Ordinance No. 122824

Council Bill No. 116296

An ordinance relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

Related Legislation File: _____

Date Introduced and Referred:	To: (committee):
8-11-08	Transportation
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 10-6-08	Date Presented to Mayor: 10-7-08
Date Signed by Mayor: 10.13.08	Date Returned to City Clerk: 10.14.08
Published by Title Only _____ Published in Full Text 14	Date Vetoed by Mayor:
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: Jan Drago

Committee Action:

Date	Recommendation	Vote
9-8-08 (W)	Pass as Amended	2-0 J.P., S.C.

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

Full Council Action:

Date	Decision	Vote
9-8-08	Held 1 week	7-0
9-15-08	Held 1 week	
9-22-08	Held to 10/6 (Y)	
10-6-08	Passed As Amended	7-1

(No: Rasmussen; Excused: Burgess)

ORDINANCE 122824

AN ORDINANCE relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

WHEREAS, sidewalk cafes can complement available open space resources by activating sidewalks in areas of Seattle where commercial activity is allowed; and

WHEREAS, "eyes on the street" from patrons and responsible proprietors can enhance neighborhood safety and public perception of safety; and

WHEREAS, enjoyable public spaces advance Seattle's character and quality of life; and

WHEREAS, Seattle's procedures for authorizing sidewalk cafes associated with adjacent food-service establishments can be simplified with no significant loss of necessary oversight; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.02.046 of the Seattle Municipal Code, which section was last amended by Ordinance 121925, is amended as follows:

15.02.046 Definitions N through S.

* * *

H. "Sidewalk cafe" means a portion of ((~~sidewalk area~~))the public right-of-way in which ((~~are placed~~))tables and chairs are placed for the use of patrons ((~~while~~)) consuming food and/or beverages, including alcoholic beverages, served by a food-service establishment (as defined in Section 10.10.040 of Title 10)((~~cafe, restaurant or tavern~~)) located on adjacent property.

* * *

Section 2. Section 15.04.015 of the Seattle Municipal Code, which section was last amended by Ordinance 121276, is amended as follows:

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15.04.015 Authorizing official.

A. The Director of Planning and Development may authorize the construction of a curb cut((~~, a sidewalk cafe,~~)) or a structural building overhang, or reconstruction of an areaway in a public place under the Master Use Permit procedures of Chapter 23.76, particularly Section 23.76.006 B((~~6~~))3, or removal of trees and vegetation located in an environmentally critical area under Chapter 25.09. An authorization for construction in a park drive, boulevard, or area under the jurisdiction of the Superintendent of Parks and Recreation identified in Appendix I or shown on the map as Appendix II is dependent upon (a) a description of the encroachment or use in the application for the Master Use Permit or the accompanying materials; (b) its identification as park drive, boulevard, or property under the jurisdiction of the Superintendent of the area to be used; (c) the written concurrence of the Superintendent; (d) payment of applicable fees; and (e) if there is a modification, written concurrence of the Superintendent thereto. Continuation of such uses after completion of construction is subject to compliance with the terms and conditions of this title; inspection and administration by the Director of Transportation or the Superintendent, as the case may be; and payment of an annual fee, if applicable.

* * *

Section 3. Section 15.16.010 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.010 Permit – Required.

It ((~~shall be~~))is unlawful to operate a sidewalk café without obtaining a street use((~~written~~)) permit to do so from the Director of Transportation((~~Construction and Land Use~~)),

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as provided in this chapter and Section 15.04.010. A street use permit to operate a sidewalk café shall not be transferred or assigned.

Section 4. A new section 15.16.012 is added to the Seattle Municipal Code to read as follows:

15.16.012 Permit – Expiration, renewal, and revocation.

A street use permit for a sidewalk café expires when the adjacent food service establishment changes ownership, when the adjacent food-service establishment's permit expires, or if fees are not paid according to the provisions of Section 15.04.074 B. A street use permit for a sidewalk café is wholly of a temporary nature, vests no permanent rights whatsoever, and is revocable pursuant to SMC 15.04.070. The Director of Transportation may suspend or revoke the street use permit for a sidewalk café if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.

Section 5. Section 15.16.030 of the Seattle Municipal Code, which section was last amended by Ordinance 120611, is repealed as follows:

~~((15.16.030 Notification of surrounding tenants and owners.~~

~~The Director of the Department of Design, Construction and Land Use shall provide notice of receipt of an application for a sidewalk café permit in accordance with the notice provisions of the Master Use Permit Process, SMC Chapter 23.76.~~))

Section 6. Section 15.16.040 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.040 Terms and conditions.

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A. The Director of Transportation((~~Construction and Land Use~~)) may issue a street use permit in accordance with Section 15.04.035 for use of a ((~~sidewalk~~))portion of the right-of-way for a sidewalk café ((~~purposes in the event and to the extent that he or she~~))if the Director determines that:

1. The applicant is the owner or occupant of the adjacent property and operates a food-service establishment thereon that is permitted under Title 10 or by the Seattle-King County Director of Public Health or the Director's representative ((~~cafe, restaurant, or tavern thereon~~));

2. The proposed use for a sidewalk cafe would not unduly and unreasonably impair pedestrian passage ((~~to and fro by the public~~))in or on the right-of-way ((~~sidewalk for which the permit is sought and is consistent with any applicable standards established by the federal Americans with Disabilities Act;~~)) and allow

a. if located in the Downtown Urban Center as established in the Comprehensive Plan, at least six (6) feet of clear path of travel for pedestrian passage if the permit application is submitted after the effective date of the ordinance codified in this section (see Exhibit 15.16.040 A, Location of Sidewalk Café) and at least five (5) feet of clear path of travel for pedestrian passage for sidewalk cafes established before that date;

b. if located outside of the Downtown Urban Center as established in the Comprehensive Plan, at least five (5) feet of clear path of travel for pedestrian passage (see Exhibit 15.16.040 A, Location of Sidewalk Café);

c. a wider clear path of travel for pedestrian passage than is required in subsections 2a and 2b when required by the Director of Transportation to facilitate the use of the sidewalk by pedestrians;

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3. The proposed sidewalk café would be located ((~~is included within a food-service establishment permit pursuant to Seattle City Code Chapter 10.10, or the Seattle-King County Director of Public Health or his or her representative, has otherwise authorized such a use of the area.~~))

a. at least five (5) feet from alleys, bus zones, parking zones for handicapped persons, and commercial loading zones (see Exhibit 15.16.040 A, Location of Sidewalk Café);

b. at least five (5) feet from curb ramps or from the beginning of the corner curb radius where curb ramps do not exist, parking meters or pay stations, traffic signs, utility poles, fire hydrants, bike racks, and other street fixtures (see Exhibit 15.16.040 A, Location of Sidewalk Café);

c. at least three (3) feet from the curb in order to provide access to on-street parking when pedestrian passage is located between the sidewalk café and the food-service establishment (see Exhibit 15.16.040 A, Location of Sidewalk Café);

d. at least fifty (50) feet from a lot zoned RSL, SF, L1, L2, L3 or L4, and that does not have an RC designation, as shown on the Official Land Use Map, as these zoning designations are defined under Section 23.30.010 A of Title 23; and

e. at a distance farther than that required in 3a, 3b or 3c, based upon the Director of Transportation's determination that such additional distance is needed to facilitate the use of the sidewalk by pedestrians;

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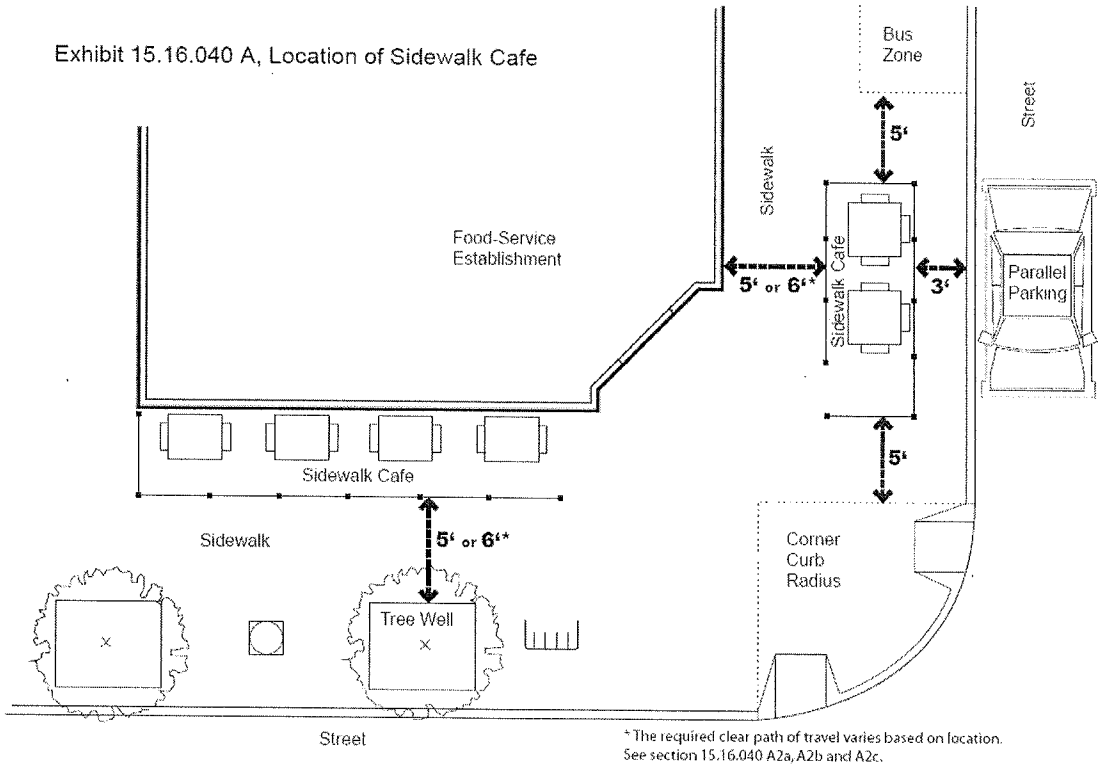

4. The applicant has obtained a certificate of approval for the sidewalk café from the appropriate Board or Commission when located in a Landmark District or Historic District subject to the provisions of Title 25;

5. The proposed sidewalk café is consistent with any applicable standards established by the federal Americans with Disabilities Act; and

6. The applicant has posted a notice of the application for the street use permit for the sidewalk café. The notice shall be clearly visible from the adjacent sidewalk and shall state that comments on the application may be sent to the Director of Transportation and will be considered in reviewing the application.

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B. The Director of Transportation may require additional information from an applicant in accordance with Section 15.04.030, and may include in the street use permit such terms and conditions as he or she((~~the Director may~~)) deems appropriate including, but not limited to:

1. Design standards;

2.((*)) Restrictions as to the ((~~number and placement of tables and chairs and as to the~~))hours and dates of use;

3.((*)) A requirement that the sidewalk café((~~area~~)) be removed((~~cleared~~)) when ((~~not in use as a~~))the street use permit for a sidewalk café expires, or upon the order of the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives;

4.((*)) Provisions that the permittees shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel;

5.((*)) A requirement that the applicant clear the right-of-way((~~sidewalk~~)) as may be necessary to accommodate reasonable access((~~deliveries~~)) to adjacent or other nearby properties and utilities;

6. A requirement that designs for platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be certified by a registered professional civil engineer or architect;

7. A requirement that platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be maintained in an as-built condition;

THIS CITY CLERK

8.((*)) Regulations upon lighting and illumination of the sidewalk cafe; limitations upon noise; and restrictions upon the placement of furniture or equipment used in connection with the sidewalk cafe;

9.((*)) The posting of a surety bond in accordance with the provisions of Section 15.04.044 or establishment of an escrow account in accordance with the provisions of Section 15.04.042((~~this title~~));

10.((*)) If the sidewalk cafe causes a change in pedestrian travel patterns, appropriate repairs to the right-of-way((~~sidewalk~~)) in the immediate vicinity in order to accommodate the change or to assure compliance with the federal Americans with Disabilities Act;

11.((*)) Restoration of the right-of-way((~~sidewalk~~)) upon completion of the use.

C. The Director of Transportation shall promulgate rules to implement this chapter. The rules may address the subjects identified in this section and other subjects the Director believes may aid in the implementation of this chapter.

D. Unless expressly authorized by the Director of Transportation pursuant to the street use permit for a sidewalk café,((~~City~~)) no right-of-way surface ((~~pavement~~)) shall be broken or((~~, no sidewalk surface~~)) disturbed, and no permanent fixture of any kind shall be installed in or on the right-of-way ((~~sidewalk area~~)) in connection with a sidewalk cafe.

E. Amplified sound is prohibited within the sidewalk café.

((~~D. The Director of Construction and Land Use or the Director of Transportation may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.~~))

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Section 7. Section 15.16.050 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.050 Liquor.

Liquor, as defined in RCW 66.04.010(24((~~16~~))), as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized ((~~in~~))by the street use permit;((~~both~~)) the food-service establishment((~~use~~)) permit((~~and provided for in this chapter~~)) issued pursuant to Seattle Municipal Code Chapter 10.10, or by the Seattle-King County Director of Public Health or his or her representative; and by permit ((~~of~~))issued by the Washington State Liquor Control Board, and not otherwise.

Section 8. Section 15.16.060 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.060 Insurance

An applicant for a permit for a sidewalk cafe shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Director of Transportation sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the use of right-of-way((~~sidewalk~~)) area for sidewalk cafe purposes, naming the City an additional insured.

Section 9. Section 15.16.070 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.070 Indemnity.

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The applicant or permittee shall agree to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents against:

1. Any liability, claims, causes of action, judgments, or expenses, including reasonable attorney fees, resulting directly or indirectly from any act or omission of the applicant or permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the applicant/permittee's use or occupancy of the public right-of-way; and

2. All loss by the failure of the applicant or permittee to fully or adequately perform, in any respect, all authorizations of obligations under the sidewalk café permit. ((~~The applicant for a sidewalk cafe permit shall execute and deliver to the City upon a form supplied by the Director of Transportation an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk cafe. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the sidewalk cafe furniture ordered removed. Every such agreement, after it has been received in his or her office and numbered, and shall be filed with the City Clerk.~~))

Section 10. Section 15.16.080 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

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15.16.080 Sidewalk Condition

The applicant shall comply with the terms and conditions of the sidewalk cafe permit issued, and shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.

Section 11. Subsection B of Section 23.76.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.76.006 Master Use Permits required.

* * *

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

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

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

a. Curb cut for access to parking,

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

c. ((~~Sidewalk cafes provided that Type II notice of application procedures shall be followed,~~

~~d.~~)) Structural building overhangs,

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d((e)). Areaways;

4. Lot boundary adjustments;

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

a. Plazas,

b. Shopping plazas,

c. Arcades,

d. Shopping arcades,

e. Voluntary building setbacks;

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

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

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

9. Special accommodation pursuant to Section 23.44.015;

10. Reasonable accommodation;

11. Minor amendment to Major Phased Development Permit;

12. Determination of public benefit for combined lot development; and

13. Other Type I decisions that are identified as such in the Land Use Code.

* * *

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Section 12. By January 1, 2010, the Director of Transportation shall provide the City Council with a written report concerning sidewalk cafes. The report shall include the following information:

1. A list of all the street use permit applications for sidewalk cafes received by the Seattle Department of Transportation between November 1, 2008 and November 1, 2010. The list shall specify whether each permit application was approved, denied, or approved subject to changes requested by a City department. The specific reason(s) for each denial and any requested changes to individual permit applications shall also be described.

