

Ordinance No. 130822

The City of Seattle
Council Bill/Ordinance

Council Bill No. 114160

02 JUN 17 PM 3:12
CITY CLERK

AN ORDINANCE relating to Street and Sidewalk Use, amending Sections 15.04.074, 15.17.020, 15.17.050, 15.50.040, 15.50.070 and 15.50.080 of the Seattle Municipal Code; repealing Sections 15.48.050, 15.50.050, and 15.50.060; adding new Sections 15.17.080 and 15.48.900 and Chapter 15.91 to Title 15 of the Seattle Municipal Code; and adopting a new Street Use Permit Fee Schedule.

6/4 passed
8

6/4 passed


6-10-02 Pass

This file is complete and ready

Law Department

Law Dept. Review

CF No. _____

Date Introduced: <u>APR 22 2002</u>	
Date 1st Referred: <u>APR 22 2002</u>	To: (committee) <u>TRANSPORTATION</u>
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: <u>6-10-02</u>	Full Council Vote: <u>9-0</u>
Date Presented to Mayor: <u>6-11-02</u>	Date Approved: <u>6/17/02</u> 
Date Returned to City Clerk: <u>6/17/02</u>	Date Published: <u>16 p.p.</u> T.D. <input checked="" type="checkbox"/> F.T. <input checked="" type="checkbox"/>
Date Vetted by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by:

CONLIN

Councilmember

Committee Action:

(C)
(V)

6/4 passed unanimously to substitute version
8 2-0 Conlin/McIver

6/4 passed unanimously version # 8
2-0 Conlin/McIver

6-10-02 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee:

RC 6/4/02

(initial/date)

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

Electronic
Copy Loaded

Indexed

(E)
Please
formatting
Full text loaded
to ECL Note
Attachment A

check the
date

ORDINANCE 120822

AN ORDINANCE relating to Street and Sidewalk Use, amending Sections 15.04.074, 15.17.020, 15.17.050, 15.50.040, 15.50.070 and 15.50.080 of the Seattle Municipal Code; repealing Sections 15.48.050, 15.50.050, and 15.50.060; adding new Sections 15.17.080 and 15.48.900 and Chapter 15.91 to Title 15 of the Seattle Municipal Code; and adopting a new Street Use Permit Fee Schedule.

WHEREAS, current city code disallows vending in the vicinity of the Kingdome, the Kingdome was demolished, and new sport stadiums have been constructed in the vicinity of where the Kingdome once stood that are attracting millions of fans to sporting events each year; and

WHEREAS, many entrepreneurs have established small businesses in the public right-of-way surrounding the new sports stadiums selling food and merchandise to sports fans attending games; and

WHEREAS, current city code strictly regulates street vending, does not permit street vending of merchandise from tables anywhere in the City, only allows street vending of food and flowers from a cart, and requires a Street Use Permit for anyone wishing to use the public right-of-way for vending or any other purpose; and

WHEREAS, the excitement of attending a professional sporting event begins before one enters the stadium, street vendors contribute to the festive atmosphere of ball games, provide consumer choices at a competitive price, contribute to Seattle's tax base through the payment of Sales and Business and Occupation Taxes, and could operate as legitimate small businesses in Seattle if granted the authority to vend in the public right-of-way; and

WHEREAS, street vending impacts the public health, safety and welfare and must be strictly regulated by Seattle Transportation in order to protect the public, a system of granting street use permits creates an easy and equitable means of regulating the activities of street vendors; and

WHEREAS, the current enforcement system for processing Street and Sidewalk Use Code violations recognizes that the majority of citizens will voluntarily comply with the code requirements once they are aware of a violation; and

WHEREAS, the current enforcement system can be changed to be more effective in dealing with the more difficult street and sidewalk use cases, particularly those involving repeat offenders and property owners who are unwilling to comply with the City's requirements; and

WHEREAS, it is appropriate that the Street and Sidewalk Use Code should discourage repeat violations by imposing increasing penalties; and

WHEREAS, enforcement of the Street and Sidewalk Use Code should efficiently use resources and focus the most resources on difficult cases; and

WHEREAS, because violations of the Street and Sidewalk Use Code have a serious impact on the community, it is sometimes appropriate to assess a penalty irrespective of how quickly the violation is cured in order to deter such violations; and

1 WHEREAS, it is appropriate to utilize this new enforcement tool on Street and Sidewalk Use Code
2 violations that are readily and clearly identifiable; that have a significant impact on the
3 surrounding community; and that include a high percentage of the Street and Sidewalk Use
4 Code enforcement cases; and

5
6 WHEREAS, Seattle Municipal Code Section 15.04.074 authorizes and directs the Director of
7 Transportation to prepare and recommend for adoption a schedule of fees commensurate
8 with the cost of administration, inspection and policing involved in the issuance and
9 continuance of such permits and the use thereby granted; and

10
11 WHEREAS, enforcement against violators is necessary to protect the public health, safety and
12 welfare, and effective implementation of the street use permit program requires consistent
13 ongoing enforcement against violators, even though most vendors will conduct their
14 business in accordance with all rules and regulations required by a Street Use Permit; and

15
16 WHEREAS, some vendors will not perceive the value of a street use permit and may not apply for a
17 street use permit if they see that those conducting their business without a permit are able to
18 do so without threat of sanction; and

19
20 WHEREAS, the Department of Transportation must pay Inspectors to work overtime when
21 enforcing the Street and Sidewalk Use Code on many game-days, and the Department of
22 Transportation bears other costs for administration of this program, but has no other source
23 of funds to cover the substantial costs of administering and enforcing this program; and

24
25 WHEREAS, adopting the attached fee schedule will ensure that fees are commensurate with the cost
26 of administration, inspection and policing involved in the issuance and continuance of such
27 permits and the use thereby granted; **NOW THEREFORE,**

28
29 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

30
31 Section 1. SMC 15.04.074 is amended as follows:

32 SMC 15.04.074 Permit -- Fees.

33 A. From time to time the Director of Transportation shall prepare and recommend for
34 adoption by the City Council a schedule of fees applicable to all such permits for public places under
35 the jurisdiction of Seattle Transportation. The Director of the Office of Economic Development
36 shall prepare and recommend for adoption by the City Council a schedule of fees applicable to
37 master filming permits. The Superintendent shall prepare and recommend a schedule of fees
38 applicable to permits for use of public places under the jurisdiction of the Department of Parks and
39 Recreation, and the Director of Design, Construction and Land Use shall recommend a schedule of
40 fees applicable to permits required by Section 15.44.020. The fee schedule, when adopted by
41 ordinance, shall govern the amount of the fee for permits heretofore or hereafter issued. The amount



1 of the fee shall be commensurate with the cost of administration, inspection and policing involved in
2 the issuance and continuance of such permits and the use thereby granted. Fees for use of shoreline
3 street ends may take into consideration City policy of discouraging encroachments inconsistent with
4 the public right of access to shorelines and may be included in the schedule of fees for use of public
5 places under the jurisdiction of Seattle Transportation. Fees for use of park drives and boulevards
6 may take into consideration City policy of discouraging encroachments inconsistent with their park-
7 like character and may be included in the schedule of fees for use of facilities of the Department of
8 Parks and Recreation.

9 B. The fee shall be collected as a condition to the issuance or continuance of any such
10 permit or use except when such permit is issued as a component of a master filming permit pursuant
11 to SMC Section 15.35.010. In order to effectuate collection of such fees the Director of
12 Transportation, the Director of the Office of Economic Development as to master filming permits, or
13 the Superintendent as to public places under the jurisdiction of the Department of Parks and
14 Recreation, shall promptly notify holders of outstanding permits issued to pay the applicable fee or
15 the permit will be revoked. The rate in the schedule for master filming permits shall identify which,
16 if any, of the factors identified in SMC Section 15.35.020 are taken into consideration in setting the
17 rate and which are to be determined with respect to particular applications.

18 C. Upon petition by a public agency for a vacation of street area, street use fees for such
19 street area shall be suspended if the Director of Transportation finds that such public agency, as a
20 current practice, would convey to, or permits use by, the City of a portion of the public agency's
21 property for street or other public purpose without charge; provided, should the street vacation
22 petition be denied, street use fees shall be payable for the full period of use.

23 D. When a use requiring a permit is made of a public place without first obtaining the
24 permit, the fee shall be double the amount provided in the schedule of fees. The double fee shall
25 apply only to the first tenure of the permit.



1 E. Fees for the use of public places under the jurisdiction of the Department of Parks and
2 Recreation shall be deposited to the credit of the Park and Recreation Fund; beginning January 1,
3 2001, fees for the use of shoreline street ends and vending permit fees shall be deposited to the credit
4 of the Transportation Operating Fund; all other fees shall be deposited to the credit of the General
5 Fund.

6
7 Section 2. SMC 15.17.020 is amended as follows:

8 SMC 15.17.020 Mobile vending in restricted area.

9 Selling is permitted in public places in the areas described in Section 15.17.010 by
10 persons on foot along the route of any parade for which a permit has been issued by the Police
11 Department while the parade is in progress and for one (1) hour prior to its commencement.

12 Selling by persons on foot is also permitted in public places in such areas when authorized
13 by a permit for a crowd control event issued pursuant to Chapter 15.52 and the selling is in
14 accordance with the terms of the permit.

15 A "mobile food-service unit" licensed by the Public Health Department may sell food and
16 beverages from a vehicle in public places in such areas to personnel at business and industrial
17 establishments and at construction sites on a pre-arranged route or a prearranged schedule. The
18 driver and vehicle are subject to the Traffic Code, Title 11.

19 Nothing in this section authorizes selling as prohibited by Section 15.17.050 (~~in the~~
20 ~~vicinity of the Kingdome~~)).

