall be commenced within two (2) years of
30 the effective date of a substantial development permit or the permit shall terminate. The
31 Director may authorize a single extension of the two (2) year period not to exceed one (1)
32 year based on reasonable factors, if a request for extension has been filed before the
33 expiration date and notice of the proposed extension is given to parties of record on the
34 substantial development permit and to DOE.

35 2. If a project for which permit has been granted pursuant to this Chapter
36 has not been completed within five (5) years after the effective date of the substantial
37 development permit, authorization to conduct construction activities shall expire unless the
38 Director authorizes a single extension based on reasonable factors, for a period not to exceed
39 one (1) year, if a request for extension has been filed before the expiration date and notice of
40 the proposed extension is given to parties of record and to DOE.

41 3. The effective date of a substantial development permit shall be the
42 date of filing as provided in RCW 90.58.140(6). The time periods in subsections A and B of

1 this Section do not include the time during which a project, use or activity was not actually
2 pursued due to the pendency of administrative appeals or legal actions or due to the need to
3 obtain other government permits and approvals for the project, use or activity that authorize
4 it to proceed, including all reasonably related administrative or legal actions on any such
5 permits or approval.

6 4. The Plan Shoreline Permit shall be valid for a period of five (5) years
7 or as otherwise permitted by WAC 173-~~((14-060))~~27-090. Project-specific shoreline permits
8 must be applied for within that period to be considered pursuant to the determination made
9 under the Plan Shoreline Permit. Development under project-specific permits shall conform
10 to the time limits outlined in subsections A and B.

11
12
13 **Section 16.** Subsections A, C, D, and E of Section 23.60.076 of the Seattle
14 Municipal Code, which Section was last amended by Ordinance 117789, is amended as
15 follows:

16
17 **23.60.076 Revisions to permits.**

18
19 When an applicant seeks to revise a permit, the Director shall request from the
20 applicant detailed plans and text describing the proposed changes in the permit.

21
22 A. If the Director determines that the proposed changes are within the scope and
23 intent of the original permit as defined in WAC 173-~~((14-064(2)))~~27-100(2), as now
24 constituted or hereafter amended, the Director shall approve the revision. Within eight (8)
25 days of the date of approval, the approved revision, along with copies of the revised site plan
26 and text, shall be submitted by certified mail to DOE, ~~((the Attorney General,))~~ and copies
27 provided to parties of record and to persons who have previously notified the Director of
28 their desire to receive notice of decision on the original application.

29
30 * * *

31
32 C. If the revision to the original permit involves a conditional use or variance,
33 either of which was conditioned by DOE, the Director shall submit the revision to DOE for
34 DOE's approval, approval with conditions or denial, indicating that the revision is being
35 submitted under the requirements of WAC 173-~~((14-064(5)))~~27-100(6). DOE shall transmit
36 to the City and the applicant its final decision within fifteen (15) days of the date of DOE
37 receipt of the submittal by the Director, who shall notify parties of record of DOE's final
38 decision.

39 D. The revised permit is effective immediately upon final action by the Director,
40 or when appropriate under WAC 173-~~((14-064(5)))~~27-100(6), by DOE.

41 E. Appeals shall be in accordance with RCW 90.58.180 and shall be filed with
42 the Shoreline Hearings Board within twenty-one (21) days from date of DOE's receipt of the

1 revision approved by the Director, or when appropriate under WAC 173-~~((14-064(5)))~~27-
2 100(6), the date DOE's final decision is transmitted to the City and the applicant. Appeals
3 shall be based only upon contentions of noncompliance with the provisions of WAC 173-
4 ~~((14-064(2)))~~27-100(2). Construction undertaken pursuant to that portion of a revised
5 permit not authorized under the original permit is a the applicant's own risk until the
6 expiration of the appeals deadline. If an appeal is successful in proving that a revision is not
7 within the scope and intent of the original permit, the decision shall have no bearing on the
8 original permit. The party seeking review shall have the burden of proving the revision was
9 not within the scope and intent of the original permit.

10
11
12 **Section 17.** Subsection D of Section 23.60.122 of the Seattle Municipal Code,
13 which Section was adopted by Ordinance 113466, is amended as follows:

14
15 **23.60.122 Nonconforming uses.**

16
17 * * *

18
19 D. The change of one (1) nonconforming use to another use not permitted in the
20 shoreline environment may be authorized as a conditional use by the Director with the
21 concurrence of the Department of Ecology if the Director determines that the new use is no
22 more detrimental to the property in the shoreline environment and vicinity than the existing
23 use and the existing development is unsuited for a use permitted in the environment, and if
24 the criteria for conditional uses in WAC 173-~~((14-140))~~27-160 are satisfied. The new use
25 shall retain its nonconforming use status for the purposes of subsections A through C above.