2. The number and content of the public comments and complaints about sidewalk cafes received by the City between November 1, 2008 and November 1, 2010.

Section 13. 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.

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Passed by the City Council the 6th day of October, 2008, and signed by me in open session in authentication of its passage this 6th day of October, 2008.

President _____ of the City Council

Approved by me this 13th day of October, 2008.

Gregory J. Nickels, Mayor

Filed by me this 14th day of October, 2008.

City Clerk

(Seal)

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City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 5, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that reduces the fees and the time required to approve new sidewalk cafés in Seattle's rights-of-way. The legislation will give the Director of Transportation sole authority to establish the terms and conditions applicable to a new sidewalk café through the review and approval of an annual Street Use Permit. Sidewalk cafes will no longer require a Master Use Permit from Department of Planning and Development. These changes will reduce an applicant's fees by $1,665.00 and reduce permit review time by 14 to 28 days. The proposed Council Bill also replaces the current costly, ambiguous notice requirement with more effective tools for addressing noise, encroachment, and required distances from other features of the pedestrian environment, which have been the main concerns expressed about sidewalk cafés.

In conjunction with the proposed Council Bill, the Department of Transportation will establish design standards to address other important concerns such as access for people with disabilities, hours of operation, safety, seating platforms, and landscaping. Consolidating authority and resources within the Department of Transportation will reduce administrative review time and encourage consistency.

Sidewalk cafés increase public use, enjoyment and safety of neighborhood commercial streets. By simplifying permitting and reducing permit times and fees, we can encourage the establishment of more cafés on the sidewalks of Seattle. Thank you for your consideration of this legislation. Should you have questions, please contact Mark Troxel at 5-1739.

Sincerely,

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
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Form revised February 6, 2008

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Planning and Development	Mark Troxel/615-1739	Karen Grove/684-5805

Legislation Title:
An ordinance relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

- **Summary of the Legislation:**

Proposed legislation consolidates within Seattle Department of Transportation (SDOT) the authority to review and approve sidewalk cafes located in the right-of-way, and clarifies required distances from other features of the streetscape. Master Use Permits from the Department of Planning and Development (DPD) will no longer be required to establish a new sidewalk café in the right-of-way. The administration of permits for sidewalk cafes will be streamlined to encourage these streetscape-enhancing business activities.

- **Background:**

A review of the administrative procedures and requirements for permitting sidewalk cafes has determined that the process can be simplified with no reduction in oversight. Sidewalk cafés currently require both a Master Use Permit from the Department of Planning and Development (DPD) and a Street Use Permit from Seattle Department of Transportation (SDOT). Consolidating review and approval within SDOT's Street Use Permit authority, eliminating the need for a Master Use Permit from DPD if no significant construction is involved, will reduce fees and administrative time for applicants. SDOT Street Use Permits are revocable permits renewed annually. Sidewalk café operators will be subject to Street Use Permit terms and conditions appropriate to the café's location and circumstances.

- Any food-service establishment will be eligible to apply.
- Clear location criteria will be established with 50-foot setbacks from lots in single-family and lowrise residential zones.
- Amplified sound will be prohibited and Department of Executive Administration noise inspectors will enforce potential noise complaints.

- *Please check one of the following:*

____ **This legislation does not have any financial implications.**

_✓_ **This legislation has financial implications.**

The legislation will reduce DPD application fees by $1,665.00.

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Over the past 10 years, approximately 15 sidewalk café applications have been received per year. Sidewalk café applications comprise only a small part of DPD's annual permit application volume (36,295 permits issued in 2007). Consequently, no significant budget implications are anticipated.

- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

In the short term, we anticipate that there would be no financial cost of not implementing the legislation. DPD would continue to charge fees for redundant review of sidewalk café applications. Over the long term, Seattle will miss an opportunity to enliven streetscapes in a way that will draw citizens and visitors alike to a type of business – a café culture – that will strengthen our city's fabric of social and commercial exchanges.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

There are no alternatives to the legislation that could achieve the same or similar objectives.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

In order to amend the Land Use Code, the City Council must hold a public hearing before the Planning, Land Use, and Neighborhoods Committee. This meeting requires 30 days' public notice.

- **Other Issues** (*including long-term implications of the legislation*):

None.

Please list attachments to the fiscal note below:

Attachment A: Director's Report and Recommendation

DIRECTOR'S REPORT AND RECOMMENDATION
Sidewalk Cafes Legislation

SUMMARY

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Seattle policies encourage sidewalk cafes, which are outdoor seating areas associated with an adjacent food-serving business and located in the right-of way. Sidewalk cafés activate the streetscape, giving it character, interest and a sense of safety and community. A review of the administrative procedures and requirements for permitting sidewalk cafes has determined that the process can be simplified with no reduction in oversight. Sidewalk cafés currently require both a Master Use Permit from the Department of Planning and Development (DPD) and a Street Use Permit from Seattle Department of Transportation (SDOT). Consolidating review and approval within SDOT's Street Use Permit authority, eliminating the need for a Master Use Permit from DPD if no significant construction is involved, will reduce fees and administrative time for applicants. SDOT Street Use Permits are revocable permits renewed annually. Sidewalk café operators will be subject to Street Use Permit terms and conditions appropriate to the café's location and circumstances.

- Any food-service establishment will be eligible to apply.
- Clear location criteria will be established with 50-foot setbacks from lots in single-family and lowrise residential zones.
- Amplified sound will be prohibited and Department of Executive Administration noise inspectors will enforce potential noise complaints.

Proposed amendments to Seattle Municipal Code (SMC) Title 15, *Street and Sidewalk Use*, and new administrative procedures for enforcing uses in the right-of-way, will clarify and strengthen the City's ability to respond to potential adverse consequences associated with promoting more lively commercial streetscapes.

BACKGROUND AND CURRENT REGULATIONS

Sidewalk cafés increase public use, enjoyment and safety in neighborhood business districts and within established urban centers. They create appealing street activity and add "eyes on the street" that can strengthen the social fabric and reduce crime.

Seattle already allows sidewalk cafes. When an "eating and drinking establishment" (a Land Use Code term) provides service at outdoor tables located on private property, DPD regulates those areas as an accessory use to the existing business. When the outdoor tables are located in the public right-of-way, they comprise a sidewalk café, regulated by SMC Chapter 15.16. Under existing regulations in Title 15, sidewalk cafés must be associated with an adjacent "café, restaurant or tavern."

SDOT records show over 200 sidewalk cafes citywide, with approximately 150 in the Center City. Attachment 1 lists Comprehensive Plan goals and policies supporting proliferation of streetscape-activating uses such as sidewalk cafes. Despite this strong policy support, however, Seattle's permitting process for sidewalk cafés is complex and costly. Figure 1 summarizes the current process requirements and fees.

Figure 1.
Seattle Sidewalk Café Permitting Process

- $155 Intake Appointment Fee

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- $165 Notice – Land Use Information Bulletin Fee
- $95 Notice – Posting Fee
- $1,250 Land Use Review Fee + $250 per additional hour
- $300 SDOT Review, ROW and Mapping Fee
- $131 Permit Fee in first year, $97 in subsequent years
- $1.56 per square foot in ROW per year
    - **$2,097 + $1.56 per sq. foot in ROW one time (minimum)**
    - **$97 + $1.56 per sq. foot per year in ROW in subsequent years**

The notice requirement alone can add two to four weeks to the time required to obtain the necessary permits for a sidewalk café.

Attachment 2, *Center City Public Realm*, is a 2007 DPD analysis of how the City can activate streetscapes and use the right-of-way to supplement open space in Seattle's more urban neighborhoods. One method it identifies is wider use of sidewalk cafés.

Approval of a sidewalk café is unique among land uses in that it is a Type I decision that requires public notices as if it were a Type II decision (SMC 23.76.006 B3c). Type I decisions are nonappealable administrative decisions that generally involve little or no discretion. Type II decisions are discretionary decisions that are subject to an administrative open records appeal to the Hearing Examiner. While the added fees for posting notice on the site and in the Land Use Information Bulletin are a source of frustration to applicants, potential frustration on the part of neighbors who, because of the notice, might seek to appeal a sidewalk café's approval could be far greater because the approval is not subject to appeal. To reassure concerned neighbors of sidewalk cafés, the proposal relies on the revocability of SDOT's Street Use Permit.

ANALYSIS

The proposed legislation is part of a planning effort to invigorate public spaces, which include rights-of-way. Demand for public open space is growing, and the high cost of land often precludes substantial City purchases of open space. Seattle can improve its pedestrian environment and broaden the ways in which the public can use its rights-of-way, which constitute approximately 35% of Seattle's land, to create additional quality open space for the public.

WHERE ALLOWED. Current regulations require that sidewalk cafés be associated with an adjacent "café, restaurant or tavern." Those terms in SMC Title 15, Street and Sidewalk Use, refer to outdated definitions within Title 23, Land Use Code. Rather than update to corresponding contemporary Land Use Code terms, the proposal broadens the range of uses allowed to have a sidewalk café. In recent decades, serving food has become an accessory activity within many kinds of businesses. In order to promote sidewalk cafés, the proposal allows a permit to be sought in conjunction with a "food-service establishment" as that term is defined in SMC Chapter 10.10, Food Code. This will enable businesses, such as grocery stores, bakeries, or school cafeterias, to seek a Street Use Permit for establishing a sidewalk café.

RIGHT-OF-WAY SAFETY. Under existing regulations, sidewalk cafés must not unduly or unreasonably impair pedestrian passage on the sidewalk. These provisions will not change. An

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SDOT Director's Rule will clarify the technical requirements related to preserving pedestrian passage. The rule will establish setbacks applicable to sidewalk cafés for the variety of fixtures found in the right-of-way such as pay stations, utility poles, street trees, fire hydrants, or bike racks and for alleys, bus zones, handicapped access zones, and commercial loading zones. Existing provisions in SMC Chapter 15.16 already require that the applicant be responsible for keeping the sidewalk in a clean and safe condition for pedestrian travel, and reserve to the SDOT Director, or appropriate City officers such as the Chief of Police or the Fire Chief, the right to require that the sidewalk be cleared when not in use.

SEATING PLATFORMS. Seating platforms in the right-of-way will generally be discouraged. If the right-of-way is sufficiently wide, the SDOT Director may allow seating platforms on, for example, sloping sidewalks. New language in the proposal will allow the SDOT Director to require that designs for seating platforms or other structures in the right-of-way be stamped by a registered design professional. An SDOT Director's Rule will clarify the sidewalk configurations in which seating platforms will be allowed. Design guidelines will specify materials and preferred designs for seating platforms. Existing provisions require that all structures in the right-of-way will be removed and the sidewalk restored to its original condition when the sidewalk café is discontinued.

ACCESSIBILITY UNDER THE AMERICANS WITH DISABILITIES ACT. Section 15.16.040 A2 currently requires that any proposed sidewalk café be consistent with any applicable standards established by the federal Americans with Disabilities Act (*See* 28 CFR 36.406). These provisions of SMC Chapter 15.16 will not change. More detailed design requirements in an SDOT Director's Rule will specify how federal regulations will apply to sidewalk cafés.

NOISE. Under the proposal amplified sound would be prohibited in any part of a sidewalk café. New location criteria will prohibit sidewalk cafés within 50 feet of any lot in a strictly residential zone. Based on City staff's experience with noise enforcement, these provisions should prevent most noise complaints. Inspectors from the Department of Executive Administration will respond to noise complaints associated with sidewalk cafés as part of their duties related to nightclubs' public safety and neighborhood quality of life issues under Seattle's noise regulations, SMC Chapter 25.08.

SERVING LIQUOR. Existing regulations allow sidewalk cafés to serve liquor when allowed by the Washington State Liquor Control Board (WSLCB). The proposed amendments update Municipal Code references recognizing WSLCB authority over the sale of alcoholic beverages. WSLCB regulations require 42-inch high fences between sidewalk cafés that serve liquor and the remaining right-of-way. Design guidelines will specify materials and transparency for required fencing.

DESIGN GUIDELINES. SDOT staff, with assistance from other City departments, will develop design guidelines to address aesthetic issues such as fencing, seating area configurations appropriate to the site.

APPLICATION PROCESS IMPROVEMENTS. Consolidating the permit process for sidewalk cafés (that are part of existing businesses) within SDOT will give most applicants a single point of

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contact within the City, will reduce permit review time by 14 to 28 days, and will reduce DPD application fees by $1,665.00.

INTERNAL PROCESS IMPROVEMENTS. New inspectors within the Department of Executive Administration will respond to noise complaints, and SDOT inspectors will respond to complaints regarding inappropriate encroachment on the right-of-way. Currently, noise complaints

An SDOT Director's Rule will be developed jointly by SDOT and DPD clarifying how to meet federal and WSLCB requirements and specifying technical requirements for preserving a safe route of pedestrian travel. Design guidelines and a revised Client Assistance Memo 225, Applications for New Sidewalk Cafés, will promote quality design. The terms and conditions of revocable SDOT Street Use Permits will allow permit reviewers to respond to site-specific conditions on an annual basis.

RECOMMENDATION

DPD recommends adoption of the sidewalk café legislation. It will reduce the cost and time required to establish new sidewalk cafés while increasing the City's capacity to respond to potential problems. A proliferation of sidewalk cafés will activate commercial streets, and enhance Seattle's pedestrian culture, fostering personal health, environmental health, and greater appreciation for the smaller spaces and businesses one can discover at a walking pace.

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ATTACHMENT 1
SEATTLE COMPREHENSIVE PLAN SUPPORT FOR ACTIVE STREETSCAPES

Crown Hill/Ballard Policy 2 – Improve the attractiveness of the business areas in the Ballard Hub Urban Village and the Crown Hill Residential Urban Village to businesses, residents and shoppers through creation of pleasant streetscapes and public spaces.

Belltown Goal 3 – A neighborhood with a vibrant streetscape.

Eastlake Goal 2 – A safe and interesting streetscape with pedestrian activity, a strengthened commercial identity and residential community, and reduced conflicts between residential and commercial uses along Eastlake Avenue E.

Eastlake Goal 4 – A community with pedestrian activity, and attractive close-in and distant views along streetscapes, alleys and shorelines.

Fremont Policy 22 – Encourage attractive, pedestrian-oriented streetscapes through design guidelines, zoning refinements, and streetscape improvements.

Green Lake Goal 1 – A vibrant residential urban village with pedestrian-friendly streetscapes that preserve and enhance the unique scale and character of the village.

Greenwood/Phinney Ridge Goal 1 – A vital Greenwood commercial area with a pedestrian-friendly streetscape.