21
22 Section 3. SMC 15.17.050 is amended as follows:

23 SMC 15.17.050 (~~(Street vending near the Kingdome)~~) No vending zone.

24 It is unlawful to sell, offer to sell, solicit orders, rent, lease, or otherwise peddle any goods or
25 services in a public place within the area bounded by the south margin of South Royal Brougham
26 Way, the east margin of First Avenue South, the north margin of South Atlantic Street and the west



1 margin of Third Avenue South (~~((north margin of South Jackson Street, the east margin of 4th~~
2 ~~Avenue South, the south margin of South Atlantic Street and the west margin of First Avenue South~~
3 ~~within two (2) hours of the commencement of))~~ for the day (a twenty-four hour period from
4 midnight to midnight) of any event scheduled at Safeco Field(~~((the Kingdome or during the progress~~
5 ~~of any such event, or within one (1) hour following the conclusion of the event))~~).

6 ((Nothing herein shall restrict the sale of publications from newsstands that are located
7 within the area described above in accordance with Chapter 15.14, nor the exercise of liberties
8 guaranteed by the Washington or United States constitutions.))

9
10 Section 4. A new Section 15.17.080 is adopted to read as follows:

11 SMC 15.17.080 Stadium Event Vending.

12 An authorizing official may issue a permit to authorize the use of a public place within the
13 area bounded by the north margin of South Jackson Street, the east margin of Fifth Avenue South,
14 the north margin of Airport Way South, the east margin of Sixth Avenue South, the south margin of
15 South Holgate Street, and the west margin of Alaskan Way South, except that during Safeco Stadium
16 Events vending shall not be permitted on Occidental Avenue South between Railroad Avenue South
17 and South Jackson Street, for the sale of goods, wares, merchandise, services, food and nonalcoholic
18 beverages from a temporary display table, stationed at an authorized site for stadium events, under
19 the following terms and conditions:

20 A. Vending of food and beverages must meet all standards established by the Seattle-King
21 County Health Department, and if propane or a combustible fuel is used, the requirements of the Fire
22 Department;

23 B. Food and beverages sold must be capable of immediate consumption;

24 C. The display tables must be removed from the public place after business hours;



1 D. The vendor must provide public liability insurance naming the City as an additional
2 insured in an amount determined by the authorizing official by rule;

3 E. The vending site must be kept clean at all times. The vendor must supply a refuse
4 container;

5 F. No mechanical audio or noise making device is allowed;

6 G. Electrical utility connections are permitted to the adjacent property, but no lines may be
7 extended overhead or upon the sidewalk;

8 H. The vendor must present to the City written approval for the vending by the adjoining
9 property owner and/or tenant; if the tenant and property owner disagree, the property owner's
10 decision controls;

11 I. The vendor displays the permit at the vending site in a manner approved by the
12 authorizing official; and

13 J. The vendor satisfies all the conditions of its permit and such other criteria and
14 requirements as the authorizing official may establish from time to time by rule in the public interest.
15

16 Section 5 A new Section 15.48.900 is adopted to read as follows:

17 SMC 15.48.900 Civil penalty.

18 A. Each violation of Section 15.48.040 shall be a civil infraction as contemplated by
19 RCW Chapter 7.80 and deemed to be a Class 3 civil infraction under RCW 7.80.120(c), and shall
20 subject the violator to a maximum penalty and a default amount of Fifty Dollars (\$50.00) plus
21 statutory assessments. If the person is unable to pay the monetary penalty, the court may order
22 performance of a number of hours of community service in lieu of a monetary penalty.

23 B. Each violation of Section 15.48.100 shall be a civil infraction as contemplated by
24 RCW Chapter 7.80 and deemed to be a Class 1 civil infraction under RCW 7.80.120(a), and shall
25 subject the violator to a maximum penalty and default amount of Two Hundred Fifty Dollars



1 (\$250.00) plus statutory assessments. The penalty for a civil infraction is in addition to the civil
2 liability of the person responsible for the posting to the City for the cost of removal under Sections
3 15.48.120 and 15.48.130.

4 C. As contemplated by RCW 7.80.160, a person who fails to sign a notice of civil
5 infraction or who willfully violates his or her written and signed promise to appear in court or his or
6 her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor
7 regardless of the disposition of the notice of civil infraction. A person who willfully fails to pay a
8 monetary penalty or perform community service as ordered by a court may be found in contempt of
9 court as provided in chapter 7.21 RCW.

10
11 Section 6. SMC 15.50.040 is amended as follows:

12 SMC 15.50.040 Criminal offenses -- Penalty.

13 A. Anyone who shall violate or fail to comply with any of the following provisions of
14 this title, shall upon conviction be punished by a fine in a sum not exceeding Three Thousand
15 Dollars (\$3,000.00) or by imprisonment for a term not exceeding thirty (30) days or by both such
16 fine and imprisonment:

17 15.04.010 "Use and Occupation Permits," Permit -- Required

18 15.16.010 "Sidewalk Cafes," Permit -- Required

19 ~~((15.17.005 "Vending," Vending and display in public places~~

20 ~~15.17.010 "Vending," Areas where mobile vending is restricted~~

21 ~~15.17.050 "Vending," Street vending near the Kingdome~~

22 ~~15.20.010 "Building Cleaning or Painting," Permit -- Required))~~

23 15.22.010 "Building Construction/Demolition," Compliance required
24 (mixing of mortar or concrete)

25 15.28.010 "Building and Equipment Moving," Permit required

26 15.32.010 "Franchise and Public Utility Permits and Regulations," Permit -- Required



1 ((15.40.010 ~~"Warning Lights and Barricades,"~~ Lights and barricades required ~~Posting on~~
2 ~~obstructions in streets~~

3 ~~15.40.050 "Warning Lights and Barricades," Unlawful acts designated))~~

4 15.44.003 "Excavations and Fills," Permit -- Required

5 15.44.010 "Excavations and Fills," Barricades and warning devices

6 15.44.020 "Excavations and Fills," Excavation and fill near public place -- Permit

7 ((15.46.030 ~~"Debris in Public Places,"~~ Deposits in street or gutter

8 ~~15.48.020 "Miscellaneous Acts," Barbed wire or electric fence))~~

9 15.50.020 "Enforcement," Removing or destroying notices prohibited

10 (Quotation marks above enclose chapter headings.)

11 B. The fine and the limitation on the amount of the fine excludes such amounts, if any, as
12 may be imposed for restitution. Sums imposed as restitution shall be in addition to the fine.

13 C. In the event a violation or failure to comply falls within Section 18.12.070 then
14 Section 18.12.07 applies rather than this section.

15
16 Section 7. SMC 15.48.050 is repealed.

17
18 Section 8. SMC 15.50.050 is repealed.

19
20 Section 9. SMC 15.50.060 is repealed.

21
22 Section 10. SMC 15.50.070 is amended as follows:

23 SMC 15.50.070 Assignment of civil liability only.

24
25 The following sections set standards, assign civil liability for a condition or action, but do not
26 establish criminal offenses or civil infractions:



1 ((15.05.030 B "Constitutional Liberties," General restrictions
2 15.05.040 "Constitutional Liberties," Vending by nonprofit organizations))
3 15.16.040 B "Sidewalk Cafes," Terms and conditions (of permits).
4 15.28.040 "Building and Equipment Moving," Removal or trimming of trees or shrubbery
5 15.32.070 "Franchise and Public Utility Permits and Regulations," Additional ducts or conduits
6 15.32.080 "Franchise and Public Utility Permits and Regulations," Joint use poles
7 15.32.090 "Franchise and Public Utility Permits and Regulations," City use for governmental
8 communication
9 15.38 "Impounding"
10 15.42.015 "Planting Trees and Shrubs," Tree-root damage -- Liability
11 15.42.030 "Planting Trees and Shrubs," Contact with telephone or electric wires
12 ((15.46.040 "Debris in Public Places," Owner's and contractor's responsibility
13 15.48.010 "Miscellaneous Acts," Snow and ice removal))

14
15 Section 11. SMC 15.50.080 is amended as follows:

16 SMC 15.50.080 Citation, prosecution, and civil actions.

17
18 A. A prosecution for a criminal offense identified in Section 15.50.040 may be initiated
19 by an arrest or by citation and notice on the manner authorized by the criminal rules for courts of
20 limited jurisdiction promulgated by the Washington Supreme Court.

21 B. ((An action for a penalty for a civil infraction may be initiated by the issuance, service,
22 and filing of a notice of civil infraction as contemplated by RCW 7.80.050 and the infraction Rules
23 for Courts of Limited Jurisdiction (IRLJ). For purposes of RCW 7.80.040, the "enforcement officer"
24 authorized to enforce the provisions of this title are: (1) as to park drives and boulevards, the
25 Superintendent of Parks and Recreation, and as to other public places, the Director of Transportation;
26 (2) authorized representatives or assistants of either of them; and (3) a commissioned officer of the



1 ~~Seattle Police Department and a person issued a Special Police Officer Commission by the Chief of~~
2 ~~Police with authority to enforce this title.~~

3 ~~————C-)) An action for a civil infraction shall be initiated and processed in the manner~~
4 ~~contemplated by RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction. For~~
5 ~~purposes of RCW 7.80.040, the "enforcement officer" authorized to enforce the provisions of this~~
6 ~~title are: (1) as to park drives and boulevards, the Superintendent of Parks and Recreation, and as to~~
7 ~~other public places, the Director of Transportation; (2) authorized representatives or assistants of~~
8 ~~either of them; and (3) a commissioned officer of the Seattle Police Department and a person issued~~
9 ~~a Special Police Officer Commission by the Chief of Police with authority to enforce this title.~~

10 ~~C.((D-))~~ The City Attorney is authorized for and on behalf of The City of Seattle to bring
11 a prosecution for a criminal and civil penalty in order to enforce this title ~~((as needed, appropriate))~~
12 and bring a civil action for damages and/or injunctive relief.