26
27 * * *

28
29
30 **Section 18.** Subsection A of Section 23.60.156 of the Seattle Municipal Code,
31 which Section was last amended by Ordinance 117571, is amended as follows:

32
33 **23.60.156 Parking requirements.**

34
35 A. Required parking spaces and loading berths shall be provided for uses in the
36 Shoreline District as specified ~~((by))~~ in Chapter 23.54 ~~((or Title 24))~~ except that the
37 requirements may be waived or modified at the discretion of the Director: (1) if alternative
38 means of transportation will meet the parking demand of the proposed development in lieu
39 of such off-street parking and loading requirements, or (2) if parking to serve the proposed
40 uses is available within eight hundred feet (800') of the proposed development and if
41 pedestrian facilities are provided. Waivers shall not be granted if they encourage the use of
42 scarce, on-street parking in the neighborhood surrounding the development.

* * *

Section 19. Subsection A of Section 23.60.196 of the Seattle Municipal Code, which Section was last amended by Ordinance 118409, is amended as follows:

23.60.196 Floating homes.

A. General Standards.

1. Floating home moorages shall comply with ~~((Chapter 58, Houseboats, et))~~ the Seattle Building Code ~~((Supplement))~~ adopted by Chapter 22.100 of the Seattle Municipal Code, and the requirements of this chapter.

2. Moorage Location.

a. Except as provided below, every floating home moorage shall be located on privately owned or privately controlled premises. No floating home shall be located in any waterway or fairway or in the public waters of any street or street end.

b. Floating homes and floating home moorages which were located in the public waters or any street or street end on January 1, 1974, or on property later dedicated to the City for street purposes, and which have continuously remained in such locations, comply with all other provisions of this chapter and are authorized by a use and occupancy permit approved by ~~((F))~~the ~~((City))~~ Director of Seattle ~~((Engineering Department))~~ Transportation shall be permitted; provided that when any such floating home so located and permitted to use such public waters is moved from its existing site the public waters shall not be reoccupied.

c. Floating homes and floating home moorages located in Portage Bay in a submerged street segment lying generally parallel to the shoreline that terminates on the north and on the south in a submerged street area when the same person owns or leases the property abutting on both sides thereof shall be permitted.

d. Floating homes are permitted when located at an existing floating home moorage and located partially on private property and partially in submerged portions of Fairview Avenue East lying generally parallel to the shoreline, when the occupant of the floating home owns or leases the private portion of the moorage site and has obtained a long-term permit from City Council to occupy the abutting street area.

3. Views. Floating homes shall not be located or relocated in such a manner as to block the view corridor from the end of a dock or walkway. In the location and the design of remodeled floating homes, views of the water for moorage tenants and the public shall be preserved.

4. Existing Floating Homes. An existing floating home, for the purposes of this section, shall be one assigned a King County Assessor's (KCA) number and

1 established by that number as existing at an established moorage in Lake Union or Portage
2 Bay as of the effective date of the ordinance codified in this chapter.1

3 5. Relocation. Two (2) floating homes may exchange moorage sites,
4 either within a moorage or between moorages, if:

5 a. Both floating homes are the same height or the relocation will
6 not result in a floating home, which is over eighteen feet (18') in height and higher than the
7 floating home being replaced, being located seaward of floating homes which are eighteen
8 feet (18') or less in height, provided that no floating home greater than eighteen feet (18') in
9 height shall be relocated to a nonconforming floating home moorage except to replace a
10 floating home of equal or greater height;

11 b. The minimum distance between adjacent floating home walls
12 and between any floating home wall and any floating home site line will meet the
13 requirements of the applicable moorage standards in subsections B or C of this section
14 below unless reduced for existing floating homes by the Director; and

15 c. The requirements of Chapter 7.20 of the Seattle Municipal
16 Code, Floating Home Moorages, have been met.

17 6. Moorage Plan. Any proposal to replace, remodel, rebuild, or relocate
18 a floating home, or expand a floating home moorage, shall be accompanied by an accurate,
19 fully dimensioned moorage site plan, at a scale of not less than one inch equals twenty feet
20 (1" = 20'), unless such plan is already on file with the Department. When the proposal is to
21 expand a moorage, the plan shall designate individual moorage sites for the entire moorage.

22 * * *

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24
25
26 **Section 20.** Section 23.60.210 of the Seattle Municipal Code, which Section was
27 adopted by Ordinance 113466, is amended as follows:

28
29 **23.60.210 Aquatic noxious weed control.**

30
31 The process of removing or controlling aquatic noxious weeds, as defined in RCW
32 17.26.020, may be accomplished through the following practices:

33 A. ~~((The control of aquatic weeds b))~~By hand-pulling, mechanical harvesting, or
34 placement of aquascreens if proposed to maintain existing water depth for navigation, which
35 shall be considered normal maintenance and repair and therefore exempt from the
36 requirement to obtain a shoreline substantial development permit((-)); or

37 B. ~~((The control of aquatic weeds b))~~By derooting, rotovating or other method
38 which disturbs the bottom sediment or benthos, which shall be considered development for
39 which a substantial development permit is required, unless proposed to maintain existing
40 water depth for navigation in an area covered by a previous permit for such activity, in
41 which case it shall be considered normal maintenance and repair and therefore exempt from
42 the requirement to obtain a substantial development permit((-)); or