Greenwood/Phinney Ridge Policy 21 –Encourage new development, both public and private, to provide trees and greenery, pedestrian amenities, and improved streetscapes as part of facility design.

North Beacon Hill Goal 3 – An urban village that is a pleasant place to walk and use alternative transportation, where streetscapes are lively, friendly places, and where roadways are seen as public access for walkers, bicycles, and buses as well as cars.

North Beacon Hill Policy 19 – Enhance streetscapes on Beacon Avenue and provide pedestrian and bicycle improvements that will contribute to an improved image of the business district.

North Beacon Hill Policy 24 – Develop, through public programs and public/private partnerships, at key locations within the commercial core along Beacon Avenue, small civic open spaces, gateways, landscaped features and pedestrian streetscape amenities.

North Rainier Goal 1 – A Town Center with the highest densities in the neighborhood that is well connected with the regional light rail station, consists of housing and vital commercial activities, provides living-wage employment opportunities, is pedestrian and bicycle oriented, and has attractive streetscape and amenities.

Downtown Open Space Policy 4 – Accommodate active and passive pedestrian space on portions of existing street rights-of-way designated as Green Streets in accordance with the Pedestrian Classification Policy (Policy T10) and maps adopted by ordinance. Classify the various street segments comprising a Green Street according to desired vehicle circulation characteristics. In residential areas, generally develop Green Streets to reinforce neighborhood character. Encourage neighborhood commercial activities at appropriate locations along Green Streets to enliven the space with outdoor cafes, stalls and displays to the

extent consistent with the basic transportation use of the right-of-way. In office and mixed use areas, improve Green Streets to provide a focus for new development and add open space for the enjoyment of workers, residents, and shoppers. Encourage interesting street level uses and pedestrian amenities to enliven the Green Street space and lend a special identity to the surrounding area.

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North Neighborhoods (Lake City) Policy 45 – Provide amenities along sidewalks which are attractive and safe.

Pike/Pine Policy 21 – Seek to enhance sidewalks and alleys to make a better overall environment for pedestrians as well as retail activities.

Roosevelt Transportation Policy 2 – Promote sidewalk design on principal and minor arterials to encourage pedestrian use and improve pedestrian safety.

University Community Policy 5 – Strengthen pedestrian-oriented retail on University Way through physical improvements to the street and sidewalk and encouraging private property owners to improve their properties.

Wallingford Policy 19 Strive to create streets with sidewalks that are pleasant public places with safe and convenient street crossings and a balanced interaction between pedestrian, bicycle, car, bus and truck traffic.

First Hill Policy 12 – Encourage a 24-hour activity climate and increased street activity throughout the neighborhood as a crime deterrent by promoting eyes-on-the-street surveillance.

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Center City Public Realm

Craig M. Benjamin
Department of Planning and Development

Attachment 2 to the Director's Report

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Executive Summary:
Given the lack of public open space in Center City Seattle, the high cost of land precluding additional City purchases of open space, and that the right-of-way constitutes approximately 35% of the land in Center City, Seattle should utilize the available right-of-way to create additional quality open space for the public.

This paper focuses on streetscape activation as an enhancement opportunity for Seattle and how it can use the right-of-way to supplement Center City open space. It examines ways in which other cities have promoted activation of their streetscapes through such methods as art in the right-of-way, street performers, creative use of the right-of-way both physically and financially, street vending, and sidewalk cafés. This examination leads to recommendations involving best practices from other cities, how they might apply to Seattle, and mechanisms for implementation. In addition, it presents a review of the regulations regarding street vending and sidewalk cafés in Seattle with recommendations to encourage these activities through a model street vendor plan and a streamlined permitting process for sidewalk cafés.

Outline

- Models for Seattle
    - Copenhagen
    - Melbourne
    - Las Ramblas
- Public Art in the Right-of-Way
    - Public Utility Box Art Plan
    - Art Under Foot
    - Street Performers
- Streetscape Improvements
    - Greenways – Carrall St.
    - Festival Streets
    - PlaNYC – Plazas in the Right-of-Way
    - Coordinated Street Furniture Plan
    - Business Improvement District Financing
    - Local Improvement District Administrator
- Regulatory Mechanisms
    - Street Vendors
    - Sidewalk Cafés
- Key Lessons

Each of these sections includes a specific recommendation for Seattle:

- Public Utility Box Art Plan – Program to transform public utility boxes and traffic control boxes into public art.
- Art Under Foot – Street mosaic program.
- Street Performer Plan – Outline of a street performer program based on best practices from other cities and existing infrastructure within OACA and/or DSA.
- Greenways Network – An example of how to use the right-of-way to offer sustainability, amenity and affordability.

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- Festival Streets – An example of how to create de facto open space in the right-of-way.
- Public Plazas in the Right-of-Way – New York City's solution to create open space.
- Coordinated Street Furniture Plan – Examples of cities which have received well designed and coordinated street furniture free of charge, with maintenance at no-cost, and a significant revenue stream in exchange for the rights to sell advertising on the new items.
- Business Improvement District Financed Streetscape Improvements – Lessons for Seattle.
- Local Improvement District Administrator – Creation of an LID Administrator position to help finance streetscape improvements at almost no cost to the city.
- Street Vendor Plan – A review of Seattle's Street Vendor regulations and a model program.
- Sidewalk Cafés – A streamlined permitting process for sidewalk cafés.

Key lessons for Seattle

- **Think creatively about the right-of-way**
- **Less Cars = Successful Open Space**
- **Cross-Disciplinary Department = Effective**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact.**

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Models for Seattle

Two cities provide instructive examples of how to achieve vibrant and activated streets, with each taking an entirely different path to achieve the same result. Copenhagen pedestrianized its old main street, Strøget, in 1962, marking the start of an extensive renovation. Over a period of four decades, many of the streets and squares in the inner city were gradually transformed into wholly or partially car-free space. Following a gradual approach involving small scale changes, Copenhagen shifted its character from an overcrowded traffic environment into a peaceful yet lively people-oriented center. Melbourne, on the other hand, used well orchestrated urban design initiatives to regenerate itself from an underutilized and inhospitable place into a vibrant and 24 hour city. These models provide many valuable lessons for Seattle, and illustrate that small improvements in the physical infrastructure and urban design initiatives can have an enormous impact on increasing the quality of public life.

The Copenhagen Model

Jan Gehl, who spearheaded Copenhagen's transformation, describes the wisdom behind their gradual process, "I think Copenhagen has taken a very wise approach for two reasons. When all this started 40 years ago, there was no culture of public space and public life. Everybody said: "We are not Italians, we are Danes. It will never work here. It's for the Southern Europeans, and here the mentality is not for mingling in the streets," all this kind of stuff. Then the city closed the first street as an experiment, and people thought this was interesting. Then shopkeepers found out they were doing better economically. Then the next street was closed. And then every year after that, the city put in a nice square or removed some parking spaces. Because the development is gradual, people in this culture gradually came to like this kind of thing, and realized in small steps, that they liked more of this. Because the city also made it gradually more difficult for people to drive and park, people had time to figure out that it's too complicated to take the car, and took the bus or bicycle instead. Gradually the city invited people to walk and use the city more; to cycle more; and made it a bit more difficult every year for the unrestricted use of the car. People had time to adapt to these changes. It's also cheaper for cities to implement these changes this way because they're only doing a small budget every year. When you put all these changes together, it's marvelous."

Though lacking a master plan, one can categorize these gradual changes into a ten step program to increase the vibrancy of public life:[1]

1. Convert streets into pedestrian thoroughfares
    - The city turned its traditional main street, Strøget, into a pedestrian thoroughfare in 1962. In succeeding decades they gradually added more pedestrian-only streets, linking them to pedestrian-priority streets, where walkers and cyclists have right-of-way but cars are allowed at low speeds.
2. Reduce traffic and parking gradually
    - To keep traffic volume stable, the city reduced the number of cars in the city center by eliminating parking spaces at a rate of 2-3 % per year.
3. Turn parking lots into public squares

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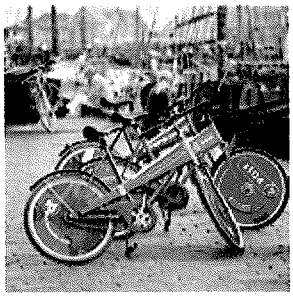
- The act of creating pedestrian streets freed up parking lots, enabling the city to transform them into public squares.

4. Keep scale dense and low
    - Low-slung, densely spaced buildings allow breezes to pass over them, making the city center milder and less windy than the rest of Copenhagen.
5. Honor the human scale
    - The city's modest scale and street grid make walking a pleasant experience; its historic buildings, with their stoops, awnings, and doorways, provide people with impromptu places to stand and sit.
6. Populate the core
    - More than 6,800 residents now live in the city center. They've eliminated their dependence on cars, and at night their lighted windows give visiting pedestrians a feeling of safety.
7. Encourage student living.
    - Students who commute to school on bicycles don't add to traffic congestion; on the contrary, their active presence, day and night, animates the city.
8. Adapt the cityscape to changing seasons
    - Outdoor cafés, public squares, and street performers attract thousands in the summer; skating rinks, heated benches, and gaslit heaters on street corners make winters in the city center enjoyable.
9. Promote cycling as a major mode of transportation
    - The city established new bike lanes and extended existing ones. They placed bike crossings--using space freed up by the elimination of parking--near intersections. Currently 34 percent of Copenhageners who work in the city bicycle to their jobs.
10. Make bicycles available
    - People can borrow city bikes for about $2.50; when finished, they simply leave them at any one of the 110 bike stands located around the city center and their money is refunded.



The Copenhagen model provides valuable lessons for Seattle, especially in regards to the physical infrastructure. Instead of choosing to focus on the movement of cars, by building "wide, noisy city streets in and out of the city and six story underground parking all over the city center, Copenhagen has opted for fewer cars and an extremely attractive city center. Copenhagen is living proof that the policy works."[2] Even more importantly, "The key to the success of these inner city transformations was undoubtedly the gradual way

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these rather drastic changes were made."[3] This transformation "created good conditions for walking and urban recreation activities in the city center. Systematic studies of the development of city life show a marked increase in activity in step with improvements."[4]

Key lessons from Copenhagen

- **A gradual, small step approach can have large impacts over time**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact**
- **No Cars = Successful Public Space**

The Melbourne Model

"Like many first world cities, by the 1980's central Melbourne had taken itself to the very edge of anonymity as a functioning centralized metropolis. Private interests, poor planning strategies, the pull of suburbia, the dominance of the motor vehicle and the migration out of the central area of key central city activities, such as retailing, had resulted in a city close to achieving the 'donut syndrome' – a city without a strong central core."[5] Frustrated by this development, Melbournians responded by electing politicians with a strong design background at both the state and local government levels. These politicians installed an administration committed to restoring Melbourne as a world class city. By 2003 Melbourne had become the 'world's most livable city', according to the Economist Magazine, and the 2004 'Places for People' study of urban life in the central city section of Melbourne[6] shows:

- 3311 % increase in apartments between 1982 and 2002;
- 830 % more residents 1992 – 2002;
- 71 % more public space on streets and in squares between 1994 and 2004;
- 62 % more students in the CBD 1993 – 2004;
- 275 % more cafes and restaurants 1993 – 2004;
- Pedestrian traffic nearly doubled in the Bourke Street Mall between 1993 and 2004 from 43,000 people per day to 81,000;
- The Bourke Street Mall (81,000 daily) and Swanston St (60,500 daily) now both carry more pedestrians than London's Regent Street (55,000 daily); and
- Night-time pedestrian traffic has increased 98 % between 1993 and 2004 reflecting the growth of bars and café's and a safer, more welcoming environment.

This dramatic turnaround began with the 1985 Strategy Plan, which worked to reinforce positive aspects of Melbourne, while removing the negative aspects. This plan aimed to shift the atmosphere of the central business district into a central activities district; redevelop key areas of the center city while conserving heritage buildings; and maintain the major patterns of the cityscape which give Melbourne its distinctive feeling and identity. According to Rob Adams, Director of Design & Urban Environment for the City of Melbourne, political support, design-led delivery and private-public partnerships resulted in successful implementation through balanced public works and maintenance programs to ensure incremental improvement of public realm. "In principle, I think the major contributing factor to Melbourne's success has been strong support for the urban design initiative, lead by a strong in-house design team that is represented at the highest

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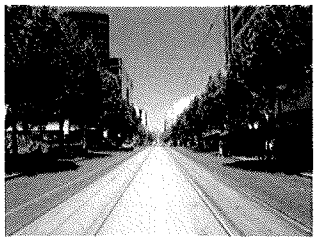
levels of Council, that is Director level. You need to get yourself senior administration that drives design skills, this I think is the secret."[7] Whereas Copenhagen took four decades to achieve a gradual transformation into a people oriented city, Melbourne undertook a crash course that achieved similar results in less than two decades. A brief examination of how they achieved this result, especially in regards to changes in the streetscape, provides many valuable lessons for Seattle.

To implement this urban design strategy, Melbourne relied on the mechanism of development control. According to Rob Adams, "If used correctly, this mechanism enables the energies and finances of the private sector to be brought to bear alongside the civic aspirations of the city as a whole."[8] In order to effectively harness private development, the city used development control plans based on the following principles:[9]

- Need for government to clearly articulate long-term vision and character of city's public realm;
- Streets are city's main contribution to the public realm, and must be beneficiaries of any new development; thus it is the streets and not individual private buildings which must become the primary built form structure of the city;
- Avoid pressures to commercialize or privatize public spaces, so avoid sky bridges and tunnels;
- Ensure sites have access to light and sunshine;
- Encourage mixed use to get 24/7 activity;
- Building frontages should have 75 % active frontages; and
- Retain heritage buildings.

These principles resulted in a suite of initiatives aimed at improving the quality of the streetscape and the public realm:

- Postcode 3000, a strategic initiative to encourage people to live in the center city.
    - 1992 – 2002 over 9000 new residential units added to central city, became a truly mixed use area, changing central business district into central activities area.
    - Financial incentives; Street level support; Technical support; and City living promotions combined to encourage residential development in the center city.
- Coordinated Streetscape Improvements[10]
    - Redeveloped Swantston St (into pedestrian and transit street), and built Civic Square and Federation Square.