13
14
15 Section 12. A new Chapter SMC 15.91 is adopted to read as follows:

16 SMC 15.91.002 Scope.

17 A. Violations of the following provisions of Seattle Municipal Code Title 15 shall be
18 enforced under the citation or criminal provisions set forth in this Chapter 15.91 by the Director of
19 Transportation:

- 20 1. Marquees, Awnings, Canopies, and Decorative Elements (SMC Chapter 15.10);
21 2. Signs, Banners and Street Clocks (SMC Chapter 15.12);
22 3. Newsstands (SMC Chapter 15.14);
23 4. Building Cleaning or Painting (SMC Chapter 15.20);
24 5. Vending (SMC Chapter 15.17);
25 6. Warning Lights and Barricades (SMC Chapter 15.40);
26 7. Debris in Public Places (SMC Chapter 15.46);
27 8. Snow and ice removal (SMC 15.48.010);



1 9. Barbed wire or electric fence (SMC 15.48.020);

2 B. Any enforcement action or proceeding pursuant to this Chapter 15.91 shall not affect,
3 limit or preclude any previous, pending or subsequent enforcement action or proceeding taken
4 pursuant to Chapter 15.50.

5 SMC 15.91.004 Citation.

6 A. Citation. If after investigation the Director determines that the standards or
7 requirements of provisions referenced in Section 15.91.002 have been violated, the Director may
8 issue a citation to the owner and/or other person or entity responsible for the violation. The citation
9 shall include the following information: (1) the name and address of the person to whom the citation
10 is issued; (2) a reasonable description of the location of the property on which the violation occurred;
11 (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a
12 statement that the person cited must respond to the citation within fifteen (15) days after service; (6)
13 a space for entry of the applicable penalty; (7) a statement that a response must be sent to the
14 Hearing Examiner and received not later than five (5:00) p.m. on the day the response is due; (8) the
15 name, address and phone number of the Hearing Examiner where the citation is to be filed; (9) a
16 statement that the citation represents a determination that a violation has been committed by the
17 person named in the citation and that the determination shall be final unless contested as provided in
18 this chapter; and (10) a certified statement of the Director's representative issuing the citation,
19 authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

20 B. Service. The citation may be served by personal service in the manner set forth in
21 RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known
22 address of such person(s). Service shall be complete at the time of personal service, or if mailed, on
23 the date of mailing. If a citation sent by first class mail is returned as undeliverable, service may be
24 made by posting the citation at a conspicuous place on the property.

25 SMC 15.91.006 Response to citations.

26 A. A person must respond to a citation in one (1) of the following ways:



1 1. Paying the amount of the monetary penalty specified in the citation, in
2 which case the record shall show a finding that the person cited committed the violation; or

3 2. Requesting in writing a mitigation hearing to explain the circumstances
4 surrounding the commission of the violation and providing a mailing address to which notice of such
5 hearing may be sent; or

6 3. Requesting a contested hearing in writing specifying the reason why the
7 cited violation did not occur or why the person cited is not responsible for the violation, and
8 providing a mailing address to which notice of such hearing may be sent.

9 B. A response to a citation must be received by the Office of the Hearing Examiner no
10 later than fifteen (15) days after the date the citation is served. When the last day of the appeal
11 period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five
12 (5:00) p.m. on the next business day.

13 SMC 15.91.008 Failure to respond.

14 If a person fails to respond to a citation within fifteen (15) days of service, an order shall
15 be entered by the Hearing Examiner finding that the person cited committed the violation stated in
16 the citation, and assessing the penalty specified in the citation.

17 SMC 15.91.010 Mitigation hearings.

18 A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall
19 be held within thirty (30) days after written response to the citation requesting such hearing is
20 received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by
21 first class mail to the address provided in the request for hearing not less than ten (10) days prior to
22 the date of the hearing.

23 B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing which
24 shall not be governed by the Rules of Evidence. The person cited may present witnesses, but
25 witnesses may not be compelled to attend. A representative from the Department of Transportation



1 may also be present and may present additional information, but attendance by a representative from
2 the Department of Transportation is not required.

3 C. Disposition. The Hearing Examiner shall determine whether the person's explanation
4 justifies reduction of the monetary penalty. Factors that may be considered in whether to reduce the
5 penalty include whether the violation was caused by the act, neglect, or abuse of another.

6 D. Entry of Order. After hearing the explanation of the person cited and any other
7 information presented at the hearing, the Hearing Examiner shall enter an order finding that the
8 person cited committed the violation and assessing a monetary penalty in an amount determined
9 pursuant to this section. The Hearing Examiner's decision is the final decision of the City on the
10 matter.

11 SMC 15.91.012 Contested hearing.

12 A. Date and Notice. If a person requests a contested hearing, the hearing shall be held
13 within sixty (60) days after the written response to the citation requesting such hearing is received.

14 B. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing
15 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
16 hearing contested cases, except as modified by this section. The issues heard at the hearing shall be
17 limited to those that are raised in writing in the response to the citation and that are within the
18 jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance
19 of witnesses and the production of documents.

20 C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed
21 statement of the facts constituting the specific violation which the person cited is alleged to have
22 committed or by reason of defects or imperfections, provided such lack of detail, or defects or
23 imperfections do not prejudice substantial rights of the person cited.

24 D. Amendment of Citation. A citation may be amended prior to the conclusion of the
25 hearing to conform to the evidence presented if substantial rights of the person cited are not thereby
26 prejudiced.



1 E. Evidence at Hearing. The certified statement or declaration authorized by RCW
2 9A.72.085 shall be prima facie evidence that a violation occurred and that the person cited is
3 responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other
4 evidence accompanying the report shall be admissible without further evidentiary foundation. Any
5 certifications or declarations authorized under RCW 9A.72.085 shall also be admissible without
6 further evidentiary foundation. The person cited may rebut the Department of Transportation
7 evidence and establish that the cited violation(s) did not occur or that the person contesting the
8 citation is not responsible for the violation.

9 F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter
10 an order finding that the person cited committed the violation and impose the applicable penalty. The
11 Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions in
12 Section 15.91.010. If the Hearing Examiner determines that the violation did not occur, the Hearing
13 Examiner shall enter an order dismissing the citation.

14 G. Appeal. The Hearing Examiner's decision is the final decision of the City. Any
15 judicial review must be commenced within thirty (30) days of service of the Hearing Examiner's
16 decision in accordance with RCW 34.05.542.

17 SMC 15.91.014 Failure to appear for hearing.

18 Failure to appear for a requested hearing will result in an order being entered finding that
19 the person cited committed the violation stated in the citation and assessing the penalty specified in
20 the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing
21 Examiner may set aside an order entered upon a failure to appear.

22 SMC 15.91.016 Penalties.

23 A. First Violation. The first time that a person or entity is found to have violated one of
24 the provisions referenced in Section 15.91.002, after the effective date of the ordinance codified in
25 this chapter, the person or entity shall be subject to a penalty of One Hundred Fifty Dollars (\$150).



1 B. Second and Subsequent Violations. Any subsequent time that a person or entity is
2 found to have violated one of the provisions referenced in Section 15.91.002 within a five (5) year
3 period after the first violation, the person or entity shall be subject to a penalty of Five Hundred
4 Dollars (\$500) for each such violation.

5 SMC 15.91.018 Alternative criminal penalty.

6 Any person who violates or fails to comply with any of the provisions referenced in
7 Section 15.91.002 shall be guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and
8 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and
9 none of the mental states described in Section 12A.04.030 need be proved. The Director may
10 request the City Attorney to prosecute such violations criminally as an alternative to the citation
11 procedure outlined in this chapter.

12 SMC 15.91.020 Abatement.

13 Any public place on which there continues to be a violation of any of the provisions
14 referenced in Section 15.91.002 after enforcement action taken pursuant to this chapter is hereby
15 declared a nuisance and subject to abatement by the City in the manner authorized by law.

16 SMC 15.91.022 Collection of penalties.

17 If the person or entity cited fails to pay a penalty imposed pursuant to this chapter, the
18 penalty may be referred to a collection agency. The cost to the city for the collection services will be
19 assessed as costs, at the rate agreed to between the City and the collection agency, and added to the
20 penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

21 SMC 15.91.024 Each day a separate violation.

22 Each day a person or entity violates or fails to comply with a provision referenced in
23 Section 15.91.002 may be considered a separate violation for which a citation may be issued.

24 SMC 15.91.026 Additional relief.



The Director may seek legal or equitable relief at any time to enjoin any acts or practices that violate the provisions referenced in Section 15.91.002 or abate any condition that constitutes a nuisance.

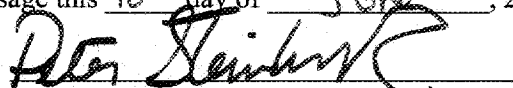
Section 13. The Street Use Fee Permit Schedule authorized by, and attached to, Ordinance 119260 and amended by Ordinance 119673 is further amended to add new categories and fees as follows:

<u>TYPE OF USE</u>	<u>PERMIT FEE</u>	<u>REQUIREMENTS</u>
14D. Stadium Event Vending-Baseball	\$121.50/month or \$729 for the regular season (April – Sept.)	Insurance Required
14E. Stadium Event Vending-Football	\$18/month or \$90 for the season (Aug.- Dec.)	Insurance Required
14F. Stadium Event Vending –Special	\$9.00/day	Insurance Required

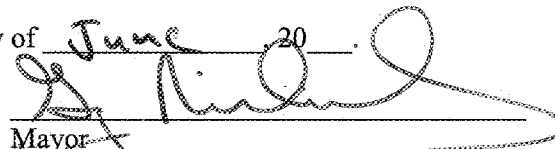
The Director of Transportation is authorized to collect such fees in accordance with Chapter 15.04 of the Seattle Municipal Code.

Section 14. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

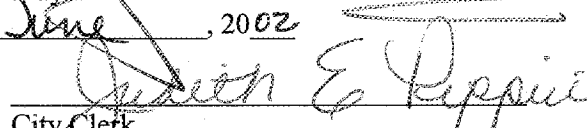
Passed by the City Council the 10th day of June, 2002, and signed by me in open session in authentication of its passage this 10th day of June, 2002.


President of the City Council

Approved by me this 17 day of June, 2002.