1 C. ~~((The use of herbicide or other chemicals to control aquatic weeds shall be~~
2 ~~prohibited.)) Through the use of an herbicide or other treatment methods applicable to weed
3 control that are recommended in a final environmental impact statement published by the
4 State Department of Agriculture or the State Department of Ecology jointly with the other
5 state agencies under Chapter 43.21 RCW.
6~~

7
8 **Section 21.** The introduction to Section 23.60.244 of the Seattle Municipal Code,
9 which Section was adopted by Ordinance 113466, is amended as follows:

10
11 **23.60.244 Conditional uses in the CN Environment.**
12

13 The following uses may be authorized in the CN Environment by the Director, with
14 the concurrence of the Department of Ecology, as principal or accessory uses if the criteria
15 for conditional uses of WAC 173-~~((14-140))~~27-160 are satisfied:
16

17 * * *

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19
20 **Section 22.** The introduction of Section 23.60.304 of the Seattle Municipal Code,
21 which Section was adopted by Ordinance 113466, is amended as follows:
22

23 **23.60.304 Conditional uses in the CP Environment.**
24

25 The following uses may be authorized in the CP Environment by the Director, with
26 the concurrence of the Department of Ecology, as either principal or accessory uses if the
27 criteria for conditional uses of WAC 173-~~((14-140))~~27-160 are satisfied((:));
28

29 * * *

30
31
32 **Section 23.** The introduction of Section 23.60.365 of the Seattle Municipal Code,
33 which Section was adopted by Ordinance 116325, is amended as follows:
34

35
36 **23.60.365 Administrative Conditional Uses in the CR Environment.**
37

38 The following use may be authorized by the Director, with the concurrence of the
39 Department of Ecology, as principal or accessory use, if the criteria for administrative
40 conditional uses in WAC 173-~~((14-140))~~27-160 are satisfied:
41

42 * * *

1 Shoreline Management Act ((of 1971)), as amended, and a full consideration of the
2 environmental, social and economic impacts on the community;

3
4 * * *

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6
7 **Section 27.** The introduction of Section 23.60.486 of the Seattle Municipal Code,
8 which Section was adopted by Ordinance 113466, is amended as follows:

9
10
11 **23.60.486 Conditional uses in the CW Environment.**

12
13 The following uses may be authorized in the CW Environment by the Director with
14 the concurrence of the Department of Ecology as principal or accessory uses if the criteria
15 for conditional uses in WAC 173-((14-140))27-160 are satisfied:

16
17 * * *

18
19
20 **Section 28.** Section 23.60.540 of the Seattle Municipal Code, as adopted by
21 Ordinance 113466, is amended as follows:

22
23 **23.60.540 Uses permitted outright on waterfront lots in the UR Environment.**

24
25 The following uses shall be permitted outright on waterfront lots in the Urban
26 Residential Environment as either principal or accessory uses:

27 A. The following residential uses:

- 28 1. Floating home moorage in Lake Union or Portage Bay,
29 2. Single((-) family and multi((-)family residences, and
30 3. ((Special)) Congregate residences and nursing homes;

31 B. Streets;

32 C. Bridges;

33 D. Railroads;

34 E. The following utilities:

- 35 1. Utility lines, and
36 2. Utility service uses whose operations require a shoreline location; and

37 F. Shoreline recreation uses.
38

39
40 **Section 29.** Subsection B of Section 23.60.574 of the Seattle Municipal Code, which
41 Section was adopted by Ordinance 113466, is amended as follows:
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- (1) Single((-) family and multi((-))family residences, and
- (2) ((Special)) Congregate residences and nursing homes;
- b. The following commercial uses:
 - (1) Medical services,
 - (2) Animal services,
 - (3) Automotive retail sales and service,
 - (4) Parking, principal use,
 - (5) Lodging,
 - (6) Mortuary services,
 - (7) Nonhousehold sales and service,
 - (8) Wholesale showroom, miniwarehouse, warehouse and outdoor storage uses, non-water-dependent,
 - (9) Research and development laboratories, and
 - (10) Ground-level offices in the Lake Union area;
- c. Recycling collection stations;
- d. Light and general manufacturing uses;
- e. Institutional uses; and
- f. Public facilities.

Section 32. Section 23.60.664 of the Seattle Municipal Code, which Section was last amended by Ordinance 116907, is amended as follows:

23.60.664 Conditional uses permitted on waterfront lots in the UH Environment.

A. The following uses may be authorized over water or on dry-land portions of waterfront lots in the UH Environment by the Director, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-((14-140))27-160 are satisfied:

- 1. The following commercial uses:
 - a. Outdoor storage, water-related or water-dependent,
 - b. Warehouses, water-related or water-dependent,
 - c. Wholesale showrooms, and
 - d. Research and development laboratories, non-water-dependent;
- 2. Non-water-dependent commercial uses on historic ships:
 - a. The following uses may be permitted on an historic ship when meeting the criteria in subsection C2 below:
 - i. Sale of boat parts or accessories,
 - ii. Personal and household retail sales and services,
 - iii. Eating and drinking establishments;