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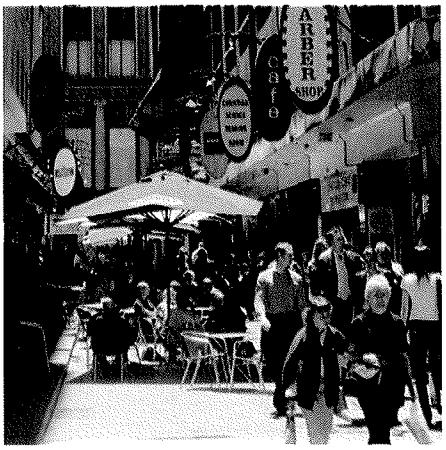
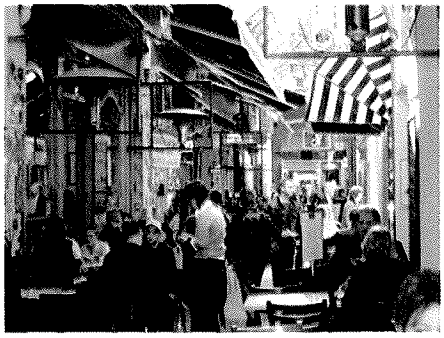
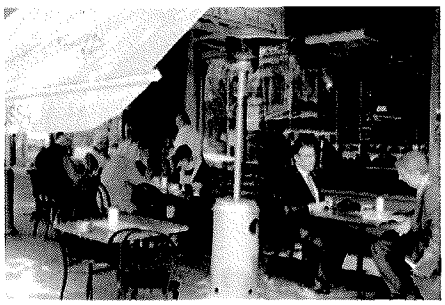
- Rejuvenated priority laneways (alleys).





- Footpaths (sidewalks) widened and paved with bluestone.

- Widened sidewalks lead to more sidewalk cafes.
  - Active Council support, adoption of Street trading Strategy (1995), and pro-active support from Street Trading Unit helped develop café culture.
  - Council's Street Trading Unit provides the guiding principles, decision-making criteria and administrative guidelines for the effective management of street trading activities on the footpaths, streets, open spaces, and public spaces within the City of Melbourne.[11]
  - Nearly 600 sidewalk cafés operate within the City of Melbourne, contributing to the vibrant, dynamic and attractive atmosphere of the streets and laneways.[12]



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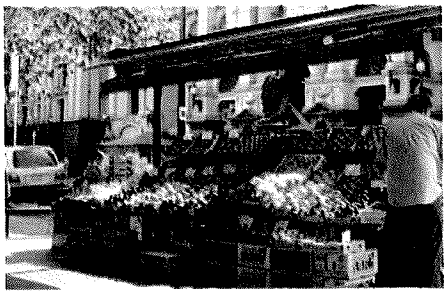
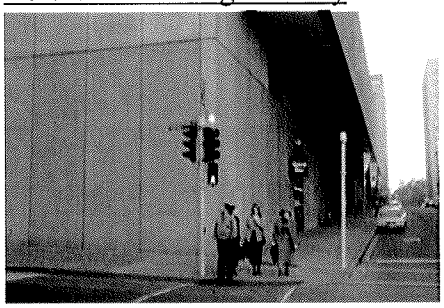
- Expanded micro-scale retail, like flower and fruit stalls, newsstands and info pillars.
  - Attracts greater activity to city streets.



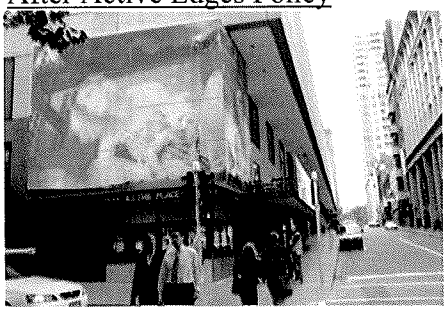
- Consolidated city-wide streetscape greening program.
- Lunchtime street closures, and permanent or temporary closures for other laneways to reinforce sense of place.
- Introduced partial bicycle lanes.
- Coordinated Street Furniture Program.
  - "In-house team has designed all the street furniture, looked at its location and importantly designed it so it is built to last."[13]

- Active Edges Policy to ensure ground-floor facades are appealing to pedestrians.

Before Active Edges Policy



After Active Edges Policy



- Introduced small plazas/pocket parks.
  - Examples of Federal Court, County Court and Collins St. plaza.
- Laneway commissions program that temporarily transforms city lanes into contemporary art spaces.
  - The installations are introduced at intervals and removed after a few months. They invite people to visit locations in the city otherwise rarely visited, and thus contributes to a greater awareness of the city's often 'hidden' character.[14]
- Developed City Projects Division capable of negotiating, designing and project-managing the delivery of public-private partnerships, identified key sites and opportunities for public-private partnerships.

These initiatives had the combined effect of dramatically transforming the public realm in Melbourne. According to the aforementioned 'Places for People' study of public life in the city, "The findings demonstrate Melbourne's remarkable success in attracting more

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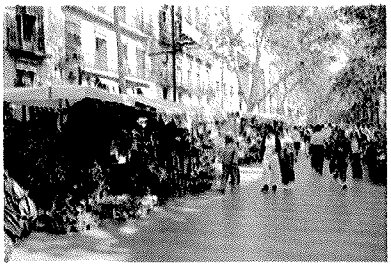
public life through physical improvements to existing public spaces, providing additional public space and initiatives such as Postcode 3000. The nature of public life has quite radically changed with more people choosing to stay for optional rather than purely necessary activities until the late evening." Essentially, Melbourne has achieved its goal of transforming the central business district into a central activities district in two decades.

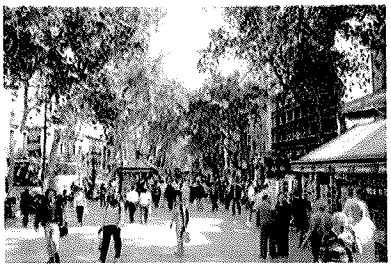
Key lessons from Melbourne

- **Comprehensive and coordinated urban design strategies can have a large impact in a short amount of time with public and political support**
- **The effectiveness of cross-disciplinary government departments assigned to carry out a specific project**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact**
- **No cars = Successful Public Space**

Case Study: Las Ramblas, Barcelona, Spain

Connecting the city's main square and transportation hub to its waterfront, Las Ramblas reverses the norm by giving over the center of the right-of-way to pedestrians. Framed by local side streets, this wide linear open space is filled with vendors, artists, and performers; newsstands, shops, and cafés; and stimulating public art and urban design. Defined by a rhythmic canopy of London Plane trees and classic European buildings with varied, transparent facades, the 1.7 km long street is considered one of the most successful public spaces in the world.





Key Lesson from Las Ramblas

- **No Cars = Successful Public Space**

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Public Art in the Right-of-Way

Both Copenhagen and Melbourne illustrate how small changes in the physical infrastructure can have an enormous impact on improving the public realm. Public art in the right-of-way presents a simple and low cost way to affect these changes. In addition, pro-actively encouraging street performers in the right-of-way can provide a simple and low cost method of increasing street vibrancy.

Public Utility Box Art Plan

Public utility boxes, "They're like Stonehenge," said Jay Turner of the North Park Main Street program, who focused on one giant utility box outside a local Bank of America branch. "It'd be nice to have them fit into the streetscape so they don't just ruin it, and they do. They make it very pedestrian-unfriendly in some places."[15] In San Diego, local residents became frustrated that drug dealers were using utility boxes as makeshift offices, as the urban eyesores were often covered with tagging by rival gang members. They responded by covering them with powerful graphics, transforming the blight with powerful artwork. This idea blossomed and painted utility boxes proliferated throughout the city.[16] In Toronto, BellCanada teamed up with a local nonprofit to solve the vexing problem of "tagging" and graffiti on its large utility boxes by turning them into canvasses for street art. Similar programs have sprung up all over the country, with neighborhoods nationwide offering utility box-themed walking tours to show off their artistically improved public realm.

Seattle too faces the urban blight of public utility boxes, and can easily replicate these programs. Traffic control signal boxes, under SDOT jurisdiction, and public utility boxes, under City Light jurisdiction, are perfect candidates for a public art makeover. Bernie Ziemianak, City Light Energy Delivery Operations Manager, explained that City Light would have no objections to this type of program, as long as long-term maintenance and public complaint issues were addressed by the operator and not City Light.[17] Heather Marx, Deputy Director of Traffic Management at SDOT, explained that SDOT "allows art on our signal controller cabinets, but we don't have a 'program' per se, in that we don't advertise and we don't have staff or funding dedicated. Nevertheless, we think it's a terrific thing and are willing to do more of it." Even without a program, SDOT has created draft guidelines for art on traffic control boxes, and could easily expand and adjust these guidelines if the desire arose. Furthermore, the current SDOT artist in residence, Anne Stevens, has proposed, and has received approval from the Public Art Advisory Committee for, a project on signal boxes on Rainier Avenue S. It is related to a Bike/Ped safety campaign, and will consist of images that will be fabricated by SDOT's sign shop and repeated along the arterial.

<u>Recommendation for Seattle</u>

The Office of Arts and Cultural Affairs (OACA) should launch this program, and greatly improve the quality of the public realm at a minimal cost. OACA could also follow the Toronto model, and hire a non-profit or other appropriate group, like the Downtown Seattle Association (DSA), to run the program. Either way, whoever runs the program should begin by coordinating with both City Light and SDOT. Once the proper

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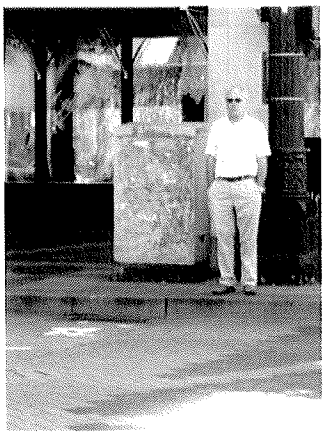
administrative arrangements are in place, the program should proceed under the following model, based on successful programs run in other municipalities:

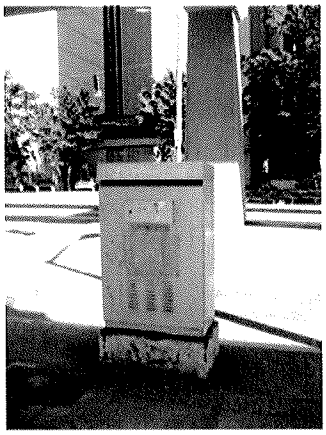
- To launch program, hold call for artists.
    - Artists should submit application packet including:
        - Illustration of potential painting;
        - Credentials;
        - Samples of previous work; and
        - Agreement to follow guidelines; no ads, politics, religion, sex, etc…
- Provide artists with a stipend for their work and other resources.
    - Anywhere from $50 to $500.
    - Can also provide supplies.
    - City can clean and prime boxes for artists.
- Launch program with a Walking Tour of Public Art.
- Expand program so that anybody can submit a design; accept most to convey a feeling that this is art for the people.
    - Make credentials and samples optional.
    - Choose new selections every 3-4 months.
    - Lower stipend to $50.
- Further expand program to include such possibilities as: Murals; Art on benches; Sidewalk poetry; artistically designed, wildlife expert approved, community created, birdhouses; and artistically improved tree plantings.

Example Program Launch Timeline

Feb 1 - March 30	Call To Artists
March 30	Artist applications due
April 4	Arts Commission reviews submittals
April 6	Notification of artists and assignment of utility boxes
April 15	Artist Agreements due
April 16 - May 20	Painting and monitoring
June	Unveiling festivities

Seattle Examples





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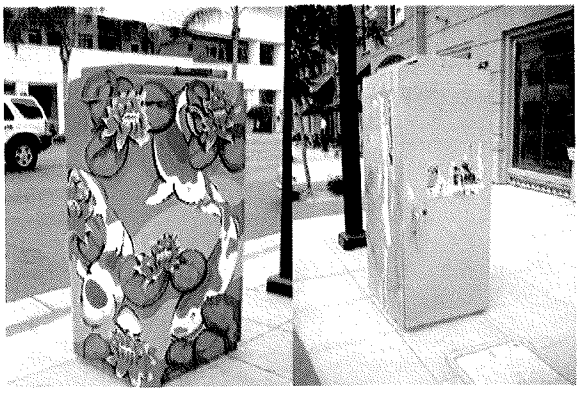
San Diego Examples



Toronto Examples

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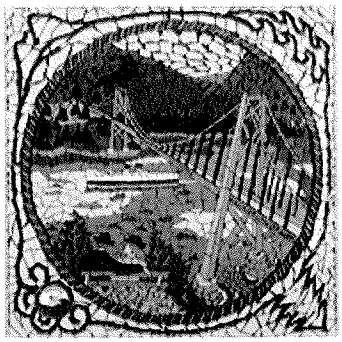
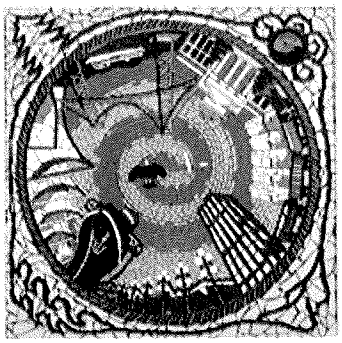
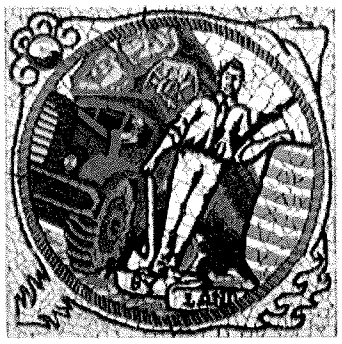
Art Under Foot[18]

This Vancouver project involved a collaborative process with members of the Downtown Vancouver Business Improvement Association (DVBIA) and a team of artists creating twelve original tile mosaics - each measuring nine square feet, for permanent installation in city sidewalks throughout the DVBIA's 90-block area. In 2005, working with the support of the City of Vancouver, the DVBIA commissioned accomplished Mosaic Artists – Liz Calvin and Bruce Walther - to spearhead the design and production of the mosaics. As well as enhancing the pedestrian environment, the mosaics add colorful, new visual elements to downtown streetscapes and create a lasting legacy for all residents and visitors to enjoy. Downtown businesses had an opportunity to become involved in the project by sponsoring one of the twelve mosaics. The DVBIA incorporated a special commemorative bronze medallion into each mosaic to recognize the sponsors and the DVBIA's 15th anniversary project. Sponsorship monies raised from the Downtown Art Tile Mosaic Project were reinvested in downtown beautification and streetscape enhancement efforts.

Recommendation for Seattle

Seattle can run a similar program through either the OACA or the DSA, and easily improve the public realm while raising money for additional efforts.

Art Under Foot Examples

Street Performers

Street performers are a unique and lively form of entertainment that can enhance the vibrancy of the street. People of all ages enjoy the dynamic and interactive nature of street entertainment. According to Martin Chaves, Mayor of Albuquerque, NM, "Street performances really create a vibrancy in a community that's very special and makes it more walkable." In addition, street performers can increase the perceived level of safety on the streets, "Studies have proven that street performers actually increase that sense of safety," according to Steven Baird, director of Community Arts Advocates in Cambridge. Furthermore, street performers draw people to the streets, as "People are attracted to other people. They gather with and move about with others and seek to place themselves near others. New activities begin in the vicinity of events that are already in progress."[19] Street performers are drawn to active and lively streets, and in turn help increase the activity on these streets. Popular streets for street performers include:

- Pearl St. Mall in Boulder, CO;

CITY CLERK

- 16th St. Mall in Denver, CO;
- The French Quarter in New Orleans, LA;
- State St. in Madison, WI;
- Harvard Sq. in Cambridge, MA;
- Third St. Promenade in Santa Monica, CA;
- Granville Island in Vancouver, CA;
- Strøget in Copenhagen, Denmark;
- Las Ramblas in Barcelona, Spain; and
- Bourke St. Mall in Melbourne, Australia.