Mayor

Filed by me this 17th day of June, 2002


City Clerk

(SEAL)



EXHIBIT A**STREET USE PERMITS**

Effective 1/1/99, Authorized by Ordinance 119260 as Amended by Ordinance 119673 and Ordinance _____

TYPE OF USE	PERMIT FEE	REQUIREMENTS
1. Beautification, Pruning of trees in unopened right-of-ways, Landscaping and Non Structural Rockeries	\$68.00	Plus cost of field investigation and inspection in excess of one hour \$285.00 Deposit
1A. Trees	No Fee	Trees Only
2. Small directional signs	\$68.00/ year	
2A. Ground Signs (for identification only)	\$376.00/ year	
3. Street barricading (for private use)	\$68.00 / year	
3A. Street barricading (temporary for private use) (i.e.: special events, rallies, etc.)	\$68.00	Plus Deposit
4. Private car tracks (narrow gauge, etc.)	42 cents / lineal foot \$68.00 minimum	
5. Clocks	\$68.00/ year	
5A. Clocks posted on public places and designated Historic Landmarks	No Fee	
6. Signs, flags, company graphics, etc. extending over public property	\$68.00/ year	
7. Structures and overhangs. Street areas that are not shoreline street ends	42 cents /sq. ft./year \$68.00 minimum	Indemnity Agreement required
7A. Structures and overhangs (underwater streets)	11 cents per sq. ft. per month \$68.00/ year minimum	Insurance required
7B. Ramp for primary access over underwater streets	\$68.00/ year	
8. Ventilating ducts and private maintenance holes	\$68.00/ year	
9. Underground vaults and service boxes	\$68.00/ year	
11. Shoreline Street Ends (land portions) Uses for structures, overhangs, fences, material or equipment storage,	Sq. ft. of use x Demand Factor x land value per	Indemnity Agreement



	(10%) Plus cost of inspection or survey time in excess of one hour.	
12. Material storage or other uses not covered elsewhere in schedule, and not in underwater street	42 cents / square foot \$68.00/ year minimum	
12A. Moorage or other uses not covered elsewhere in schedule in underwater street	11 cents per sq. ft. per month \$68.00/ year minimum	
13. Temporary placement of materials or items, not for construction, and not in underwater street	42 cents / square foot for each four month period \$68.00 minimum	
14. Miscellaneous uses requiring renewable permit and insurance not covered by other kinds of Street use Permits	\$68.00/ year	Insurance required
14A. Vending Carts	\$68.00/ year	Insurance required
14B. Tables and Chairs	\$101.00/ year maximum four tables	Insurance required
14C. 1st Amendment Vending	\$40/yr registration \$35/mo site permit	
14D. Stadium Event Vending - Baseball	<u>\$187.50/month or \$1,125 for the regular season (April - Sept.)</u>	<u>Insurance required</u>
14E. Stadium Event Vending - Football	<u>\$25.00/month or \$125 for the season (Aug. - Dec.)</u>	<u>Insurance required</u>
14F. Stadium Event Vending - Special	<u>\$12.50/day</u>	<u>Insurance required</u>
15. Placement of public art or structure that has a public benefit	\$68.00	
16. Areaways in existence prior to January 1, 1995. 40 cents / square foot	42 cents / square foot \$68.00 / year minimum	Insurance required <u>Structural Inspection required, two hour maximum @ \$300.00 total</u>
16A. Inactive areaways in existence prior to January 1, 1995.	\$68.00/ year	Insurance required
16B. Areaways built after January 1, 1995.	Fee based upon Appraisal	Permit authorized by City Council Ordinance
17. Sidewalk elevators, doors and similar installations	\$68.00/ year minimum	Insurance required
18. Sidewalk cafes	\$1.29/ sq. ft./ year \$253.00 minimum	Insurance required
18A. Merchandise Display on sidewalks	\$1.29/ sq. ft./ year \$68.00 minimum	Insurance required
21. Underground storage tanks in street area	\$567.00 /year	
21A. Non-public utilities - aerial cables, access hatches, flood lights, etc. for private usage.	\$68.00 / year	



21B. Underground storage tanks in street area that are outfitted per Department of Ecology (D.O.E.) requirements, are not abandoned, and have a valid D.O.E. underground storage tank permit.	\$68.00 /year	
22. Shoring (for construction projects with DCLU project numbers that start with "94" or less)	\$567.00	Plus a deposit to pay for City costs for review and approval of shoring design and City costs for inspection and monitoring of the shoring system during installation and while the shoring system is providing support for the adjacent street right of way.
22A. Excavation <u>DEPTH</u> (for construction projects with DCLU project numbers that start with 0 - 10 "94" or less) 10.1 - 15 15.1 - 20 Over 20 feet	<u>COST PER LINEAL FOOT OF EXCAVATION</u> \$4.50 - \$228.00 minimum 5.50 - 456.00 minimum 6.50 - 689.00 minimum 6.50 - 1166.00 minimum	Plus cost of field investigation and inspection in excess of one hour. \$500.00 minimum deposit
22B. Shoring unremoved, more than 21 inches from property line	\$703.00 per pile	Each pile must be removed to a point 4 feet below finished grade
22C. Tank removal adjacent to street area	\$106.00	\$500 deposit
23. Cornices, belt courses, architectural features	\$68.00	
25. Driveways	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
27. Awnings, marquees and canopies (Plus # 27A if canopy with stanchions)	42 cents / square foot \$68.00 minimum \$1,124.00 maximum	
27A. Stanchions	\$68.00 / year	Indemnity Agreement Required
28. Water service lines less than 2 inch diameter	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit (deposit held for minimum 60 days)
29. Fences and non-structural walls	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
29A. Structural retaining walls and rockeries	\$68.00 / year	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit Indemnity Agreement required



31. Construction use: Outside downtown	42 cents / square foot for each four month period or portion thereof \$68.00 minimum	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
31A. <u>Downtown area:</u> Bounded by I-5, South Dearborn Street, Alaskan Way and Denny Way inclusive	1 to 4 months: \$ 0.61 per sq. ft. per month \$68.00 minimum 5 to 8 months: \$ 0.95 per sq. ft. per month \$95.00 minimum 9 to 12 months: \$ 1.24 per sq. ft. per month \$124.00 minimum Over 12 months: \$2.47 per sq. ft. per month \$247.00 minimum For any construction project containing low- income housing, the fees shall be reduced by a percentage equal to the percentage of the project gross floor area to be used for low-income housing.	
31C. <u>Low income housing in Downtown Area</u>	42 cents/ square foot \$68.00 minimum	
31B. Construction Dumpster (residential streets Downtown excluded)		
33. Contractor's trucks and equipment	\$68.00/year. For each truck or unit, \$1,461.00 max.	Insurance required
34. Grade and gravel (temporary)	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
35. Clear and grub street or alley	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
37. New sidewalk with existing curb	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
38. Planting strip surfacing including required landscaping	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
39. Weep holes	\$68.00	



40. Roadway paving	\$68.00	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
41. Bus shelter	\$68.00	
42. Building demolition	15 cents / square foot \$68.00 minimum	Plus cost of field investigation and inspection time in excess of one hour \$285.00 deposit
43. Tree removal or pruning (per abutting lot when involving temporary blocking of a street)	\$68.00	\$285.00 damage/cleanup deposit
44. Mobile crane, manlift, boom truck, etc.	\$68.00 / day	\$285.00 damage/clean up deposit Insurance required
45. Private contract (major public improvements) Engineering costs not included	\$68.00	Plus cost of review, surveying, inspection, mapping and administration. Bond required
46. Waterproofing or similar surfacing of concrete walks	\$68.00	
47. Cross curb and walk with equipment	\$68.00	\$285.00 damage deposit
48. Use of area over right of way for building maintenance	\$68.00 for each unit, \$1,424.00 maximum	
49. Street opening for miscellaneous purposes	\$68.00	Test boring, pot holing etc. \$285.00 deposit required
50. Scaffold, swing staging or scissor manlift Less than 60 days	42 cents / front foot \$68.00 minimum	Plus cost of field investigation and inspection time in excess of one hour. \$285.00 deposit
51. Utility system construction	\$68.00	Plus cost of inspection, mapping and related engineering services billed at \$95.00/ hour
52. Street decorations: Banners, flower baskets, tree lights, etc.	\$68.00/ year	Insurance required
54. Miscellaneous uses that are for the use of the public, e.g. a street park, shoreline street ends improvements, or plantings in a traffic circle per SMC 15.04.100 (for purposes of record keeping and permission granted as authorized by the Director of Seattle Transportation)	No Fee	
54A. Miscellaneous, for private temporary use of sidewalk for purposes not covered in other categories	\$20.00 for each period of up to 4 hours	Plus cost of field investigation and inspection time in excess of one hour. \$285.00 deposit
55. Sidewalk repair	No Charge Inspection time will be deducted from deposit	50 sq. ft. or less no deposit 51 to 100 sq. ft. \$95.00 deposit 101 to 500 sq. ft. \$285.00 deposit 501 sq. ft. plus \$570.00 deposit
56. Legal document preparation	74.00	
57. Impound fee	City cost plus 15% Minimum \$39.00	
58. Poster/sign removal from utility poles/street furniture/trees/shrubbery		\$53/poster/sign To reimburse City costs per Ordinance 117066 (SMC 15.48.120)
WW100. Installations and overhangs in state waterways Piers, loading platforms, bridges, scales overhead hoists, beams, cranes, canopies with stanchions, ramps, steps, floating home access, overhangs, etc. (cornices excepted)	11 cents per square foot per month \$68.00/ year minimum	



WW150. Use by non-profit organization that under contract with the City, participates actively in City water-safety and boating safety programs for youth	\$64.00 / year	
WW200. Moorage or other use of state waterways not covered by Permit # WW100	11 cents per square foot per month \$68.00/ year minimum	
WW250. Temporary moorage or other use of State waterways	11 cents per square foot x days ÷ days in month	
<u>Inspection Fee in excess of base fee</u>	\$95/hour	

Title 15 of the Seattle Municipal Code also authorizes the Director of Seattle Transportation and/or the Director of Construction and Land Use to require a surety bond or deposit for various permits when deemed to be in the public interest.