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- b. i. The ship is designated as historic by the Landmarks Preservation Board or listed on the National Register of Historic Places,
 - ii. The use is compatible with the existing design and/or construction of the ship without significant alteration,
 - iii. Uses permitted outright are not practical because of ship design and/or cannot provide adequate financial support necessary to sustain the ship in a reasonably good physical condition,
 - iv. The use shall obtain a certificate of approval from the Landmarks Preservation Board, and
 - v. No other historic ship containing restaurant or retail uses is located within one-half (1/2) mile of the proposed site, unless the proposed site is within the Historic Character Area;

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- 3. Light manufacturing uses, non-water-dependent which:
 - a. Are part of a mixed-use development when the light manufacturing uses occupy no more than twenty-five percent (25%) of the developed portion of the lot,
 - b. Contribute to the maritime or tourist character of the area, and
 - c. Are located to accommodate water-dependent or water-related uses on site;

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- 4. The following non-water-dependent institutions:
 - a. Institutes for advanced study,
 - b. Museums,
 - c. Colleges, and
 - d. Vocational schools.

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B. The following use may be authorized over water or on dryland portions of waterfront lots in the UH Environment by the City Council, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-((14-140))27-160 are satisfied:

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- 1. Helistops, subject to the following criteria:
 - a. The helistop is for takeoff and landing of helicopters which serve a public safety, news gathering or emergency medical care function, is part of an approved transportation plan and is a public facility, or is part of an approved transportation plan and located at least two thousand feet (2,000') from a residential zone,
 - b. The helistop is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and on public parks and other areas where substantial public gatherings may be held,
 - c. The lot is of sufficient size that operations of the helistop and flight paths of helicopters can be buffered from the surrounding area,
 - d. Open areas and landing pads shall be hardsurfaced, and
 - e. The helistop meets all federal requirements including those for safety, glide angles and approach lanes.

Section 35. Subsections C and D of Section 23.60.730 of the Seattle Municipal Code, which Section was last amended by Ordinance 116907, is amended as follows:

23.60.730 Permitted uses on upland lots in the UM Environment.

C. Uses Permitted as Conditional Uses. The following uses may be authorized by the Director, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-((14-140))27-160 are satisfied:

1. Offices within the Lake Union area;
2. In structures designated as Landmarks, pursuant to Chapter 25.12, Historic Preservation, when the structure is not located over water, the following uses:
 - a. Non-water-dependent institutional uses,
 - b. Residential uses;
3. In structures designated as Landmarks, pursuant to Chapter 25.12, Historic Preservation, when the structure is located over water, the following uses:
 - a. Uses otherwise permitted outright on upland lots in the UM environment as specified in subsection A of Section 23.60.730,
 - b. Offices within the Lake Union area,
 - c. Non-water-dependent institutional uses,
 - d. Residential uses,
 - e. Parking accessory to uses located within the landmark structure.

D. Uses Permitted as Council Conditional Uses. The following uses may be authorized by the City Council, with the concurrence of the Department of Ecology, as either principal or accessory uses, if the criteria for conditional uses in WAC 173-((14-140))27-160 are satisfied:

1. Helistops and heliports when the following additional criteria are met:
 - a. The helistop or heliport is for takeoff and landing of helicopters which serve a public safety, news gathering, or emergency medical care function and, in the case of heliports, services provided for those helicopters; is part of an approved transportation plan and is a public facility; or is part of an approved transportation plan and is located at least two thousand feet (2,000') from a residential zone;
 - b. The helistop or heliport is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and particularly on

1 residentially zoned lots, public parks, and other areas where substantial public gatherings
2 may be held;

3 c. The lot is of sufficient size that the operations of the helistop
4 or heliport and the flight paths of the helicopters can be buffered from the other uses in the
5 surrounding area;

6 d. Open areas and landing pads shall be hardsurfaced; and

7 e. The helistop or heliport meets all federal requirements
8 including those for safety, glide angles, and approach lanes.
9

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11 **Section 36.** The introduction of Section 23.60.784 of the Seattle Municipal Code,
12 which Section was last amended by Ordinance 113764, is amended as follows:
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14
15 **23.60.784 Conditional uses permitted on waterfront lots in the UG Environment.**
16

17 The following uses may be authorized on waterfront lots in the UG Environment by
18 the Director, with the concurrence of the Department of Ecology, as either principal or
19 accessory uses if the criteria for conditional uses in WAC 173-((14-140))27-160 are
20 satisfied:
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25 **Section 37.** The introduction of Section 23.60.844 of the Seattle Municipal Code,
26 which Section was last amended by Ordinance 113764, is amended as follows:
27

28 **23.60.844 Conditional uses on waterfront lots in the UI Environment.**
29

30 The following uses may be authorized on waterfront lots in the UI Environment by
31 the Director, with the concurrence of DOE, as either principal or accessory uses if the
32 criteria for conditional uses in WAC173-((14-140))27-160 are satisfied:
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37 **Section 38.** Section 23.60.846 of the Seattle Municipal Code, which Section was
38 adopted by Ordinance 113466, is amended as follows:
39

40
41 **23.60.846 Council conditional Uses on waterfront lots in the UI Environment.**
42

- Floating home;
- Mobile home park;
- Multi((-)family structure;
- Single((-) family dwelling unit;
- ((Special)) Congregate residence.