These streets are united in their car free (or diminished) nature, which provides an active pedestrian environment and great acoustics for performers. "Spontaneous street music in Copenhagen has made a remarkable revival following the introduction of pedestrian streets, and today street music is one of the city's greatest attractions."[20] Lacking car free streets, Seattle, outside of the Pike Place Market, does not have an active or interesting street performer scene. While these cities, and many others, do not have to actively encourage street performers, most have established rules and regulations to make sure that street performers positively contribute to the public realm. These rules and regulations provide Seattle with lessons regarding how to encourage street performers while mitigating their negative impacts.

Cambridge, MA

- The Cambridge Arts Council (CAC) issues annual permits for $40 to street performers, following the guidelines set forth in a City Ordinance.
- CAC staff will work with individuals interested in securing a permit to determine whether or not the intended performance meets the definition for performance contained in the Ordinance and to provide advice on strategies for successful interactions with residents, local businesses and fellow performers.
- On a seasonal basis, CAC hires street performance monitors to check permits, compliance with the ordinance and maintain a balance between the interests of the performers, businesspeople, and residents.

Albuquerque, NM[21]

- Introduced an Ordinance to permit and encourage street performers.
- This Ordinance created rules and regulations for the activity, including issuing permits and establishing "almost a code of ethics" for the performers, according to one city official.

MetroPerforms! Model from Washington, DC

- One-year pilot program developed by Metro Art in Transit in conjunction with local arts councils served by Metro to enhance the experience of transit users and pedestrians.
- Holds auditions, then pays musicians and dancers $175 for a 2 ½ - hour show.

SDS CITY CLERK

- "MetroPerforms! supports the talents of local performers, enhances both mass transit and pedestrian travel and promotes the arts throughout the region," said Michael McBride, Metro's Art in Transit program manager.

16th Street Mall, Denver, CO

- Traditionally, street performing has been very popular on the mall, and the mall's management encourages street performers by taking a hands off approach.[22]
- Recently launched a program through the Downtown Denver Partnership (BID) to partner with students from UC-Denver to play music during the lunch hour. Student organizer schedules acts, and the acts wear matching tee-shirts. According the director of the program, "One important thing to keep in mind is to be realistic - my goal was to create an atmosphere where people didn't necessarily realize there was music, rather that they just go away with a positive feeling about their experience on the Mall."[23]

The Street Musician Partnership for Portland[24]

- Downtown Portland has a unique partnership of musicians, business people, residents and public officials that encourages street music while minimizing the impact on businesses and residents.
- Coordinated by the Portland Business Alliance (BID), the partnership lays out an agreement that musicians should:
    - Space themselves one block apart;
    - Rotate locations hourly;
    - Take a one hour break and play again at same location, but only once; and
    - Understand Portland's noise control ordinance.
- Downtown office, retail and residential community should:
    - Not interrupt musicians in the middle of a number;
    - Treat musicians professionally; and
    - Abide by decision of police or appointed volunteer mediator to resolve any disputes.

Baltimore, MD

- "Other cities have to crack down on street performers. Our problem in Baltimore is that we don't have enough." According to J. Kirby Fowler, board member and president of the Downtown Partnership of Baltimore Inc, "Having an active street life will attract more residents and more visitors to the city."
- $25 application fee to cover costs of program; audition with Board of Licenses, but performers don't really need a license, it just helps make the operation look legitimate and gives the performers a badge to display; assigned specific performing locations, but can perform anywhere; and encouraged to politely solicit tips (not aggressively).[25]

Seattle, WA

- Currently, SDOT takes a hands off approach to street performers, and uses the SPD to regulate any blockage of the ROW.[26]

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- Center City Parks launched an $11,000 pilot program to place street performers in Center City parks to make them more inviting. Many of the performers felt it had a dramatic positive impact and the program received national press.

Recommendation for Seattle

Seattle should launch a street performer program guided by the lessons learned from other municipalities.

- OACA can fund/manage/launch program based on the existing infrastructure of the Live Concerts at City Hall series, and can partner with DSA to expand capabilities.
    - Work with SDOT, Parks, DPD, DSA and neighborhood/historic groups to determine appropriate locations.
    - Michael Killoren excited about this idea.[27]
- Hold juried auditions to build a pool of applicants.
    - Compensate chosen applicants to play in designated areas (like 3rd and Pine, or in the bus tunnel).
    - Provide performers with a badge/permit/sign to increase the perceived legitimacy of the operation.
- Require performers to sign off on a code of conduct.
    - Can base this code off of Portland's agreement and the code of conduct used at the Pike Place Market.
- Run entire program through the Law Department before launch to sort out the complex and controversial legal issues, should not require a new ordinance.
- Pike Place Market currently has 230 performers on file for 12 spots.
    - According to Marlene Allen, who runs this program, a City program would in no way detract from the Pike Place Market program, and would provide a venue for the groups they can not accommodate (brass and percussion performers, performers that need amplification, groups larger than 4 people).
- A small amount of money, "Budget dust," according to Michael Killoren, could have an enormous positive impact on the vibrancy of Seattle's streets.

These three programs, each relatively cheap and administratively straightforward, offer simple, low cost solutions to increase the amount of public art in the right-of-way and dramatically activate Seattle's streets.

CITY CLERK

Streetscape Improvements

Both Copenhagen and Melbourne illustrate that encouraging public life through small changes in the physical infrastructure can have an enormous impact. Vancouver, BC, Portland, OR, and New York, NY have taken this lesson to heart, and launched infrastructure initiatives aimed at this result. In addition, cities across the world have found innovative solutions to finance these endeavors. These cities, through their initiatives and innovations, provide Seattle with many valuable lessons and examples on how streetscape improvements can activate the streets.

Greenways, Vancouver, BC

Greenways are "green paths" for pedestrians and cyclists. They can be waterfront promenades, urban walks, environmental demonstration trails, heritage walks and nature trails. Their purpose is to expand the opportunities for urban recreation and to enhance the experience of nature and city life. They do not ban car travel in every case, on the Ridgeway Greenway for example, "Except for a mixed-use path in Jones Park, pedestrians use the sidewalk and cyclists share the road with vehicles along traffic-calmed streets."[28] The proposed City Greenways network of sixteen routes will be approximately 140 km long when complete. Street rights-of-way will make up approximately 50% of the network. While Greenways are generally evenly distributed throughout the City, routes are concentrated in areas with greater population density and a higher number of destinations, such as the downtown peninsula. When the network is complete, a City Greenway will be no more than a 25-minute walk or a 10-minute bike ride from every residence in Vancouver.[29]

Goals of a City Greenway are:

- Make walking more interesting;
- Make cycling safer and more convenient;
- Reduce the impact of the car;
- Make the Greenway 'greener'; and
- Use public art to make the Greenway more interesting.

Implementation

City Greenways are normally paid for from the City's capital budget, the funds approved by Vancouver voters at municipal election time. Other funds may come available through other levels of government programs, donations, non-profit agencies or business associations. The construction and maintenance of some Greenways will be negotiated through development approval processes at no cost to the City. Vancouver developed an innovative department to carry out the Greenways program. This department takes each project from inception to completion, uses cross-disciplinary teams (of landscape architects, planners, engineers, and other specialists), and performs an extensive community consultation process to map out each proposed route.[30]

Carrall St. Greenway

The Carrall Street Greenway is a major public realm, community building and economic revitalization initiative. The route will link north False Creek with the Burrard Inlet,

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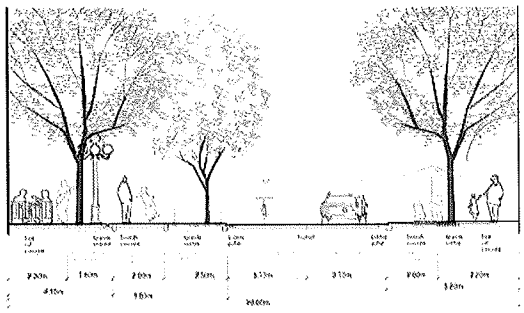
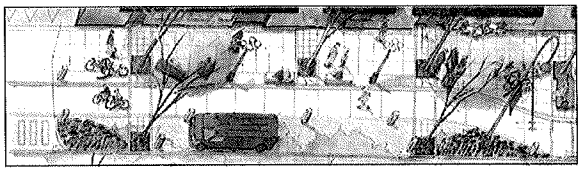
completing a seawall loop around Downtown and Stanley Park, and connect a series of parks, plazas and historic sites in Gastown, Vancouver's Downtown Eastside and Chinatown. Beyond providing a pedestrian and cyclist-friendly transportation corridor, the Greenway will also connect and build on the unique heritage character of these neighbourhoods, encourage active ground floor uses, and serve as a catalyst for economic revitalization and community development.[31] Once complete, the Carrall Street Greenway will serve as the first urban Greenway to cut through downtown, and will connect three ethnically diverse heritage neighborhoods. A comparable route in Seattle would run from Little Saigon, through the International District to Pioneer Square.

Design Features

The concept design for Carrall Street reallocates a portion of the existing road space and creates more space for the community and recreational cyclists and bladers to enjoy. The roadway width will be narrowed and parking will be removed from one side of the street allowing the sidewalks to be expanded on both sides of the street. This increases the opportunities available to the community to enjoy the street and allows for increased street programming, such as sidewalk cafés and street vending. At the same time it maintains the basic vehicular, transit and delivery vehicle access currently available along the street. The Greenway incorporates many green design features, including increased trees and greenery, infiltration landscaping to help absorb rain water and the unique storm water channel that runs through the length of the Greenway. Greenway character street furniture (including banners, benches, tree grates and utility covers), continuous tree planting and the storm water channel will help provide continuity along the Greenway. The flexible amenity is another unique feature of the Greenway. It can accommodate parking, loading spaces and bus stops. The space can also be converted for pedestrian use during special events. The rolled curb allows car access while textured pavement helps separate the amenity zone from road space.[32]

Improved infrastructure is only one aspect of creating a re-energized Carrall Street. The vision for this urban Greenway is to see an increase in active ground floor uses, including sidewalk cafés, galleries with activities promoting pedestrian interest and interaction and community-based arts and cultural programming in public spaces along the corridor. The greenway is designed to provide flexibility for these programming uses to occur.[33] To further encourage an active street, Vancouver has relaxed sidewalk café permitting requirements, launched an extensive public art campaign and installed easily accessible electrical outlets along the greenway.[34]





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The Greenways network creates vibrant and activated streets while serving as an environmentally friendly transportation system. Seattle has nothing comparable to the Greenways network in Vancouver. Our Green Streets are the closest comparison, but they represent an ad hoc and incomplete network lacking an adequate implementation mechanism. The Greenways network, and the Carrall St. model, offer many lessons to Seattle about how to use the right-of-way to offer sustainability, amenity and affordability.[35]

Key lessons from the Carrall St. Greenway

- **Think creatively about the right-of-way**
- **The effectiveness of a cross-disciplinary government department assigned to carry out a specific project**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact**
- **Less Cars = Successful Public Space**

Festival Streets, Portland, OR

Last year as part of the Old Town Chinatown Streetscape Improvements Project, the City of Portland completed construction of two Festival Streets: curbless streets each a block long, ordinarily open to traffic but designed to be closed to motor vehicles for special occasions and to then function like a beautiful public square. The streets are curbless, but are not truly "shared streets," since there is a dedicated sidewalk area separated from vehicle traffic.[36] The idea for the Festival Streets grew out of the streetscape planning process, when the community identified a lack of public space in the neighborhood. The notion of a curbless street was drawn from a feature of many other Chinatowns around the world, where vehicles, pedestrians and street vendors share undifferentiated roadway space.[37] According to project manager Ellen Vanderslice, "The idea of this street is that it's designed like a public square but it's open to traffic."

Design Features

When not closed for a festival, the Festival Street functions like an ordinary street. There is a sidewalk area for pedestrians only, next to the buildings, and a roadway area with two travel lanes, one each direction, plus on-street parking on both sides. There are streetlights and special Festival Street bicycle racks. Although the functions of the space are familiar, the type and quality of materials and the attention to detail are those of a lovingly detailed public square. A further departure from a normal street pattern is that, instead of being separated by a curb, the sidewalk is separated from the parking lane by large black granite bollards at approximately eleven-foot intervals.

The Festival Street achieves a curbless nature by raising the roadway area to the same elevation as the sidewalk area; hence the driveway-like vehicular entrance at either end. In everyday use, these are not really shared streets: about the same portion of the cross-section of the right-of-way is allocated to pedestrians, parking and vehicle travel after construction of the Festival Streets as was before. [38]

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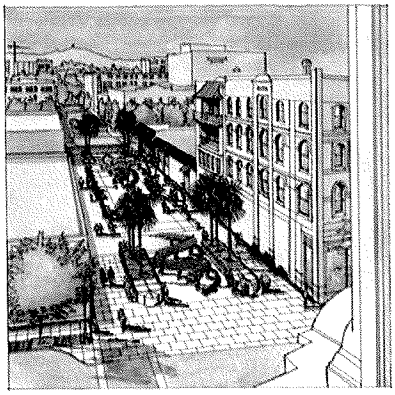
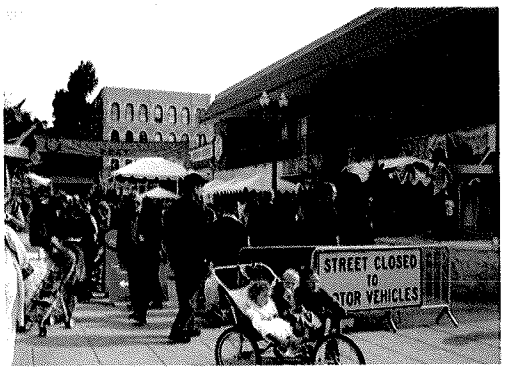
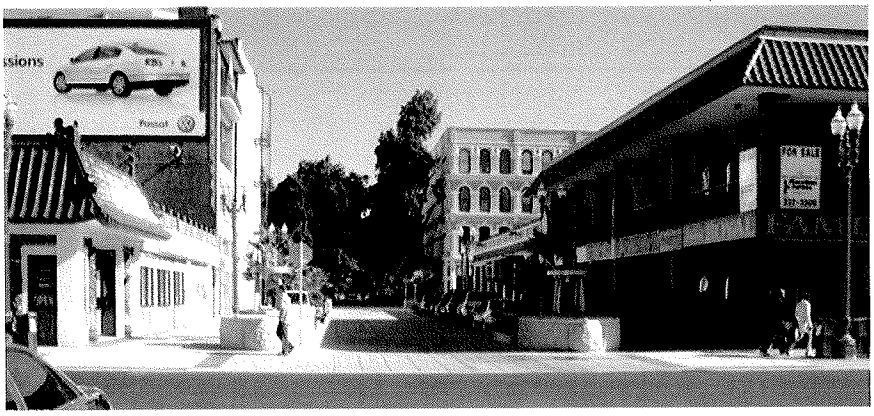
The two Festival Street blocks were chosen for transformation in part because their traffic function is solely for local circulation rather than through travel, and closing them to motor vehicles on occasion does not affect the arterial system. Traffic volumes on the two Festival Streets are low, less than 3000 vehicles per day on average both before and after the construction of the Festival Streets.[39]







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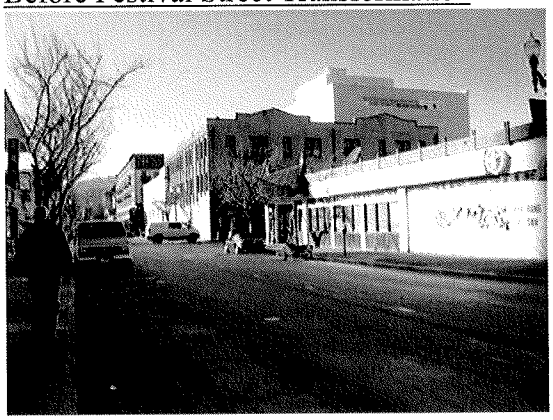
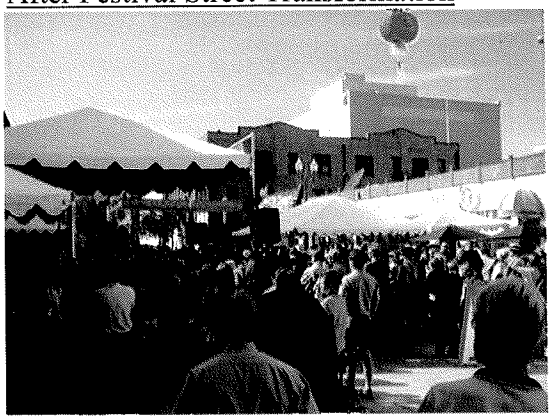
Before Festival Street Transformation



After Festival Street Transformation



The Festival Streets have received an overwhelmingly positive response from the public, and numerous Portland improvement projects have plans to replicate the concept. They provide a perfect example of an innovative way to encourage public life through small changes in the physical infrastructure. Lacking open space, Portland turned to the right-of-way to create de-facto open space and enhance the public realm.