Payment is due within 30 days of the date of any invoice. Any invoice more than 90 days past due will be forwarded to a collection agency or the City Attorney's office for collection. All past due amounts will accrue interest at twelve percent (12%) per annum. In the event suit is commenced to collect on unpaid invoices, the prevailing party will be entitled to collect reasonable attorney's fees and costs of litigation.





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

April 15, 2002

Honorable Peter Steinbrueck
President,
Seattle City Council
Municipal Building, 11th Floor

Dear Council President Steinbrueck:

I am transmitting the following legislation for Council consideration.

This ordinance amends previous legislation that prohibited street vending in the area surrounding the Kingdome. After the Kingdome demolition, street vendors began selling food and merchandise to Mariners fans on game days. These small business entrepreneurs offered citizens a variety of products at competitive prices and were well received by people attending games. In order to contribute to the festive nature of attending a sporting event, Seattle Transportation would like to continue to allow street vending in the proximity of the new stadiums.

For the latter half of the Mariners' 2001 season, Seattle Transportation implemented a pilot program allowing permitted vendors to sell goods at prescribed locations around Safeco Field. This program was largely well received, with the primary criticism being the lack of effective enforcement to assure that pedestrians had safe and clear walkways in the area, and that vendors stayed in their prescribed area and operated under the terms of the street vending permit.

This ordinance allows street vending to take place on Mariners and Seahawks game days with limitations on the vending areas. Most importantly, it provides appropriate permit fees to enable Seattle Transportation to provide effective enforcement in the area during these vending periods. Street Use inspectors will also have the authority to assess civil penalties for failure to have a valid street use permit, or for not complying with the terms of the permit.

Thank you for your consideration of this legislation. Should you have questions please contact Rich Richmire at 684-0391.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Nickels', written over a horizontal line.

GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E-mail: mayors.office@ci.seattle.wa.us

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



Fiscal Note

Department: Seattle Transportation	Contact Person/Phone: Rich Richmire/4-0391	CBO Analyst/Phone: Jeff Davis/4-8071
---	---	---

Legislation Title: AN ORDINANCE relating to Street and Sidewalk Use, amending Sections 15.04.074, 15.17.020, 15.17.050, 15.50.040, 15.50.070 and 15.50.080 of the Seattle Municipal Code; repealing Sections 15.48.050, 15.50.050, and 15.50.060; adding new Sections 15.17.080 and 15.48.900 and Chapter 15.91 to Title 15 of the Seattle Municipal Code; and adopting a new Street Use Permit Fee Schedule

Summary of the Legislation:

Ordinance to allow street vending in marked areas on game days during the Mariner's and Seahawk's seasons with a new street vending permit. Permit fees of \$187.50 per month during the Mariners' season and \$25 per month during the Seahawks season (due to the dramatically fewer number of games) covers the following costs of the program:

- Striping of roadway and designation of specific permitted spaces. This would make it easy for vendors to set up their tables only in areas that will not impede access or cause public safety problems. The stripe will also make it easier for Inspectors to enforce – any vendor operating outside the designated area will clearly be in violation.
- Administration and processing of permit applications
- Inspectors at virtually every game who have the authority to issue citations and, if necessary for frequent offenders, confiscate property in the public right-of-way.

Additionally, the ordinance allows for Street Use inspectors to issue civil citations with monetary penalties (\$150 first offense/\$500 subsequent offenses) for non-compliance or operating without a street use permit. Civil citations will apply to vending and other types of street use permits deemed appropriate for civil penalties instead of criminal prosecution as stated under the existing ordinance. (Marquees, awnings, signs, banners and street clocks, building cleaning and painting, warning lights and barricades, snow and ice removal, debris in public places, and barbed wire and electric fence)

Background (Include justification for the legislation and funding history, if applicable):

In June 2001, a pilot program was implemented to assess a new vending program around Safeco Field. An earlier ordinance prohibited vending in the area of the Kingdome: with the demolition of the Kingdome, vendors started selling at baseball games and were well received by the baseball fans. To create a safe and festive environment, this program was implemented on a trial basis.

Vendors were charged the standard \$68 permit fee for the season. This fee is outdated and does not sufficiently cover expenses to administer and enforce the vending program. In September 2001 Seattle Transportation mailed a survey to participating vendors and interested parties in the area. Most felt the pilot program had gone well, except for the lack of enforcement to assure vendors had permits and were complying with permit requirements. This ordinance will provide



inspectors on-site during vending times and should completely address the concerns expressed by the survey respondents.

Public Private Partnership Review Status:

Is the project referenced in the legislation subject to P4 review? If yes, identify P4 review to date.

No.

Is the legislation subject to public hearing requirements? If yes, what public hearings have been held to date?

Not required. Public informational meeting and public hearing will be held in mid-April 2002 (date to be determined). Ordinance goes before Transportation Committee April 30, 2002.

Fiscal Sustainability Issues (related to grant awards):

N/A

Estimated Expenditure Impacts:

FUND (List # and/or Account)	2002	2003	2004
Traffic Management Street Striping	2000	2000	2000
T9CSTPIB Utility Inspection and Mapping Cost Center	18750	26125	26125
TOTAL	20750	28125	28125

One-time \$ _____ On-going \$ 28,125

Estimated Revenue Impacts:

FUND (List # and/or Account)	2002	2003	2004
T9CSTPIB Utility Inspection and Mapping Cost Center	18750	28125	28125
TOTAL	18750	28125	28125

One-time \$ _____ On-going \$ 28125

Estimated FTE Impacts:

FUND (List # and/or Account)	2002	2003	2004
N/A			
TOTAL			

Full Time _____ # Part Time _____ # TES _____



Do positions sunset in the future? If yes, identify sunset date?

N/A

Other Issues (including long-term implications of the legislation): N/A



ORDINANCE

AN ORDINANCE relating to Street and Sidewalk Use, amending Sections 15.04.074, 15.17.020, 15.17.050, 15.50.040, 15.50.070 and 15.50.080 of the Seattle Municipal Code; repealing Sections 15.48.050, 15.50.050, and 15.50.060; adding new Sections 15.17.080 and 15.48.900 and Chapter 15.91 to Title 15 of the Seattle Municipal Code; and adopting a new Street Use Permit Fee Schedule.

WHEREAS, current city code disallows vending in the vicinity of the Kingdome, the Kingdome was demolished, and new sport stadiums have been constructed in the vicinity of where the Kingdome once stood that are attracting millions of fans to sporting events each year; and

WHEREAS, many entrepreneurs have established small businesses in the public right-of-way surrounding the new sports stadiums selling food and merchandise to sports fans attending games; and

WHEREAS, current city code strictly regulates street vending, does not permit street vending of merchandise from tables anywhere in the City, only allows street vending of food and flowers from a cart, and requires a Street Use Permit for anyone wishing to use the public right-of-way for vending or any other purpose; and

WHEREAS, the excitement of attending a professional sporting event begins before one enters the stadium, street vendors contribute to the festive atmosphere of ball games, provide consumer choices at a competitive price, contribute to Seattle's tax base through the payment of Sales and Business and Occupation Taxes, and could operate as legitimate small businesses in Seattle if granted the authority to vend in the public right-of-way; and

WHEREAS, street vending impacts the public health, safety and welfare and must be strictly regulated by Seattle Transportation in order to protect the public, a system of granting street use permits creates an easy and equitable means of regulating the activities of street vendors; and

WHEREAS, the current enforcement system for processing Street and Sidewalk Use Code violations recognizes that the majority of citizens will voluntarily comply with the code requirements once they are aware of a violation; and

WHEREAS, the current enforcement system can be changed to be more effective in dealing with the more difficult street and sidewalk use cases, particularly those involving repeat offenders and property owners who are unwilling to comply with the City's requirements; and

WHEREAS, it is appropriate that the Street and Sidewalk Use Code should discourage repeat violations by imposing increasing penalties; and

WHEREAS, enforcement of the Street and Sidewalk Use Code should efficiently use resources and focus the most resources on difficult cases; and

WHEREAS, because violations of the Street and Sidewalk Use Code have a serious impact on the community, it is sometimes appropriate to assess a penalty irrespective of how quickly the violation is cured in order to deter such violations; and

1 WHEREAS, it is appropriate to utilize this new enforcement tool on Street and Sidewalk Use Code
2 violations that are readily and clearly identifiable; that have a significant impact on the
3 surrounding community; and that include a high percentage of the Street and Sidewalk Use
4 Code enforcement cases; and
5

6 WHEREAS, Seattle Municipal Code Section 15.04.074 authorizes and directs the Director of
7 Transportation to prepare and recommend for adoption a schedule of fees commensurate
8 with the cost of administration, inspection and policing involved in the issuance and
9 continuance of such permits and the use thereby granted; and
10

11 WHEREAS, enforcement against violators is necessary to protect the public health, safety and
12 welfare, and effective implementation of the street use permit program requires consistent
13 ongoing enforcement against violators, even though most vendors will conduct their
14 business in accordance with all rules and regulations required by a Street Use Permit; and
15

16 WHEREAS, some vendors will not perceive the value of a street use permit and may not apply for a
17 street use permit if they see that those conducting their business without a permit are able to
18 do so without threat of sanction; and
19

20 WHEREAS, the Department of Transportation must pay Inspectors to work overtime when
21 enforcing the Street and Sidewalk Use Code on many game-days, and the Department of
22 Transportation bears other costs for administration of this program, but has no other source
23 of funds to cover the substantial costs of administering and enforcing this program; and
24

25 WHEREAS, adopting the attached fee schedule will ensure that fees are commensurate with the cost
26 of administration, inspection and policing involved in the issuance and continuance of such
27 permits and the use thereby granted; **NOW THEREFORE,**
28

29 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**
30

31 Section 1. SMC 15.04.074 is amended as follows:

32 SMC 15.04.074 Permit -- Fees.

33 A. From time to time the Director of Transportation shall prepare and recommend for
34 adoption by the City Council a schedule of fees applicable to all such permits for public places under
35 the jurisdiction of Seattle Transportation. The Director of the Office of Economic Development
36 shall prepare and recommend for adoption by the City Council a schedule of fees applicable to
37 master filming permits. The Superintendent shall prepare and recommend a schedule of fees
38 applicable to permits for use of public places under the jurisdiction of the Department of Parks and
39 Recreation, and the Director of Design, Construction and Land Use shall recommend a schedule of
40 fees applicable to permits required by Section 15.44.020. The fee schedule, when adopted by
41 ordinance, shall govern the amount of the fee for permits heretofore or hereafter issued. The amount

1 of the fee shall be commensurate with the cost of administration, inspection and policing involved in
2 the issuance and continuance of such permits and the use thereby granted. Fees for use of shoreline
3 street ends may take into consideration City policy of discouraging encroachments inconsistent with
4 the public right of access to shorelines and may be included in the schedule of fees for use of public
5 places under the jurisdiction of Seattle Transportation. Fees for use of park drives and boulevards
6 may take into consideration City policy of discouraging encroachments inconsistent with their park-
7 like character and may be included in the schedule of fees for use of facilities of the Department of
8 Parks and Recreation.