* * *

Section 43. Section 23.60.936 of the Seattle Municipal Code, which Section was last amended by Ordinance 117789, is amended to amend two definitions as follows:

23.60.936 "S."

* * *

"Shoreline Master Program" means the comprehensive use plan for the shorelines of the ((C))city which consists of the ~~((general statement of shoreline goals and policies in Resolution 25173, the Implementation Guidelines in Resolution 25618,))~~ Shoreline Goals and Policies of the Seattle Comprehensive Plan and the specific regulations of this ((e))Chapter.

* * *

"Substantial development" means any development of which the total cost or fair market value exceeds Two Thousand Five Hundred Dollars (\$2,500.00), except as otherwise provided in subsection 23.60.020C7b, or any development which materially interferes with the normal public use of the water or shorelines of the City, ~~((, except that the following shall not be considered substantial developments for the purposes of this subtitle:~~

- A. ~~Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;~~
- B. ~~Construction of the normal protective bulkhead common to single-family residences;~~
- C. ~~Emergency construction necessary to protect property from damage by the elements;~~
- D. ~~Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels; provided, that a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A~~

1 "feedlot" shall be an enclosure, or facility used or capable of being used for feeding livestock
2 hay, grain, silage or other livestock feed, but shall not include land for growing crops or
3 vegetation for livestock feeding and/or grazing, nor shall it include normal livestock
4 wintering operations;

5 E. Construction or modification of navigational aids such as channel
6 markers and anchor buoys;

7 F. Construction on shorelands by an owner, lessee or contract purchaser
8 of a single family residence for his own use or for the use of his family, which residence
9 does not exceed a height of thirty five feet (35') above average grade level and which meets
10 all requirements of the City other than requirements imposed pursuant to this title;

11 G. Construction of a dock designed for pleasure craft only, for the private
12 noncommercial use of the owner, lessee or contract purchaser of a single family residence,
13 the cost of which does not exceed Two Thousand Five Hundred Dollars (\$2,500.00);

14 H. Operation, maintenance, or construction of canals, waterways, drains,
15 reservoirs, or other facilities that now exist or are hereafter created or developed as a part of
16 an irrigation system for the primary purpose of making use of system waters, including
17 return flow and artificially stored groundwater for the irrigation of lands;

18 I. The marking of property lines or corners on state owned lands, when
19 such marking does not significantly interfere with normal public use of the surface of the
20 water;

21 J. Operation and maintenance of any system of dikes, ditches, drains, or
22 other facilities existing on the effective date of Chapter 182, Laws of Washington 1975 (1st
23 Ex. Session) which were created, developed or utilized primarily as a part of an agricultural
24 drainage or diking system;

25 K. Demolition of structures, except where the Director determines that
26 such demolition will have a major impact upon the character of the shoreline.))

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31 **Section 44.** Section 23.60.940 of the Seattle Municipal Code, which Section was
32 adopted Ordinance 113466, is amended to add the following definition in alphabetical order
33 as follows:

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36 **23.60.940 "U"**

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40 "Utility extension, limited" means the extension of a utility service that: (a) is
41 categorically exempt under Chapter 43.21C RCW for one or more of the following: natural
42 gas, electricity, telephone, water, or sewer; (b) will serve an existing use in compliance with

1 this Chapter; and (c) will not extend more than two thousand five hundred (2,500) linear feet
2 within the shoreline areas subject to this Chapter.

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7 **Section 45.** Section 23.60.944 of the Seattle Municipal Code, which Section was
8 last amended by Ordinance 117789, is amended to add two definitions and amend one
9 definition as follows:

10
11 **23.60.944 "W."**

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15 "Watershed restoration plan" means a plan developed or sponsored by the State
16 Department of Fish and Wildlife, the State Department of Ecology, the State Department of
17 Natural Resources, the State Department of Transportation, a federally recognized Indian
18 tribe acting within and pursuant to its authority, a city, a county, or a conservation district
19 that provides a general program and implementation measures or actions for the
20 preservation, restoration, re-creation, or enhancement of the natural resources, character and
21 ecology of a stream, stream segment, drainage area, or watershed for which agency and
22 public review has been conducted pursuant to Chapter 43.21 RCW, the State Environmental
23 Policy Act.

24 "Watershed restoration project" means a public or private project authorized by the
25 sponsor of a watershed restoration plan that implements the plan or part of the plan and
26 consists of one or more of the following activities:

27 A. A project that involves less than ten (10) miles of streamreach, in
28 which less than twenty-five (25) cubic yards of sand, gravel or soil is removed, imported,
29 disturbed, or discharged, minimally necessary to facilitate additional plantings;

30 B. A project for the restoration of an eroded or unstable stream bank that
31 employs the principles of bioengineering, including limited use of rock as stabilization only
32 at the toe of the bank, and with primary emphasis on using native vegetation to control the
33 erosive forces of flowing water; or

34 C. A project primarily designed to improve fish and wildlife habitat,
35 remove or reduce impediments to migration of fish, or enhance the fishery resource available
36 for use by all of the citizens of the state, provided that any structure, other than a bridge or
37 culvert or instream habitat enhancement structure associated with the project, is less than
38 two hundred (200) square feet in floor area and is located above the ordinary high water
39 mark of the stream.