Key lessons from Portland's Festival Streets

- **Think creatively about the right-of-way**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact**
- **Less Cars = Successful Public Space**

PlaNYC, Public Plazas, New York, NY

PlaNYC, the New York's long term sustainability plan, calls for increasing New Yorkers access to public space. To achieve this goal, NYCDOT will create public plazas in each community in New York City. Lacking open space, NYCDOT has turned to the right-of-way to create these plazas. There are currently approximately 31 public plaza projects in the pipeline and NYCDOT has set a goal of implementing all of these by 2009. The agency will work with community boards, community groups and residents to inventory other locations and identify sites for new or enhanced plazas in every community citywide by 2030. Each plaza will be located and planned to serve local needs and in accordance with the character of the community. According to the PlaNYC, "We must similarly turn our attention to the most commonly shared spaces among us. That means creating new plazas in every community where sidewalks in commercial areas allow for more neighborhood life, and where empty spaces could be converted into public plazas. It means filling out the remaining barren streets with trees that will add shade, color, cleaner air and higher property values; and it means encouraging an active, vibrant public realm as essential to the life of our city."[40]

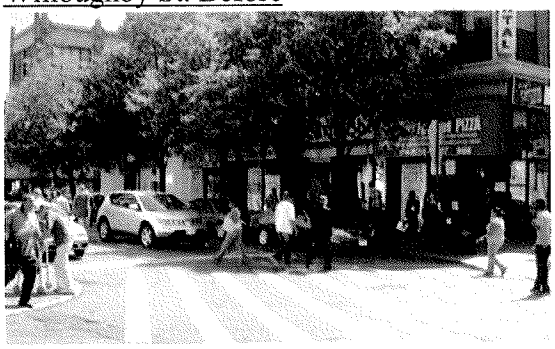
Willoughby St.

During jury duty in 2005, a NYCDOT Deputy Commissioner looked out of the courthouse window and noticed that the jagged area formed by Willoughby St. and the east of Adams service road was filled with illegally parked cars and little traffic. The

BPS CITY CLERK

stretch of road in Downtown Brooklyn was adjacent to both the busy Jay street-Borough Hall subway station and the bustling Fulton Street shopping area - but it was unused by either pedestrians or traffic. In 2006, NYCDOT decided to reclaim the underused road space as a new public plaza. Before it had even been completed, people had already started to gather at the colorful collection of chairs, tables, umbrellas and planters that replaced the curved stretch of empty roadway. It cost less than $100,000. The success prompted the City to begin work on a $1.4 million buildout of the plaza, which will connect to the Fulton Mall. By enhancing the Downtown Brooklyn walking environment, the plaza will encourage area workers to patronize local businesses. It will improve pedestrian safety by reducing crossing distances and slowing vehicles. The project will result in approximately 7,000 square feet of new pedestrian space - room for a tired shopper to rest her feet and sip a cup of coffee.[41]

Willoughby St. Before



Willoughby St. After

Similar to Vancouver and Portland, New York looked to its right-of-way to create de-facto open space and enhance the public realm. This concept of turning under-used road space into public plazas provides another great example of an innovative way to encourage public life through small changes in the physical infrastructure.

Key lessons from PlaNYC

- **Think creatively about the right-of-way**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact**
- **Less Cars = Successful Public Space**

Coordinated Street Furniture Plan

Cities throughout Australia, Europe and North America have carried out coordinated street furniture programs to improve the look and feel of their streetscapes. To finance these programs cities have relied on outside companies, who design, build, install and maintain the furniture, in return for the rights to sell advertising on the new items. This arrangement has provided these cities with well designed and coordinated street furniture free of charge, with maintenance at no-cost, and a significant revenue stream. In addition, these cities provide many lessons for Seattle about the importance of addressing design and location issues through a coordinated program and an open and public request for proposal process. They also illustrate how to firmly regulate advertising in the public realm while reaping its benefits.

CITY CLERK

New York

- Through a 20 year contract with Cemusa, New York will receive a minimum of *$999 million in cash*, *$398 million in free advertising* (22.5% of ad space), *$100 million in capital investments* and *$200 million worth of maintenance of street furniture.*
- Cemusa will provide 3,500 bus-stop shelters, 330 newsstands, 20 automatic public toilets and maintenance.

Boston

- Through a 20 year contract with Wall USA, Boston has received *$4.9 million in revenue* (in 6 years) from both the fixed fee and its revenue proceeds for advertising. In FY '06, the program produced just over $*1.4 million in revenue* for Boston.
- Wall USA provides bus-stop shelters, automatic public toilets, city information panels, newsstands, telephone pillars and maintenance.

Pittsburgh

- Through a 10 year contract with Clear Channel Adshel, Pittsburgh will receive *$2 million a year in revenue.*
- Clear Channel Adshel will provide 350 bus-stop shelters as well as automatic public toilets, bicycle racks, litter bins, kiosks, ash urns, benches and maintenance.

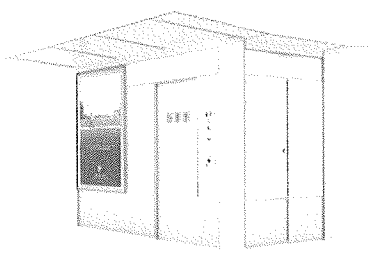
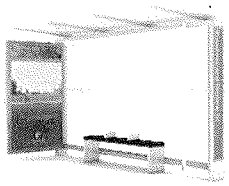
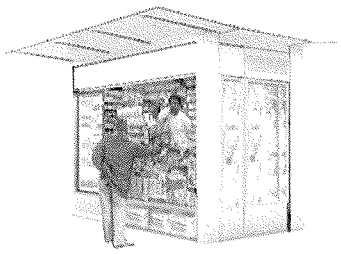
Vancouver

- Through a 20 year contract with Viacom/JCDecaux, Vancouver will receive 10% of all advertising faces free of charge for community oriented advertising, and a projected *$47.3 million in cash* for a *total projected City benefit of $135 million.* In FY'06, the program produced just over *$1.4 million in revenue* for Vancouver.
- Viacom/JCDecaux provides bus-stop shelters, automated public toilets, benches, litter containers, bike racks, direction signs and maintenance.

Toronto

- Through a 20 year contract with Astral Media, Toronto will receive *$21 million a year* in projected City benefits.
- Astral Media will provide bus-stop shelters, automatic public toilets, trash cans, information pillars, newsstands, public message centers, benches, bike racks, bike lockers and maintenance.

<u>New York</u>

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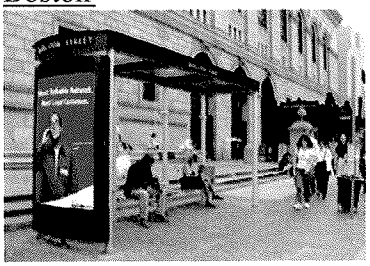
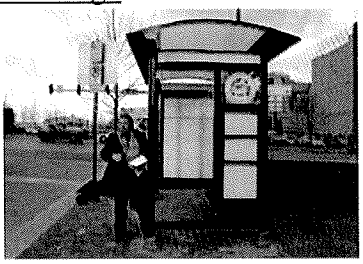
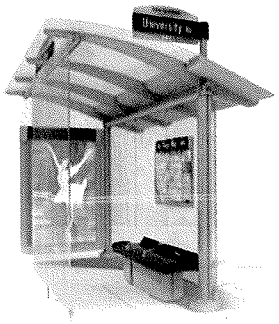
Boston

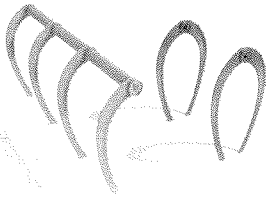


Pittsburgh

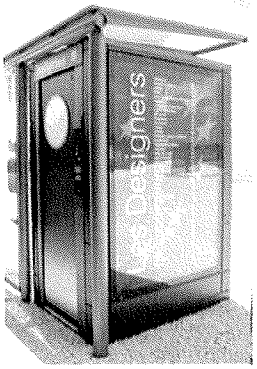


Toronto





Vancouver



Outside of Center City Parks, a quick walk around the Center City of Seattle reveals a complete lack of places to sit, and street furniture in general. "The existence of good opportunities for sitting paves the way for the numerous activities that are the prime attractions in public spaces: reading, sleeping, knitting, playing chess, sunbathing, watching people, talking, and so on."[42] It follows that Seattle could activate the streets simply by installing an adequate suite of street furniture. A lack of funds within every department responsible for street furniture to finance this endeavor currently holds back this effort.

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Seattle

Recommendation for Seattle

Seattle does not currently allow advertising on bus shelters or have a coordinated street furniture program. In 2006, the King County Regional Transit Advisory Committee called on the King County Council to explore bus shelter advertising as a revenue source to increase the number of shelters. Seattle should take this recommendation a step further, and use bus shelter advertising (or street pillars or another acceptable medium) as a revenue source to not only increase the number of bus shelters, but to activate the streets with a coordinated street furniture program and generate a significant revenue stream for the City.

Key Lessons from Coordinated Street Furniture Plans

- **Think creatively about financing improvements in the right-of-way**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact**
- **Assuage public concern over advertising in the public realm by consulting the public about what they would like to see in a coordinated street furniture program, and working with the public to find an acceptable way to place advertising in the public realm**
- **Reserve a percentage of the advertising space for public use**
- **Consolidate the program into a single office**

Business Improvement District (BID) Financed Streetscape Improvements

While Vancouver, Portland and New York provide examples of innovative use of the right-of-way, and the coordinated street furniture programs illustrate an alternative financing mechanism, Seattle could also turn to the private business community to finance streetscape improvements. In Washington, DC, two separate BIDs financed streetscape improvements to upgrade the public realm.

Downtown (DC) BID

Since 1997, the Downtown BID has worked to upgrade the public environment by designing high quality streetscapes standards, which the DC government adopted as design guidelines for new city regulations that went into effect in early 2000. These guidelines will direct (have directed) the treatment of public pedestrian spaces between

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the faces of buildings and the face of curbs; and guide the implementation of new or newly-renovated streetscapes on every avenue, street, and intersection within the Downtown BID in accordance with the highest standards of design and materials. In addition to creating the guidelines, the Downtown BID coordinated more than $13 million in private sector investment in new Downtown sidewalks, lighting, and street furniture, while the District Department of Transportation (DDOT) and the Federal Highway Administration (FHA) invested another $11 million.

Golden Triangle (DC) BID

The Golden Triangle BID, in conjunction with DDOT, completed a comprehensive $600,000 streetscape improvement project to create an aesthetically pleasing, as well as functional, streetscape standard in the 38 block area. The first phase of the project began in fall 2002 to paint over 450 light, traffic and combination poles in the BID. The installation of 424 black signal heads matching the color of the newly painted poles heralded the second phase of the project to complete the transformation and provide a seamless look on public spaces.[43] Every block face within the Golden Triangle also received a series of BID funded capital improvements, including new trash receptacles, cigarette urns, bicycle racks, newspaper corrals, and renovations in two federally owned parks. On average, the Golden Triangle BID spent $1,800 per Block face to upgrade the area's streetscape and green areas.[44] According to BID President Steven Gewirz of Potomac Investment Properties, "The entire project gives the streets of the Golden Triangle a significant facelift that enhances the image of the BID and our entire city."[45]

Recommendation for Seattle

Seattle has a template in place within the Right-of-Way Improvement Manual for the private development of streetscape guidelines, but only Ballard Ave and Terry Ave currently have developed guidelines in place. Seattle should work with DSA to develop similar guidelines for Center City, and then use these guidelines to guide the implementation of new or newly-renovated streetscapes. Seattle can also learn from the DC example and encourage BID funded streetscape improvements through public-private partnerships.

Local Improvement District Administrator (LIDministrator)

Tax increment financing (TIF) is a property tax allocation mechanism. In neighboring states, TIF is usually run by urban renewal and redevelopment agencies. These agencies designate blighted areas as urban renewal or "increment" areas, with an eye toward businesses interested in locating or expanding their operations in the areas. Property values are expected to increase within the increment areas as land is developed and redeveloped. TIF harnesses the resulting increase in property tax revenue from the increment area. This revenue is used to repay bonds that finance public improvements in the area. The key to TIF in most states is that the urban renewal agency receives revenue from all property taxes collected within the increment area, regardless of the entity levying the tax or the type of tax levied. TIF typically traps a portion of every property tax dollar generated in the increment area. This is the magic of TIF. As an increment area matures, a substantial amount of tax revenue can be diverted to the urban renewal agency.[46]

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TIF in WA

Washington does not have the tools for tax increment financing found in other states. Attempts to authorize the use of state property tax revenue in Washington to finance developments through TIF have been struck down by the voters and the courts. The 1982 the Community Development Refinancing Act (Chapter 39.88 RCW), was ruled unconstitutional in Spokane v. Leonard (1995) on the grounds it diverted tax revenue intended to support the common schools. Washington voters rejected attempts in 1973, 1982 and 1985 to amend the Washington Constitution and authorize tax increment financing. Legislation was passed in 2001, Community Development Refinancing to rectify the problems of the 1982 legislation. It was futher amended in 2002. In 2006 the legislature supplemented existing tax increment finance legislation with the Local Infrastructure Financing Tool Program (LIFT).[47]

LIFT

On a limited basis, LIFT provides a new public infrastructure financing mechanism for selected local governments; three selected by the Legislature, and others competitively selected by the Community Economic Revitalization Board (CERB). The program allows each selected local government to take advantage of tax revenue generated by private investment in a revenue development area (RDA) to help finance the cost of public infrastructure improvements that encourage economic development and redevelopment in that area. The Community Economic Revitalization Board (CERB) is responsible for approving use of the LIFT Program to both legislatively and competitively selected projects.