9 B. The fee shall be collected as a condition to the issuance or continuance of any such
10 permit or use except when such permit is issued as a component of a master filming permit pursuant
11 to SMC Section 15.35.010. In order to effectuate collection of such fees the Director of
12 Transportation, the Director of the Office of Economic Development as to master filming permits, or
13 the Superintendent as to public places under the jurisdiction of the Department of Parks and
14 Recreation, shall promptly notify holders of outstanding permits issued to pay the applicable fee or
15 the permit will be revoked. The rate in the schedule for master filming permits shall identify which,
16 if any, of the factors identified in SMC Section 15.35.020 are taken into consideration in setting the
17 rate and which are to be determined with respect to particular applications.

18 C. Upon petition by a public agency for a vacation of street area, street use fees for such
19 street area shall be suspended if the Director of Transportation finds that such public agency, as a
20 current practice, would convey to, or permits use by, the City of a portion of the public agency's
21 property for street or other public purpose without charge; provided, should the street vacation
22 petition be denied, street use fees shall be payable for the full period of use.

23 D. When a use requiring a permit is made of a public place without first obtaining the
24 permit, the fee shall be double the amount provided in the schedule of fees. The double fee shall
25 apply only to the first tenure of the permit.



1 E. Fees for the use of public places under the jurisdiction of the Department of Parks and
2 Recreation shall be deposited to the credit of the Park and Recreation Fund; beginning January 1,
3 2001, fees for the use of shoreline street ends and vending permit fees shall be deposited to the credit
4 of the Transportation Operating Fund; all other fees shall be deposited to the credit of the General
5 Fund.

6
7 Section 2. SMC 15.17.020 is amended as follows:

8 SMC 15.17.020 Mobile vending in restricted area.

9 Selling is permitted in public places in the areas described in Section 15.17.010 by
10 persons on foot along the route of any parade for which a permit has been issued by the Police
11 Department while the parade is in progress and for one (1) hour prior to its commencement.

12 Selling by persons on foot is also permitted in public places in such areas when authorized
13 by a permit for a crowd control event issued pursuant to Chapter 15.52 and the selling is in
14 accordance with the terms of the permit.

15 A "mobile food-service unit" licensed by the Public Health Department may sell food and
16 beverages from a vehicle in public places in such areas to personnel at business and industrial
17 establishments and at construction sites on a pre-arranged route or a prearranged schedule. The
18 driver and vehicle are subject to the Traffic Code, Title 11.

19 Nothing in this section authorizes selling as prohibited by Section 15.17.050 (~~in the~~
20 ~~vicinity of the Kingdome~~)).

21
22 Section 3. SMC 15.17.050 is amended as follows:

23 SMC 15.17.050 (~~Street vending near the Kingdome~~)) No vending zone.

24 It is unlawful to sell, offer to sell, solicit orders, rent, lease, or otherwise peddle any goods or
25 services in a public place within the area bounded by the south margin of South Royal Brougham
26 Way, the east margin of First Avenue South, the north margin of South Atlantic Street and the west



1 ~~margin of Third Avenue South ((north margin of South Jackson Street, the east margin of 4th~~
2 ~~Avenue South, the south margin of South Atlantic Street and the west margin of First Avenue~~
3 ~~South)) within two (2) hours of the commencement of any event scheduled at Safeco Field((the~~
4 ~~Kingdome)) or during the progress of any such event, or within one (1) hour following the~~
5 ~~conclusion of the event.~~

6 ~~((Nothing herein shall restrict the sale of publications from newsstands that are located~~
7 ~~within the area described above in accordance with Chapter 15.14, nor the exercise of liberties~~
8 ~~guaranteed by the Washington or United States constitutions.))~~

9
10 Section 4. A new Section 15.17.080 is created to read as follows:

11 SMC 15.17.080 Stadium Event Vending.

12 An authorizing official may issue a permit to authorize the use of a public place within the
13 area bounded by the north margin of South Jackson Street, the east margin of Fifth Avenue South,
14 the north margin of Airport Way South, the east margin of Sixth Avenue South, the south margin of
15 South Holgate Street, and the west margin of Alaskan Way South for the sale of goods, wares,
16 merchandise, services, food and nonalcoholic beverages from a temporary display table, stationed at
17 an authorized site for stadium events, under the following terms and conditions:

18 A. Vending of food and beverages must meet all standards established by the Seattle-King
19 County Health Department, and if propane or a combustible fuel is used, the requirements of the Fire
20 Department;

21 B. Food and beverages sold must be capable of immediate consumption;

22 C. The display tables must be removed from the public place after business hours;

23 D. The vendor must provide public liability insurance naming the City as an additional
24 insured in an amount determined by the authorizing official by rule;



1 E. The vending site must be kept clean at all times. The vendor must supply a refuse
2 container;

3 F. No mechanical audio or noise making devices or hawking is allowed;

4 G. Electrical utility connections are permitted to the adjacent property, but no lines may be
5 extended overhead or upon the sidewalk;

6 H. The vendor must present to the City written approval for the vending by the adjoining
7 property owner and/or tenant; if the tenant and property owner disagree, the property owner's
8 decision controls;

9 I. The vendor displays the permit at the vending site in a manner approved by the
10 authorizing official; and

11 J. The vendor satisfies all the conditions of its permit and such other criteria and
12 requirements as the authorizing official may establish from time to time by rule in the public interest.

13
14 Section 5 A new Section 15.48.900 is created to read as follows:

15 SMC 15.48.900 Civil penalty.

16 A. Each violation of Section 15.48.040 shall be a civil infraction as contemplated by
17 RCW Chapter 7.80 and deemed to be a Class 3 civil infraction under RCW 7.80.120(c), and shall
18 subject the violator to a maximum penalty and a default amount of Fifty Dollars (\$50.00) plus
19 statutory assessments. If the person is unable to pay the monetary penalty, the court may order
20 performance of a number of hours of community service in lieu of a monetary penalty.

21 B. Each violation of Section 15.48.100 shall be a civil infraction as contemplated by
22 RCW Chapter 7.80 and deemed to be a Class 1 civil infraction under RCW 7.80.120(a), and shall
23 subject the violator to a maximum penalty and default amount of Two Hundred Fifty Dollars
24 (\$250.00) plus statutory assessments. The penalty for a civil infraction is in addition to the civil



1 liability of the person responsible for the posting to the City for the cost of removal under Sections
2 15.48.120 and 15.48.130.

3 C. As contemplated by RCW 7.80.160, a person who fails to sign a notice of civil
4 infraction or who willfully violates his or her written and signed promise to appear in court or his or
5 her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor
6 regardless of the disposition of the notice of civil infraction. A person who willfully fails to pay a
7 monetary penalty or perform community service as ordered by a court may be found in contempt of
8 court as provided in chapter 7.21 RCW.

9
10 Section 6. SMC 15.50.040 is amended as follows:

11 SMC 15.50.040 Criminal offenses -- Penalty:

12 A. Anyone who shall violate or fail to comply with any of the following provisions of
13 this title, shall upon conviction be punished by a fine in a sum not exceeding Three Thousand
14 Dollars (\$3,000.00) or by imprisonment for a term not exceeding thirty (30) days or by both such
15 fine and imprisonment:

16 15.04.010 "Use and Occupation Permits," Permit -- Required

17 15.16.010 "Sidewalk Cafes," Permit -- Required

18 ~~((15.17.005 "Vending," Vending and display in public places~~

19 ~~15.17.010 "Vending," Areas where mobile vending is restricted~~

20 ~~15.17.050 "Vending," Street vending near the Kingdome~~

21 ~~15.20.010 "Building Cleaning or Painting," Permit -- Required))~~

22
23 15.22.010 "Building Construction/Demolition," Compliance required

24 (mixing of mortar or concrete)

25 15.28.010 "Building and Equipment Moving," Permit required

26 15.32.010 "Franchise and Public Utility Permits and Regulations," Permit -- Required



1 ((15.40.010 "Warning Lights and Barricades," Lights and barricades required -- Posting on
2 obstructions in streets

3 ~~15.40.050 "Warning Lights and Barricades," Unlawful acts designated))~~

4 15.44.003 "Excavations and Fills," Permit -- Required

5 15.44.010 "Excavations and Fills," Barricades and warning devices

6 15.44.020 "Excavations and Fills," Excavation and fill near public place -- Permit

7 ((15.46.030 "Debris in Public Places," Deposits in street or gutter

8 ~~15.48.020 "Miscellaneous Acts," Barbed wire or electric fence))~~

9 15.50.020 "Enforcement," Removing or destroying notices prohibited

10 (Quotation marks above enclose chapter headings.)