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41 * * *

1 "Wetlands" means those areas that are inundated or saturated by surface water or
2 ground water at a frequency and duration sufficient to support, and that under normal
3 circumstances do support, a prevalence of vegetation typically adapted for life in saturated
4 soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
5 Wetlands do not include those artificial wetlands intentionally created from non-wetland
6 sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals,
7 detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or
8 those wetlands created after July 1, 1990, that were unintentionally created as a result of the
9 construction of a road, street, or highway. Wetlands may include those artificial wetlands
10 intentionally created from non-wetland areas to mitigate the conversion of wetlands. (The
11 method for delineating wetlands shall follow the ~~((1989 Federal Manual for Delineating
12 Jurisdictional Wetlands until the Washington State Department of Ecology adopts a new
13 manual for the delineation of wetlands in conformance with Section 11 of Chapter 382 of the
14 Laws of 1995, in which case the methods for delineating wetlands shall follow such manual;
15 however, if prior to that time the King County Countywide Planning Policies are amended to
16 allow use of the 1987 U.S. Corps of Engineers Wetlands Delineation Manual in conjunction
17 with the U.S. Corps of Engineers Washington Regional Guidance on the 1987 Wetland
18 Delineation Manual, the method for delineating wetlands shall follow such manuals of the
19 Corps of Engineers until the Department of Ecology's manual is adopted)) most current
20 version of the "Washington State Wetlands Identification and Delineation Manual" as
21 adopted by the State Department of Ecology.)~~

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26 **Section 46.** Section 23.60.950 of the Seattle Municipal Code, which Section was
27 adopted by Ordinance 113466, is amended as follows:

28
29 **SMC 23.60.950 Measurements in the Shoreline District.**

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31 Measurements of height, view corridors, lot coverage, and other shoreline
32 requirements in the Shoreline District shall be as described in this subchapter. These
33 measurement regulations supplement other regulations of this title ~~((and Title 24))~~ as
34 described in Section 23.60.014. When a development is partly within and partly without the
35 Shoreline District, measurement techniques for that portion of the development outside of
36 the Shoreline District shall be as required in the underlying zoning.
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38



City of Seattle

Norman B. Rice, Mayor

Executive Department - Office of Management and Planning

Judy Bunnell, Director

September 19, 1997

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

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

REQUESTING

DEPARTMENT: Construction and Land Use

SUBJECT

AN ORDINANCE relating to land use and shorelines, amending Sections 23.60.002, 23.60.012, 23.60.016, 23.60.020, 23.60.030, 23.60.034, 23.60.036, 23.60.060, 23.60.062, 23.60.066, 23.60.068, 23.60.070, 23.60.072, 23.60.074, 23.60.076, 23.60.122, 23.60.156, 23.60.196, 23.60.210, 23.60.244, 23.60.304, 23.60.365, 23.60.366, 23.60.426, 23.60.428, 23.60.486, 23.60.540, 23.60.574, 23.60.604, 23.60.608, 23.60.664, 23.60.724, 23.60.728, 23.60.730, 23.60.784, 23.60.844, 23.60.846, 23.60.902, 23.60.912, 23.60.932, 23.60.934, 23.60.936, 23.60.940, 23.60.944, 23.60.950, and 23.60.952, and adding Section 23.60.065 to the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal (Land Use) Code.

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 OMP. Any specific questions regarding the legislation can be directed to Pascal St. Gerard at 684-8085.

Sincerely,

Norman B. Rice
Mayor

by

JUDY BUNNELL
Director

h:\legis\lawtr\gerard25

Enclosure

97-269
COPY RECEIVED
97 SEP 22 AM 9:24
SEATTLE CITY ATTORNEY

OK as submitted
JB 9-25-97

Seattle Municipal Building, 600 Fourth Avenue, Seattle, WA 98104-1826

Tel: (206) 684-8080, TDD (206) 684-8118, FAX: (206) 233-0085

An equal-employment opportunity, affirmative action employer. Accommodations for people with disabilities provided on request.



TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

_____ *Jan Rago*

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

STATE OF WASHINGTON - KING COUNTY

87388
City of Seattle, City Clerk

-ss.

No. ORD IN FULL

Affidavit of Publication

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

CT:ORD 118793

was published on

12/09/97

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

N. Peterson
Subscribed and sworn to before me on
[Signature]
12/09/97

Notary Public for the State of Washington,
residing in Seattle

twenty-one (21) days from date of DOE's receipt of the revision approved by the Director, or when appropriate under WAC 173-(14-0045)(2)27-100(3), the date DOE's final decision is transmitted to the City and the applicant. Appeals shall be based only upon contentions of noncompliance with the provisions of WAC 173-(14-0042)(2)27-100(2). Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit. The party seeking review shall have the burden of proving the revision was not within the scope and intent of the original permit.

SECTION 17. Subsection D of Section 23.60.422 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.422 NONCONFORMING USES.