Issues with LIFT

Both the process of creating an RDA and the uncertainties inherent in pegging the state sales tax contribution to the actual new local construction property taxes will make the LIFT process daunting for most local governments. A challenging aspect of the LIFT vehicle is that in order to create a qualifying revenue development area and to receive a state contribution, the sponsoring local government must go through a slalom course of complicated procedures.[48]

- Requirements include a demonstration of each project's "potential to enhance the ... local government's regional and/or international competitiveness," the project's impacts on wages and benefits, and the estimated effect on state and local net property tax and sales tax revenues.
- LIFT projects must be consistent with the capital facilities element of the sponsoring government's Growth Management Plan. Each project is expected to encourage private investment within the RDA and to increase property values. The taxable property within an RDA may not exceed $1 billion, the average assessed value per square foot of taxable land within the RDA may not initially exceed $70 per square foot, the RDA may not include an area containing more than 25 percent of the sponsoring jurisdiction's assessed value, an RDA is limited to contiguous parcels and "may not be drawn to purposely exclude parcels where economic growth is unlikely to occur."

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- An RDA's boundaries may not be adjusted after it is created. Only one RDA may be created in each county, which is a disadvantage to larger counties such as Spokane, King, Pierce, Snohomish and Clark. Further, a project cannot be "expected to be used" for the purpose of relocating a business from outside the RDA, but within the state, into the RDA.

Politics of LIFT

Some observers have suggested that this peculiar approach to tax increment financing was adopted because several key legislators are suspicious of tax increment financing and want to keep the new process restricted in its application. Separate legislation was introduced during the session that would have greatly modernized and simplified tax increment financing in Washington - recognizing that TIF as it is used in other parts of the country cannot be fully effective here because of state constitutional limitations. However, there was no consensus in the Legislature that TIF should be made easier to implement. Instead, the LIFT bill was enacted. While a few jurisdictions may be able to make use of it, the substantial expense and effort required may render it useless for the vast majority of local governments. Unfortunately, this is an example of sausage coming out of the Legislature looking almost as messy as it did while it was being made.[49]

Local Improvement District (LID)

Though Washington lacks TIF, or any other similar financing mechanism, we do have the LID tool to finance infrastructure improvements. A Local Improvement District is a funding mechanism provided in State law that allows property owners to pay for a portion of a capital infrastructure project that will benefit their property. Under state law, the assessment to the property owner for the project cannot exceed the "special benefits" that the property owner receives due to the improvement.[50] LIDs can play a very positive and powerful role in developing and enhancing a municipality's infrastructure. LIDs permit improvements to be financed and paid for over a period of time through assessments on the benefiting properties. The most important point to remember about LIDs is that the entire LID process is about financing capital improvements, not constructing them.

How LIDs Work

LID processes lead, ultimately, to the sale of bonds to investors and the retirement of those bonds via annual payments by the property owners within a district. Goals of the LID process are twofold: to present a bond portfolio to investors that will entice them to invest at as low a rate of return as possible; and to assess property owners as fairly as possible in relation to the special benefit received. LIDs cost money to administer. Interim financing incurs interest costs. Bond sales involve bond counsel, underwriters and other costs. All these costs must be added to the share of project costs that LID participants are expected to assume. Unless reminded at times through the process, LID participants may unfairly compare project costs from other, non-LID projects to the total cost to be assessed. LIDs may originate with an inquiry from a citizen asking about improvements in his/her neighborhood. Or an LID may be a source of funding for a project in the agency's CIP. An LID may be suggested as a method to mitigate impacts of proposed developments and distribute costs equitably to other landowners benefiting

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from the improvements. Whatever the source, the person assigned as the agency's LID administrator (may vary by project) and public works staff must review the proposed project to determine if it is practical or feasible and lends itself to financing through the LID process. Often a preliminary determination of LID project feasibility requires a civil engineer, and experts in finance, law, and land value.[51]

LIDs in Seattle and the Northwest

Seattle does not have an individual or office in charge of administering the LID process. The South Lake Union Streetcar represented the first LID Seattle has administered in over 15 years. Since City Council did not allow the use of general funds for the streetcar, the Mayor turned to the LID tool as a creative financing mechanism to fund the project. While many other cities use LIDs often to finance infrastructure improvements, Seattle has not had an active LID program since the seventies. According to Kim Nunes in the Office of Policy & Management, who ran the LID process for the Streetcar, Seattle's LID program became cost-prohibitive due to its overly bureaucratized process. Tacoma, Spokane and Portland each have active and successful LID programs, and have used these programs to finance numerous infrastructure improvements. Outside of Kim, no one in Seattle City government has the institutional knowledge to administer an LID. The proposed Dravus upzone provides an example of why Seattle needs a LIDministrator; the City Council offered an upzone contingent on the property owners financing streetscape improvements, but without a LIDministrator in place, the City does not have the administrative capability to manage this type of project. Seattle could easily follow the models of other Northwest municipalities and establish a LIDministrator position and/or office. These cities use their LID programs to finance streetscape improvements at almost no cost to the city. The administrative costs of running the program are paid off by each successful LID, meaning that once a city has an LID program in place with a template/process to follow; it becomes an almost self sustaining program with an enormous impact. Seattle could use this program to pay for a wide range of streetscape improvements, including the addition of sidewalks, though conversations with LIDministrators in other NW cities indicates that this financing tool does not work well for the undergrounding of utilities for a variety of reasons. Mayor Nickels has requested funding for this position in the 2008 budget, and the Directors of DPD and SDOT should lobby on behalf of this request. Tacoma, Spokane and Portland offer many lessons on how to operate a successful LID program, and how to think creatively about their application:

- Spokane has instituted a new Economic Development Department that encourages business owners and community members to propose LIDs for street beautification projects, like street trees, pavers and lighting. However, according to Sam McKee (Spokane's LIDministrator), managing the LID for these smaller projects can be difficult because neighbors bicker over the actual benefit they receive from the project and have difficulty agreeing on designs and details. Consequently, the city has started to require proponents to put up the money for initial project design. These initial expenses will be reimbursed through the LID.
- The Portland LIDministrator explains, "For a successful and peaceful LID process it is important to talk with a good representation of the neighbors to

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understand the neighborhoods priorities. In doing so you may find other priorities that supersede or compliment the proposed project."

- Tacoma pro-actively involves the community in one large LID project each year. This process starts with community discussions; then develop a concept from these discussions; take that concept and apply standards to see what they can do; and this normally morphs from conceptual idea with regulatory requirements into a proposal that all can embrace.

Tacoma, Spokane and Portland provide examples of how an LID program in Seattle would operate, with each being managed by a LIDministrator.

Recommendation for Seattle

Seattle should develop a LIDministrator position to oversee an LID program. An active LID program provides one example of how Seattle can think creatively about the financing of streetscape improvements. Without a stable financing mechanism, like TIF, an Open Space Impact Fee, or a system of prioritizing streets for the CIP, Seattle can easily create a LIDministrator position to finance streetscape improvements at almost no cost to the City.

One simple theme emerges from the preceding examples of streetscape improvements and how to pay for them: **Think creatively about the right-of-way, in terms of both how to improve it and how to pay for these improvements**. Once Seattle begins to think creatively, a whole range of options presents itself to help improve the public realm and turn Center City into Seattle's living room.

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Portland

Property owners / City initiates LID process

↓

Project proponents talk to neighbors to gauge interest in learning more about proposal

↓

Preliminary community meeting held to clarify scope of project and explain LID process

↓

City develops project alternatives and cost estimate

↓

LID Administrator defines LID area and identifies property owners who benefit from the project

↓

Follow up meeting held with community members

↓

Petition distributed to property owners by City. 50% or more must sign

↓

Comment Period

↓

Council Resolution of Intent to form LID

↓

Modify proposal based on community feedback

↓

City Council approves LID formation at hearing

Tacoma

Property owners / City initiates LID

↓

LID Administrator defines proposed LID area, prepares advisory petition, and estimates cost for each property

↓

Proponents circulate petition for signatures. 50% or more of property owners must sign

↓

Public hearing is held in which property owners testify, existing conditions and project are described, cost and timeframe announced

↓

Appeal period

↓

City Council approves LID Formation at hearing

↓

Engineer designs improvement

Spokane

Property owners / City initiates LID process by contacting Engineering Services

↓

LID Coordinator IDs initial LID area and provides petition with list of property owners to proponents

↓

Project proponents petition neighbors, 50% or more of property owners must sign

↓

Engineering Services estimates project cost

↓

Security guarantee collected for pre-formation costs and assessment

↓

Two community information meetings held. 1 with Engineering Services, 1 with Hearings Examiner

↓

City Council approves LID formation at hearing

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Regulatory Relief

Street Vendor Plan

"If you want to seed a place with activity, put out food. Food attracts people who attract more people. In New York, at every plaza or set of steps with a lively social life, you will almost invariably find a food vendor at the corner and a knot of people around him - eating, schmoozing, or just standing. Vendors are the caterers of a city's outdoor life."[52] According to a 2005 article in the Stranger, Seattle has less than 20 street vendors throughout the city. Similar to our lack of street furniture, a quick walk around Center City reveals a surprising lack of street vendors. This dearth of street vendors stems directly from the onerous regulatory restrictions placed on food vendors by both the City of Seattle and Seattle/King County Public Health. These regulations, while intended to protect the public, serve to discourage street vendors and lead to deactivated streets. Evidence shows that "Food attracts people who attract more people. We had an excellent opportunity to observe this shill effect through some semicontrolled experiments at a new plaza. At first there was no food. A moderate number of people used the place. At our suggestion, the management put in a food cart. It was an immediate success (a flower cart was not). More people came. A pushcart vendor set up shop on the sidewalk, then another. Business continued to pick up, for all three vendors. Next, the management got the restaurant in the building to open a small outdoor café. More people came and yet more - over and above the number who used the café."[53] "Street vendors help make city streets vibrant. They help bring them alive. They attract people to the streets and people feel more comfortable when other people are on the streets. It's what makes Manhattan feel safe at two in the morning. People on the street is what makes a city a city."[54] An examination of Seattle's regulatory restrictions, and an examination of how other cities regulate street vendors, provides examples of how Seattle should revitalize the street vending industry in a way that benefits both business and the community.

Seattle's Situation

Seattle's current street vendor regulations have been on the books since 1984. Other than adjusting the code to deal with stadium vending, the regulations on street vending have remained essentially unchanged for well over 20 years. Prior to 1984 Seattle had very general regulations regarding street vendors, and "As a result, vendors got more and more ambitious, and we ended up with small houses, shacks on the sidewalk," said John Zavis, Seattle's annual street use permit supervisor at the time. In response, public hearings were held by Seattle's then - Board of Public Works, with vendors, City officials and the public all making their views known. From these hearings emerged the regulations that now govern sidewalk vending. "The intent of the rules was to look at the public interest and not the special interests of private entrepreneurs," said Zavis. "Nowhere do the rules infer that there is any right to be a sidewalk vendor or that the city sponsors or takes an interest in whether they're there or not there." In Zavis's view, when Seattle enacted its current regulations "we settled somewhere in the middle of all the comments." But, he added, the regulations are consistent with the thinking of the local citizenry, "who have a neat and orderly mentality." This "neat and orderly mentality" resulted in only three types of food being allowed under the current regulations: espresso, hot dogs and popcorn.[55]

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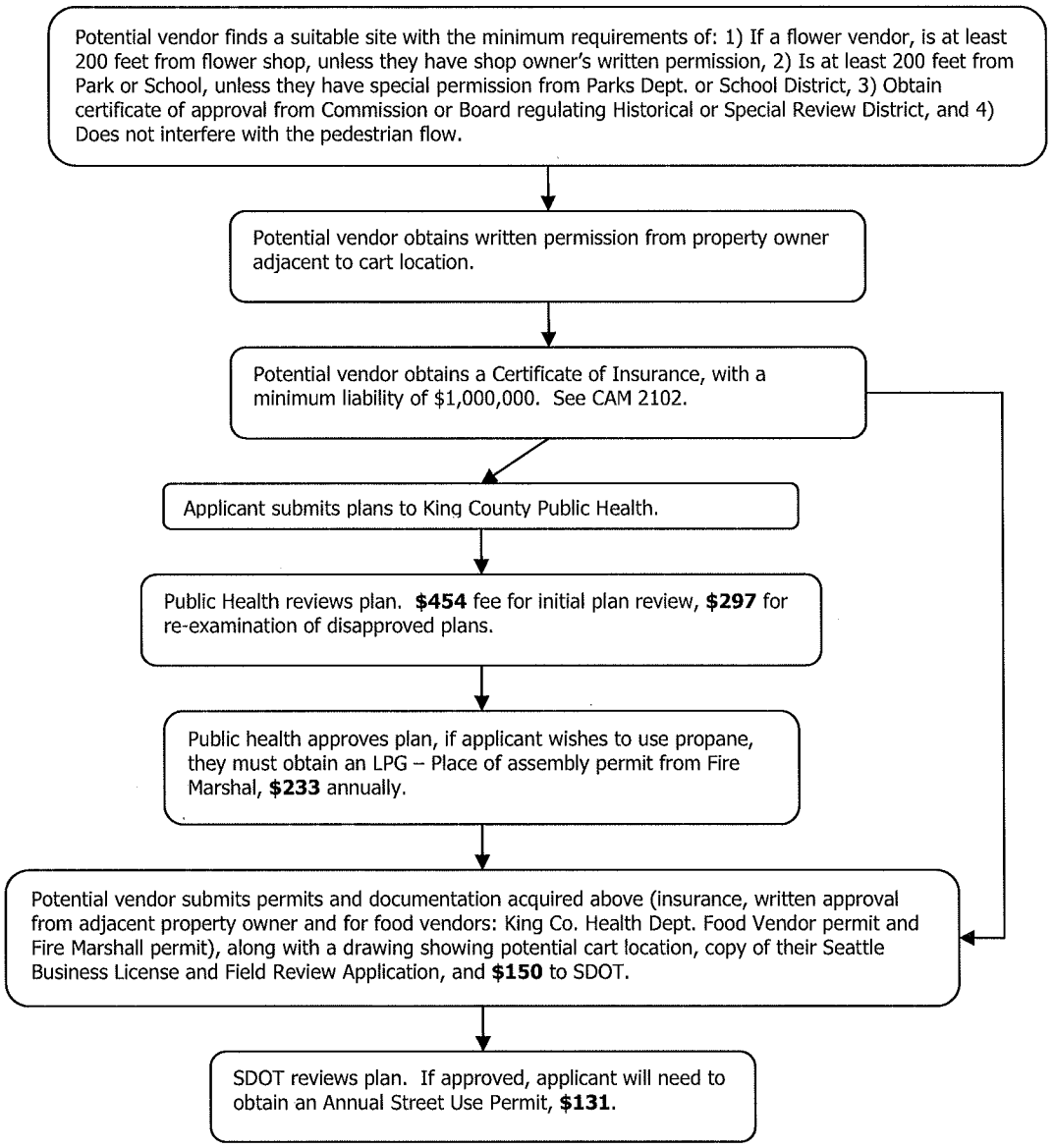
These regulations have served their purpose, tightly regulating street vendors and discouraging their proliferation. Seattle has changed dramatically since 1984; time has long since passed to shift the thinking behind these regulations from discouraging street vending to encouraging this activity in order to achieve vibrant and activated streets.