11 B. The fine and the limitation on the amount of the fine excludes such amounts, if any, as
12 may be imposed for restitution. Sums imposed as restitution shall be in addition to the fine.

13 C. In the event a violation or failure to comply falls within Section 18.12.070 then
14 Section 18.12.07 applies rather than this section.

15
16 Section 7. . SMC 15.48.050 is repealed

17
18 Section 8. SMC 15.50.050 is repealed.

19
20 Section 9. SMC 15.50.060 is repealed.

21
22 Section 10. SMC 15.50.070 is amended as follows:

23 SMC 15.50.070 Assignment of civil liability only.

24
25 The following sections set standards, assign civil liability for a condition or action, but do not
26 establish criminal offenses or civil infractions:



1 ((15.05.030 B "Constitutional Liberties," General restrictions
2 15.05.040 "Constitutional Liberties," Vending by nonprofit organizations))
3 15.16.040 B "Sidewalk Cafes," Terms and conditions (of permits).
4 15.28.040 "Building and Equipment Moving," Removal or trimming of trees or shrubbery
5 15.32.070 "Franchise and Public Utility Permits and Regulations," Additional ducts or conduits
6 15.32.080 "Franchise and Public Utility Permits and Regulations," Joint use poles
7 15.32.090 "Franchise and Public Utility Permits and Regulations," City use for governmental
8 communication
9 15.38 "Impounding"
10 15.42.015 "Planting Trees and Shrubs," Tree-root damage -- Liability
11 15.42.030 "Planting Trees and Shrubs," Contact with telephone or electric wires
12 ((15.46.040 "Debris in Public Places," Owner's and contractor's responsibility
13 15.48.010 "Miscellaneous Acts," Snow and ice removal))
14

15 Section 11. SMC 15.50.080 is amended as follows:

16 SMC 15.50.080 Citation, prosecution, and civil actions.

17
18 A. A prosecution for a criminal offense identified in Section 15.50.040 may be initiated
19 by an arrest or by citation and notice on the manner authorized by the criminal rules for courts of
20 limited jurisdiction promulgated by the Washington Supreme Court.

21 B. ((An action for a penalty for a civil infraction may be initiated by the issuance, service,
22 and filing of a notice of civil infraction as contemplated by RCW 7.80.050 and the infraction Rules
23 for Courts of Limited Jurisdiction (IRLJ). For purposes of RCW 7.80.040, the "enforcement officer"
24 authorized to enforce the provisions of this title are: (1) as to park drives and boulevards, the
25 Superintendent of Parks and Recreation, and as to other public places, the Director of Transportation;
26 (2) authorized representatives or assistants of either of them; and (3) a commissioned officer of the



1 ~~Seattle Police Department and a person issued a Special Police Officer Commission by the Chief of~~
2 ~~Police with authority to enforce this title.~~

3 ~~_____C-)) An action for a civil infraction shall be initiated and processed in the manner~~
4 ~~contemplated by RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction. For~~
5 ~~purposes of RCW 7.80.040, the "enforcement officer" authorized to enforce the provisions of this~~
6 ~~title are: (1) as to park drives and boulevards, the Superintendent of Parks and Recreation, and as to~~
7 ~~other public places, the Director of Transportation; (2) authorized representatives or assistants of~~
8 ~~either of them; and (3) a commissioned officer of the Seattle Police Department and a person issued~~
9 ~~a Special Police Officer Commission by the Chief of Police with authority to enforce this title.~~

10 ~~C.((D-)) The City Attorney is authorized for and on behalf of The City of Seattle to bring~~
11 ~~a prosecution for a criminal and civil penalty in order to enforce this title ((as needed, appropriate))~~
12 ~~and bring a civil action for damages and/or injunctive relief.~~

13
14
15 Section 12. A new Chapter SMC 15.91 is created to read as follows:

16 SMC 15.91.002 Scope.

17 A. Violations of the following provisions of Seattle Municipal Code Title 15 shall be
18 enforced under the citation or criminal provisions set forth in this Chapter 15.91 by the Director of
19 Transportation:

- 20 1. Marquees, Awnings, Canopies, and Decorative Elements (SMC Chapter 15.10);
21 2. Signs, Banners and Street Clocks (SMC Chapter 15.12);
22 3. Newsstands (SMC Chapter 15.14);
23 4. Building Cleaning or Painting (SMC Chapter 15.20);
24 5. Vending (SMC Chapter 15.17);
25 6. Warning Lights and Barricades (SMC Chapter 15.40);
26 7. Debris in Public Places (SMC Chapter 15.46);
27 8. Snow and ice removal (SMC 15.48.010);



1 9. Barbed wire or electric fence (SMC 15.48.020);

2 B. Any enforcement action or proceeding pursuant to this Chapter 15.91 shall not affect,
3 limit or preclude any previous, pending or subsequent enforcement action or proceeding taken
4 pursuant to Chapter 15.50.

5 SMC 15.91.004 Citation.

6 A. Citation. If after investigation the Director determines that the standards or
7 requirements of provisions referenced in Section 15.91.002 have been violated, the Director may
8 issue a citation to the owner and/or other person or entity responsible for the violation. The citation
9 shall include the following information: (1) the name and address of the person to whom the citation
10 is issued; (2) a reasonable description of the location of the property on which the violation occurred;
11 (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a
12 statement that the person cited must respond to the citation within fifteen (15) days after service; (6)
13 a space for entry of the applicable penalty; (7) a statement that a response must be sent to the
14 Hearing Examiner and received not later than five (5:00) p.m. on the day the response is due; (8) the
15 name, address and phone number of the Hearing Examiner where the citation is to be filed; (9) a
16 statement that the citation represents a determination that a violation has been committed by the
17 person named in the citation and that the determination shall be final unless contested as provided in
18 this chapter; and (10) a certified statement of the Director's representative issuing the citation,
19 authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

20 B. Service. The citation may be served by personal service in the manner set forth in
21 RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known
22 address of such person(s). Service shall be complete at the time of personal service, or if mailed, on
23 the date of mailing. If a citation sent by first class mail is returned as undeliverable, service may be
24 made by posting the citation at a conspicuous place on the property.

25 SMC 15.91.006 Response to citations.

26 A. A person must respond to a citation in one (1) of the following ways:



1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing a mailing address to which notice of such hearing may be sent; or

3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing a mailing address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than fifteen (15) days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day.

SMC 15.91.008 Failure to respond.

If a person fails to respond to a citation within fifteen (15) days of service, an order shall be entered by the Hearing Examiner finding that the person cited committed the violation stated in the citation, and assessing the penalty specified in the citation.

SMC 15.91.010 Mitigation hearings.

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within thirty (30) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by first class mail to the address provided in the request for hearing not less than ten (10) days prior to the date of the hearing.

B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing which shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not be compelled to attend. A representative from the Department of Transportation



1 may also be present and may present additional information, but attendance by a representative from
2 the Department of Transportation is not required.

3 C. Disposition. The Hearing Examiner shall determine whether the person's explanation
4 justifies reduction of the monetary penalty. Factors that may be considered in whether to reduce the
5 penalty include whether the violation was caused by the act, neglect, or abuse of another.

6 D. Entry of Order. After hearing the explanation of the person cited and any other
7 information presented at the hearing, the Hearing Examiner shall enter an order finding that the
8 person cited committed the violation and assessing a monetary penalty in an amount determined
9 pursuant to this section. The Hearing Examiner's decision is the final decision of the City on the
10 matter.

11 SMC 15.91.012 Contested hearing.

12 A. Date and Notice. If a person requests a contested hearing, the hearing shall be held
13 within sixty (60) days after the written response to the citation requesting such hearing is received.

14 B. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing
15 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
16 hearing contested cases, except as modified by this section. The issues heard at the hearing shall be
17 limited to those that are raised in writing in the response to the citation and that are within the
18 jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance
19 of witnesses and the production of documents.

20 C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed
21 statement of the facts constituting the specific violation which the person cited is alleged to have
22 committed or by reason of defects or imperfections, provided such lack of detail, or defects or
23 imperfections do not prejudice substantial rights of the person cited.

24 D. Amendment of Citation. A citation may be amended prior to the conclusion of the
25 hearing to conform to the evidence presented if substantial rights of the person cited are not thereby
26 prejudiced.



1 E. Evidence at Hearing. The certified statement or declaration authorized by RCW
2 9A.72.085 shall be prima facie evidence that a violation occurred and that the person cited is
3 responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other
4 evidence accompanying the report shall be admissible without further evidentiary foundation. Any
5 certifications or declarations authorized under RCW 9A.72.085 shall also be admissible without
6 further evidentiary foundation. The person cited may rebut the Department of Transportation
7 evidence and establish that the cited violation(s) did not occur or that the person contesting the
8 citation is not responsible for the violation.

9 F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter
10 an order finding that the person cited committed the violation and impose the applicable penalty. The
11 Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions in
12 Section 15.91.010. If the Hearing Examiner determines that the violation did not occur, the Hearing
13 Examiner shall enter an order dismissing the citation.

14 G. Appeal. The Hearing Examiner's decision is the final decision of the City. Any
15 judicial review must be commenced within thirty (30) days of service of the Hearing Examiner's
16 decision in accordance with RCW 34.05.542.

17 SMC 15.91.014 Failure to appear for hearing.

18 Failure to appear for a requested hearing will result in an order being entered finding that
19 the person cited committed the violation stated in the citation and assessing the penalty specified in
20 the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing
21 Examiner may set aside an order entered upon a failure to appear.

22 SMC 15.91.016 Penalties.

23 A. First Violation. The first time that a person or entity is found to have violated one of
24 the provisions referenced in Section 15.91.002, after the effective date of the ordinance codified in
25 this chapter, the person or entity shall be subject to a penalty of One Hundred Fifty Dollars (\$150).



1 B. Second and Subsequent Violations. Any subsequent time that a person or entity is
2 found to have violated one of the provisions referenced in Section 15.91.002 within a five (5) year
3 period after the first violation, the person or entity shall be subject to a penalty of Five Hundred
4 Dollars (\$500) for each such violation.