D. The change of one (1) nonconforming use to another use not permitted in the shoreline environment may be authorized as a conditional use by the Director with the concurrence of the Department of Ecology, if the Director determines that the new use is no more detrimental to the property in the shoreline environment and vicinity than the existing use and the existing development is unsuitable for a use permitted in the environment, and if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied. The new use shall retain its nonconforming use status for the purposes of subsections A through C above.

SECTION 18. Subsection A of Section 23.60.456 of the Seattle Municipal Code, which Section was last amended by Ordinance 117571, is amended as follows:

23.60.456 PARKING REQUIREMENTS.

A. Required parking spaces and loading berths shall be provided for uses in the Shoreline District as specified (b)(1) to Chapter 23.54 (or Title 84) except that the requirements may be waived or modified at the discretion of the Director: (1) if alternative means of transportation will meet the parking demand of the proposed development in lieu of such off-street parking and loading requirements, or (2) if parking to serve the proposed uses is available within eight hundred feet (800') of the proposed development and if pedestrian facilities are provided. Waivers shall not be granted if they encourage the use of access, on-street parking in the neighborhood surrounding the development.

SECTION 19. Subsection A of Section 23.60.196 of the Seattle Municipal Code, which Section was last amended by Ordinance 112409, is amended as follows:

23.60.196 FLOATING HOMES.

A. General Standards.
1. Floating home moorages shall comply with (Chapter 58, Houseboats, of) the Seattle Building Code (Supplement) adopted by Chapter 23.100 of the Seattle Municipal Code, and the requirements of this chapter.
2. Moorage Location.
a. Except as provided below, every floating home moorage shall be located on privately owned, or privately controlled premises. No floating home shall be located in any waterway or highway or in the public waters of any street or street end.
b. Floating homes and floating home moorages which were located in the public waters or any street or street end on January 1, 1974, or on property later dedicated to the City for street purposes, and which have continuously remained in such locations, comply with all other provisions of this chapter and are authorized by a use and occupancy permit approved by (The (City) Director of Seattle (Engineering Department)). Transportation shall be permitted, provided that when any such floating home is located and permitted to use each public waters is moved from its existing site the public waters shall not be occupied.

tion 23.60.244 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.244 CONDITIONAL USES IN THE CN ENVIRONMENT.

The following uses may be authorized in the CN Environment by the Director, with the concurrence of the Department of Ecology, as principal or accessory uses if the criteria for conditional uses of WAC 173-(14-140)27-160 are satisfied.

SECTION 22. The introduction of Section 23.60.304 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.304 CONDITIONAL USES IN THE CP ENVIRONMENT.

The following uses may be authorized in the CP Environment by the Director, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses of WAC 173-(14-140)27-160 are satisfied.

SECTION 23. The introduction of Section 23.60.365 of the Seattle Municipal Code, which Section was adopted by Ordinance 113625, is amended as follows:

23.60.365 ADMINISTRATIVE CONDITIONAL USES IN THE CR ENVIRONMENT.

The following use may be authorized by the Director, with the concurrence of the Department of Ecology, as principal or accessory use, if the criteria for administrative conditional uses in WAC 173-(14-140)27-160 are satisfied.

SECTION 24. Subsection B of Section 23.60.366 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.366 COUNCIL CONDITIONAL USES IN THE CR ENVIRONMENT.

B. The uses identified in subsection A may be permitted only when the Council determines that the uses as conditioned would be consistent with the purposes of the CR Environment, the Shoreline Policies and the Shoreline Management Act (of 1971).

SECTION 25. The introduction of Section 23.60.426 of the Seattle Municipal Code, which Section was last amended by Ordinance 113764, is amended as follows:

23.60.426 CONDITIONAL USES PERMITTED IN THE CM ENVIRONMENT.

The following uses may be authorized in the CM Environment by the Director, with the concurrence of the Department of Ecology, as principal or accessory uses if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied.

SECTION 26. Subsection A of Section 23.60.428 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.428 COUNCIL CONDITIONAL USES IN THE CM ENVIRONMENT.

Expansion of existing sewage treatment plants in the CM Environment to add capacity or a new treatment level may be authorized by the Council according to the procedures of Section 23.60.068 when:

A. A determination has been made, according to the process established in Section 23.60.068, Procedure for determination of feasible or reasonable alternative locations, that no feasible alternative exists to expanding the plant in the CM Environment. The determination as to feasibility shall be based upon the Shoreline Goals and Policies, the Shoreline Management Act (of 1971), as amended, and a full consideration of the environmental, social and economic impacts on the community.

SECTION 27. The introduction of section 23.60.426 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.426 CONDITIONAL USES IN THE CW ENVIRONMENT.

The following uses may be authorized in the CW Environment by the Director with the concurrence of the Department of Ecology, as principal or accessory uses if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied.

f. Public facilities.

SECTION 32. Section 23.60.664 of the Seattle Municipal Code, which Section was last amended by Ordinance 116907, is amended as follows:

23.60.664 CONDITIONAL USES PERMITTED ON WATERFRONT LOTS IN THE UH ENVIRONMENT.

A. The following uses may be authorized over water or on dryland portions of waterfront lots in the UH Environment by the Director, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied.