5 SMC 15.91.018 Alternative criminal penalty.

6 Any person who violates or fails to comply with any of the provisions referenced in
7 Section 15.91.002 shall be guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and
8 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and
9 none of the mental states described in Section 12A.04.030 need be proved. The Director may
10 request the City Attorney to prosecute such violations criminally as an alternative to the citation
11 procedure outlined in this chapter.

12 SMC 15.91.020 Abatement.

13 Any public place on which there continues to be a violation of any of the provisions
14 referenced in Section 15.91.002 after enforcement action taken pursuant to this chapter is hereby
15 declared a nuisance and subject to abatement by the City in the manner authorized by law.

16 SMC 15.91.022 Collection of penalties.

17 If the person or entity cited fails to pay a penalty imposed pursuant to this chapter, the
18 penalty may be referred to a collection agency. The cost to the city for the collection services will be
19 assessed as costs, at the rate agreed to between the City and the collection agency, and added to the
20 penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

21 SMC 15.91.024 Each day a separate violation.

22 Each day a person or entity violates or fails to comply with a provision referenced in
23 Section 15.91.002 may be considered a separate violation for which a citation may be issued.

24 SMC 15.91.026 Additional relief.



The Director may seek legal or equitable relief at any time to enjoin any acts or practices that violate the provisions referenced in Section 15.91.002 or abate any condition that constitutes a nuisance.

Section 13. The Street Use Fee Permit Schedule authorized by, and attached to, Ordinance 119260 and amended by Ordinance 119673 is further amended to add new categories and fees as follows:

<u>TYPE OF USE</u>	<u>PERMIT FEE</u>	<u>REQUIREMENTS</u>
14D. Stadium Event Vending-Baseball	\$187.50/month or \$1,125 for the regular season (April – Sept.)	Insurance Required
14E. Stadium Event Vending-Football	\$25/month or \$125 for the season (Aug.- Dec.)	Insurance Required
14F. Stadium Event Vending –Special	\$12.50/day	Insurance Required

The Director of Transportation is authorized to collect such fees in accordance with Chapter 15.04 of the Seattle Municipal Code.

Section 14. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 20____, and signed by me in open session in authentication of its passage this ____ day of _____, 20____.

President of the City Council

Approved by me this ____ day of _____, 20____.

Mayor

Filed by me this ____ day of _____, 20____

City Clerk

(SEAL)

Exhibit A: Street Use Permits



STATE OF WASHINGTON - KING COUNTY

--SS.

146398
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

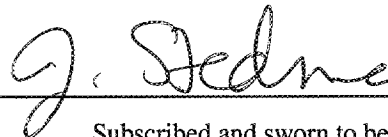
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published 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# 120822

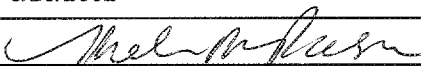
was published on

6/20/2002

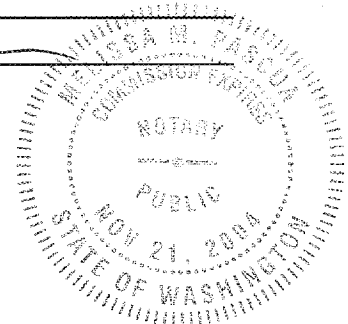


Subscribed and sworn to before me on

6/20/2002


Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



City of Seattle

ORDINANCE 120822

ORDINANCE relating to Street and Sidewalk Use, amending Sections 15.04.074, 15.17.020, 15.17.050, 15.50.040, 15.50.070 and 15.50.080 of the Seattle Municipal Code; repealing Sections 15.48.050, 15.50.050, and 15.50.060; adding new Sections 15.17.080 and 15.48.900 and Chapter 15.91 to Title 15 of the Seattle Municipal Code; and adopting a new Street Use Permit Fee Schedule.

WHEREAS, current city code disallows vending in the vicinity of the Kingdome, the Kingdome was demolished, and new sport stadiums have been constructed in the vicinity of where the Kingdome once stood that are attracting millions of fans to sporting events each year; and

WHEREAS, many entrepreneurs have established small businesses in the public right-of-way surrounding the new sports stadiums selling food and merchandise to sports fans attending games; and

WHEREAS, current city code strictly regulates street vending, does not permit street vending of merchandise from tables anywhere in the City, only allows street vending of food and flowers from a cart, and requires a Street Use Permit for anyone wishing to use the public right-of-way for vending or any other purpose; and

WHEREAS, the excitement of attending a professional sporting event begins before one enters the stadium, street vendors contribute to the festive atmosphere of ball games, provide consumer choices at a competitive price, contribute to Seattle's tax base through the payment of Sales and Business and Occupation Taxes, and could operate as legitimate small businesses in Seattle if granted the authority to vend in the public right-of-way; and

WHEREAS, street vending impacts the public health, safety and welfare and must be strictly regulated by Seattle Transportation in order to protect the public, a system of granting street use permits creates an easy and equitable means of regulating the activities of street vendors; and

WHEREAS, the current enforcement system for processing Street and Sidewalk Use Code violations recognizes that the majority of citizens will voluntarily comply with the code requirements once they are aware of a violation; and

WHEREAS, the current enforcement system can be changed to be more effective in dealing with the more difficult street and sidewalk use cases, particularly those involving repeat offenders and property owners who are unwilling to comply with the City's requirements; and

WHEREAS, it is appropriate that the Street and Sidewalk Use Code should discourage repeat violations by imposing increasing penalties; and

WHEREAS, enforcement of the Street and Sidewalk Use Code should efficiently use resources and focus the most resources on difficult cases; and

WHEREAS, because violations of the Street and Sidewalk Use Code have a serious impact on the community, it is sometimes appropriate to assess a penalty irrespective of how quickly the violation is cured in order to deter such violations; and

may take into consideration City policy of discouraging encroachments inconsistent with their park-like character and may be included in the schedule of fees for use of facilities of the Department of Parks and Recreation.

B. The fee shall be collected as a condition to the issuance or continuance of any such permit or use except when such permit is issued as a component of a master filming permit pursuant to SMC Section 15.35.010. In order to effectuate collection of such fees the Director of Transportation, the Director of the Office of Economic Development as to master filming permits, or the Superintendent as to public places under the jurisdiction of the Department of Parks and Recreation, shall promptly notify holders of outstanding permits issued to pay the applicable fee or the permit will be revoked. The rate in the schedule for master filming permits shall identify which, if any, of the factors identified in SMC Section 15.35.020 are taken into consideration in setting the rate and which are to be determined with respect to particular applications.

C. Upon petition by a public agency for a vacation of street area, street use fees for such street area shall be suspended if the Director of Transportation finds that such public agency, as a current practice, would convey to, or permits use by, the City of a portion of the public agency's property for street or other public purpose without charge; provided, should the street vacation petition be denied, street use fees shall be payable for the full period of use.

D. When a use requiring a permit is made of a public place without first obtaining the permit, the fee shall be double the amount provided in the schedule of fees. The double fee shall apply only to the first tenure of the permit.

E. Fees for the use of public places under the jurisdiction of the Department of Parks and Recreation shall be deposited to the credit of the Park and Recreation Fund; beginning January 1, 2001, fees for the use of shoreline street ends and vending permit fees shall be deposited to the credit

F. No mechanical audio or noise making device is

G. Electrical utility connections are permitted to the extended overhead or upon the sidewalk;

H. The vendor must present to the City written approval of the property owner and/or tenant; if the tenant and property owner decision controls;

I. The vendor displays the permit at the vending site in the presence of the authorizing official; and

J. The vendor satisfies all the conditions of its permit as the authorizing official may establish from

Section 5 A new Section 15.48.900 is adopted in the Seattle Municipal Code (SMC) 15.48.900 Civil penalty.

A. Each violation of Section 15.48.040 shall be deemed to be a Class 3 civil infraction under RCW Chapter 7.80 and deemed to be a Class 3 civil infraction subject the violator to a maximum penalty and a default assessment of statutory assessments. If the person is unable to pay the penalty, the person shall perform a number of hours of community service in lieu of the penalty.

B. Each violation of Section 15.48.100 shall be deemed to be a Class 1 civil infraction under RCW Chapter 7.80 and deemed to be a Class 1 civil infraction subject the violator to a maximum penalty and default assessment of (\$250.00) plus statutory assessments. The penalty for a violation shall be the liability of the person responsible for the posting to the City of Seattle. SMC 15.48.120 and 15.48.130.

C. As contemplated by RCW 7.80.160, a person who commits a civil infraction or who willfully violates his or her written and signed promise to respond to a notice of civil infraction shall be liable for a monetary penalty or perform community service as ordered by the court as provided in chapter 7.21 RCW.

Section 6. SMC 15.50.040 is amended as follows: SMC 15.50.040 Criminal offenses - Penalty.

A. Anyone who shall violate or fail to comply with this title, shall upon conviction be punished by a fine in the amount of \$3,000.00 or by imprisonment for a term not exceeding 6 months, or both a fine and imprisonment:

15.04.010 "Use and Occupation Permits," Permit -- Required

15.16.010 "Sidewalk Cafes," Permit -- Required

((15.17.005) "Vending," Vending and display in public places

15.17.010 "Vending," Areas where mobile vending is permitted

15.17.050 "Vending," Street vending near the Kingdome

15.20.010 "Building Cleaning or Painting," Permit -- Required

15.22.010 "Building Construction/Demolition," Commercial construction (mixing of mortar or concrete)

15.28.010 "Building and Equipment Moving," Permit -- Required

15.32.010 "Franchise and Public Utility Permits and

((15.40.010) "Warning Lights and Barricades," Light obstructions in streets

15.40.050 "Warning Lights and Barricades," Unlawful use

15.44.003 "Excavations and Fills," Permit -- Required

15.44.010 "Excavations and Fills," Barricades and warning lights

15.44.020 "Excavations and Fills," Excavation and filling

((15.46.030) "Debris in Public Places," Debris in public places