1. The following commercial uses:
 - a. Outdoor storage, water-related or water-dependent.
 - b. Warehouses, water-related or water-dependent.
 - c. Wholesale showrooms, and
 - d. Research and development laboratories, non-water-dependent.
2. Non-water-dependent commercial uses on historic ships:

a. The following uses may be permitted on an historic ship when meeting the criteria in subsection C2 below:

- i. Sale of boat parts or accessories,
- ii. Personal and household retail sales and services,
- iii. Eating and drinking establishments,
- iv. The ship is designated as historic by the Landmarks Preservation Board or listed on the National Register of Historic Places,
- v. The use is compatible with the existing design and/or construction of the ship without significant alteration,
- vi. Uses permitted outright are not practical because of ship design and/or cannot provide adequate financial support necessary to sustain the ship in a reasonably good physical condition,
- vii. The use shall obtain a certificate of approval from the Landmarks Preservation Board, and
- viii. No other historic ship containing restaurant or retail uses is located within one-half (1/2) mile of the proposed site, unless the proposed site is within the Historic Character Area.

3. Light manufacturing uses, non-water-dependent which:

- a. Are part of a mixed-use development when the light manufacturing uses occupy no more than twenty-five percent (25%) of the developed portion of the lot.
- b. Contribute to the maritime or tourist character of the area, and
- c. Are located to accommodate water-dependent or water-related uses on site.

4. The following non-water-dependent institutions:
 - a. Institutes for advanced study,
 - b. Museums,
 - c. Colleges, and
 - d. Vocational schools.

B. The following use may be authorized over water or on dryland portions of waterfront lots in the UH Environment by the City Council, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied.

1. Helistops, subject to the following criteria:

a. The helistop is for takeoff and landing of helicopters which serves a public safety, news gathering or emergency medical care function, is part of an approved transportation plan and is a public facility, or is part of an approved transportation plan and located at least two thousand feet (2,000') from a residential zone.

b. The helistop is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and on public parks and other areas where substantial public gatherings may be held.

c. The lot is of sufficient size that operations of the helistop and flight paths of helicopters can be buffered from the surrounding area.

By, or is part of an approved transportation plan and is located at least two thousand feet (2,000') from a residential zone.

b. The helistop or heliport is located so as to minimize adverse physical environmental impacts on lots in the surrounding area, and particularly on residentially zoned lots, public parks, and other areas where substantial public gatherings may be held.

c. The lot is of sufficient size that the operations of the helistop or heliport and the flight paths of the helicopters can be buffered from the other uses in the surrounding area.

d. Open areas and landing pads shall be hard surfaced, and

e. The helistop or heliport meets all federal requirements including those for safety, glide angles, and approach lanes.

SECTION 36. The introduction of Section 23.60.784 of the Seattle Municipal Code, which Section was last amended by Ordinance 113764, is amended as follows:

23.60.784 CONDITIONAL USES PERMITTED ON WATERFRONT LOTS IN THE UG ENVIRONMENT.

The following uses may be authorized on waterfront lots in the UG Environment by the Director, with the concurrence of the Department of Ecology, as either principal or accessory uses if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied.

SECTION 37. The introduction of Section 23.60.844 of the Seattle Municipal Code, which Section was last amended by Ordinance 113764, is amended as follows:

23.60.844 CONDITIONAL USES ON WATERFRONT LOTS IN THE UI ENVIRONMENT.

The following uses may be authorized on waterfront lots in the UI Environment by the Director, with the concurrence of DOE, as either principal or accessory uses if the criteria for conditional uses in WAC 173-(14-140)27-160 are satisfied.

SECTION 38. Section 23.60.846 of the Seattle Municipal Code, which Section was adopted by Ordinance 113466, is amended as follows:

23.60.846 COUNCIL CONDITIONAL USES ON WATERFRONT LOTS IN THE UI ENVIRONMENT.

A. Sewage treatment plants may be authorized by the Council according to the procedures of Section 23.60.068 when:

1. Located in the Duwamish area.
2. A determination has been made, according to the process established in Section 23.60.068, Procedure for determination of feasible or reasonable alternative locations, that no feasible alternative exists to locating a plant in the Seattle Shoreline District. The determination as to feasibility shall be based upon the (Goals and Policies of Resolution 25185) Shoreline Goals and Policies of the Seattle Comprehensive Plan, the Shoreline Management Act (of 1971), as amended, and a full consideration of the environmental, social and economic impacts on the community.
3. The plant is set back sixty feet (60') from the line of ordinary high water.
4. A public access walkway is provided along the entire width of the shoreline except for any portion occupied by barge loading and unloading facilities to serve the plant, public access being most important along views of the water and any other significant shoreline element, and
5. All reasonable mitigation measures to protect views and to control odors, noise, traffic and other impacts on the natural and built environment shall be provided.

SECTION 39. Section 23.60.902 of the Seattle Municipal Code, which Section was adopted by Ordinance 118409, is amended to add one definition and amend one definition as follows:

23.60.902 "A"

"Average grade level" means the calculation determined by averaging the elevations at the center of all exterior walls of the proposed building or structure. In the case of structures to be built over water, average grade level shall be