Current Seattle Street Vendor Permitting Process Map



<u>Current limitations on street vending in Seattle</u>

Location Issues:

- Only one location allowed.

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- Flower cart must be at least 200 feet from a flower shop, unless vendor receives the owner's permission.
- Cart must be at least 200 feet from Park or School unless vendor has received permission from Parks Department or School District.
- Vendor must acquire a Certificate of Approval from the Commission or Board regulating historical or special review districts to vend in those areas.
- Written permission from the business (or building) owner adjacent to proposed site of cart.
- Must have access to restrooms.
- Vendor must keep site clean.
- Vending may not occur in a single-family or residential low-rise zone.

Cart Issues:

- No more than 3 feet wide, by 5 feet long, and 5 feet tall.
- Vendor can add two 18 inch drop leaves to extend cart to 8 feet long.
- Cart must be able to be pushed by one person.
- Cart must have at least 2 wheels with positive locking devices.
- May attach vinyl or canvas umbrella with prior approval.

Application Issues:

- Vendor must submit drawing showing where cart will be parked.
- Vendor must submit copy of Seattle Business License.
- Vendor needs an LPG – Place of Assembly permit from the Fire Marshall if they plan to use propane.
- Vendor needs a Certificate of Insurance, with a minimum liability of $1,000,000 naming the City of Seattle listed as additional insured.
- Vendor must submit vending permit from Seattle-King County Department of Public Health.

Merchandise Issues:

- Vendors can only sell:
    - Food (strictly regulated to non-perishable and pre-packaged foods capable of immediate consumption);
    - Non-alcoholic beverages; and
    - Flowers.
- Relaxed code 2 years ago to allow "low risk" pre-packaged foods, items like prepackaged sandwiches made in permitted kitchen, or commercially prepackaged burritos, then microwaved, or blended drinks (W/O any "high-risk" ingredients – nothing hazardous).

Lack of Information Issues:

- While other cities have detailed websites that walk applicants through the process, ours simply has:

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Vending
Vending in the City of Seattle is regulated by permit and ordinance. A permit for Street Vending is a Renewable permit and may be obtained through the Street Use office. The City Council has passed an ordinance (ordinance 120822) allowing vending around Safeco Field and Seahawks Stadium during sporting events. For more information on vending, refer to Client Assistance Memo 2501.

Vending permit violations are fined.

For vending complaints during business hours, call 206-684-5267. For complaints about specific vending activities outside normal business hours, call the SDOT 24-hour dispatch office at 206-386-1212. If an inspector is on duty, the dispatch office will ask the inspector to report to the area. If no inspector is on duty, the dispatch office will forward your complaint to the Street Use office to investigate at a later time.

- The CAM takes one page to list all of the above mentioned prohibitions and restrictions, without any guidance as to how to navigate the bureaucracy to get around these obstacles, and six pages about stadium vending and maps showing vending location restrictions

Health Issues:

- Health code regulations come from state, so City/County follow state code, except where they want to make them more stringent.
- Pre-packaged food must come from an approved commissary, very strict standards set by Seattle/King County Public Health.
- Mobile food service units who sell "potentially hazardous foods" (includes any meat products and foods such as potato products, cooked rice, or cut melons) other than hot dogs, espresso, and beverages, must fulfill each of these requirements if they wish to run a legal business:
    - Food & beverage service workers permits for all servers;
    - "Food Safety Basics for Working Healthy" course, study guide & test;
    - Off-site approved commissary or base of operations for food, equipment, cart and utensil storage & equipment cleaning, accessible throughout the day;
    - On-site three-compartment sink supplied with 35 gallons of hot and cold running water to wash and sanitize utensils and equipment;
    - Department of Health - approved water source and system design of water supply;
    - Toilet facilities available and accessible within 200 feet of cart;
    - Submission of exact route or location to the Department of Health;
    - Include the plan Review fee of $454.00; and
    - Concludes with: NO CHANGES WILL BE MADE WITHOUT PUBLIC HEALTH - SEATTLE & KING COUNTY APPROVAL.
- The City of Seattle provides no assistance for street vendors in navigating this process; it simply requires that they acquire the necessary permit.

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Easy Steps for Seattle

There are a few easy steps that Seattle can take to encourage street vending, before any process of changing the regulations takes place. These simple, low cost actions provide an easy way for Seattle to encourage street vending.

- Update City website with all relevant contact information and a full explanation of the permitting process.
- Provide potential vendors with appropriate forms (owner's letter of consent, certificate of approval from historic and special review districts, application).
- Map out suitable locations for potential vendors.
- Provide design guidelines for vendor carts to eliminate any confusion.

While these easy steps will encourage street vending, thus encouraging activated streets, an examination of how other cities regulate street vending provides exemplary models and lessons for Seattle:

16th St. Mall, Denver, CO

- Average of 30 vendors selling a variety of merchandise and food products operate on this busy pedestrian and transit mall.
- Vendors have a specific set of rules and regulations determined by the BID and the City & County of Denver that they must follow in order to operate their carts on the Mall.
- Rules and regulations address acceptable locations, cart design, and operational issues.

Portland, OR

- Similar regulations to Seattle.
- "Sidewalk Vending Cart Permit Application Packet" fully explains regulations and steps necessary to acquire a permit and all regulations.

Vancouver, BC

- Similar regulations to Seattle.
- Assign vendors location by a lottery system.

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Toronto, ON

- A nonprofit group, the Multistory Complex, has launched the Street Food Vending Project which aims to introduce healthy, affordable, and culturally diverse street food to Toronto; improve vending policies and opportunities for existing vendors; and educate the public on the links between street vending and larger planning themes such as sustainable development, regulation of urban space, workers' rights and socio-cultural expression in a multicultural city.
- According to their website, "The Street Food Vending Project aims to introduce tasty, affordable, healthy, culturally diverse and locally sourced food to Toronto's streets. We will attempt to change current health regulations that limit Toronto's street food to precooked meat on a bun. We'll work to build partnerships between vendors and local farmers, gardeners and kitchens. We'll attempt to reform licensing and permitting regulations to bring street food to neighborhoods across the City, including those without access to healthy and affordable food. We'll listen to the experiences of vendors and help them identify possible employment and training opportunities. We will listen to vendor advocates, food security advocates, restaurants, planners, designers, City divisions, and social service organizations in an effort to break down disciplinary silos and encourage innovative solutions to Toronto's vending culture."[56]
- Have helped affect change from the previous regulations which restricted street vendors to selling hot dogs and sausages, with rules slated to take place next spring which will pave the way for street vendors to expand their menu.
- The new provincial rules will make it possible for street vendors to sell pre-packaged fruit and baked goods, pre-cooked and reheated foods - samosas, pizzas and burritos - and low-risk fare like orange juice, corn on the cob and non-dairy smoothies.
- According to Toronto Councilor John Filion, the new rules will provide benefits to tourism, more animated streets, new business possibilities, chances to introduce Toronto residents to new cultures through food and more affordable fast-food options for low-income areas. "There is a possibility here to transform the face of Toronto."

Other Lessons for Seattle:

- "Another unique way that incentives are offered to street vendor businesses and an outcome that also subsequently benefits the entire community is the involvement of local universities in training and managing street vending programs. Whether from a purely urban design standpoint of cart design as street furniture components or the location of business sites in pedestrian activity centers to business management, marketing and financial programs, the vending programs function as learning laboratories for the universities."[57]
    - "In Los Angeles, in conjunction with the implementation of the city's first legal vending district, a group of architectural students conducted a studio to re-design the sidewalk spaces where the vendors will operate and the types of carts for this area. Design ideas fashioned after the convenience and affordability of the original informal carts and contraptions that the vendors were using illegally resulted in entirely new forms and materials for the vending structures."[58]

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- "A new trend emerging in some cities is the creation of a separate entity within the government structure that is solely responsible for all street vending activities, including permitting and enforcement."[59]

Vendor Advisory Board Concept from Burlington, VT, and Atlanta, GA

- Suggested members:
  - Food vendors;
  - Merchandise vendors;
  - Non-vendor merchants;
  - City officials;
  - Citizens;
  - Representatives from a business association; and
  - Representatives from a planning advisory board.
- Duties:
  - Setting fees;
  - Creating and revising rules and regulations and/or a licensing system;
  - Helping vendors understand and comply with rules and regulations;
  - Offering advice to first time vendors;
  - Reviewing and determining approval of vendor applications;
  - Designating locations to vend and hours of operation; and
  - Determining types of merchandise, food and beverage products to be sold.
- Advisory body, committee or review board can facilitate communication and foster cooperation between the vending industry, the city and other stakeholder groups.

Case Study: Washington, DC

- 1998 City Council enacted a moratorium on new vendor's licenses until the many problems with the system could get worked out.
- In 2003, the Deputy Mayor convened a Steering Committee, composed of government officials, vendor representatives, civic and nonprofit organizations, and the BID's. The Steering Committee agreed that a demonstration program provided the best way to prove this concept could work in Washington. In addition, the Steering Committee:
  - Acknowledged need for comprehensive block by block plan for vending and other uses of public space, such as outdoor cafes, and street furniture;
  - Emphasized high quality design for public space including the development of new vending equipment and vending concepts;
  - Recognized the limits of a regulatory approach, and agreed that the concept of day-to-day management of vending and public space should be tested in a demonstration area.
- During the summer of 2004, The Department of Consumer and Regulatory Affairs (DCRA) issued an RFP and selected the Public Space Planning and Management Corporation (PSPMC) to develop a demonstration program for street vending in a 35-block area of the downtown DC.
  - The Public Space Planning and Management Corporation is a nonprofit organization governed by a broad-based board of directors, including vendor representatives. It is funded through its contract with the city and with

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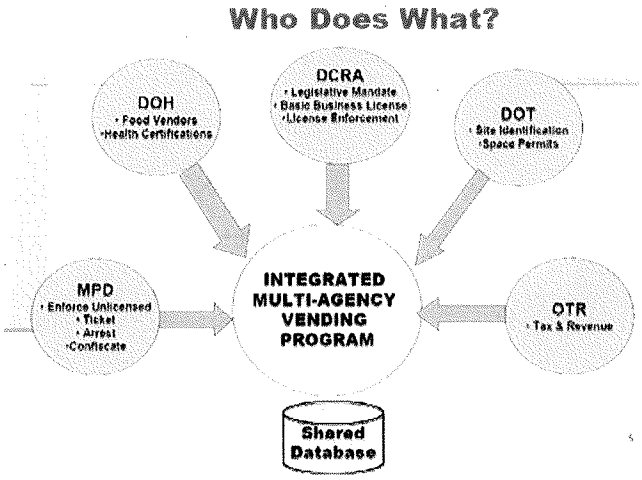
additional support from the Downtown BID, the Washington Architectural Foundation and other partners. Its goal is to improve the quality and variety of street vending in Downtown.
    - PSPMC has worked with the Washington Architectural Foundation to explore ideas to develop new, high quality designs, and with the National Capitol Planning Commission to establish a comprehensive Geographical Information System to help designate locations for vending, outdoor restaurants, and other appropriate uses of public space.
- DCRA completely restructured its vending operations to enact the new program because:[60]
    - Prior program unenforceable and unsafe;
    - Moratorium hurt entrepreneurs;
    - New interagency coordinated program will lead nation; and
    - The District of Columbia has much to gain from safe and well managed vendors – from both an economic development and revenue basis.
- New program solves many old problems, for example:
    - Vendors will lease site from DDOT, so no more fighting over locations;
    - Instead of only licensed vendors being able to operate carts, business owners can own several sites and hire employees;
    - Instead of Municipal Police Department criminalizing enforcement, DCRA will do civil enforcement for all licensed vendors; and
    - New shared technology shares info between agencies to alleviate confusion.



61

- DCRA surveyed seven cities - Atlanta, Boston, Chicago, Miami, New York, Philadelphia, and Portland, Oregon - to find out what worked well there. They found:
    - Other cities have learned that moratoriums do not work well;
    - Other cities have had success linking vending licenses to vending sites; and
    - Most cities' vendors offer a wider variety of products – especially "street foods."

DC'S CITY CLERK

- Vending page on DCRA website with all necessary information and links, including multiple language translations of FAQs and Fact Sheets, including:
    - DCRA Vending License Forms;
    - Policies, Procedures & Requirements;
    - Frequently Asked Questions;
    - Maps;
    - Fact Sheet Translations;
    - Vending Legislation; and
    - Next Steps.
- Also contains a survey which explains what over 500 respondents wanted to see in food and merchandise vending.
    - The absence of variety came up again and again from respondents. When asked to rate the variety of food offered in DC by street vendors, 66.4% rated variety as poor.
    - Not only do respondents think that variety is important, they say that they will put their money where their mouth is. To the question, "Would you spend more money at food vending stands if they: Sold something different," 82.4% responded yes.

Lessons from DC

- **Concept of working with a non-profit group developed by government officials, vendor representatives, civic and nonprofit organizations, and the BID's**
- **Use a demonstration project to test out any new ideas and programs, like adding to the variety of food and merchandise available**
- **Develop an interagency (OED, DPD, SDOT, SPD, etc…) coordinated program**
- **Create a one stop shop website and counter for potential vendors to acquire all necessary information**
    - **All of this combines to make it easy for potential vendors to get started, encourages well regulated street vending, develops small businesses and generates tax and permit revenue for the city**

General Lessons for a Seattle Program[62]

1. Reach shared vision by consensus with all stakeholders at the beginning of the process.
2. Make sure all stakeholders participate in the process of creating the program.
3. Develop clear goals and objectives for program to meet needs of all parties in regards to economic, design and policy issues. Mission, goals and objectives will focus the activities of the work plan and provide a decision making criteria.
4. Remember that street vending is an excellent business incubator for entrepreneurs, especially for minority business people and people with developmental disabilities.
5. Don't underestimate importance of small details in regulatory process.
6. Pay careful attention to location issues.
7. Explore new and creative municipal structures to create multidisciplinary departments that are responsible for all aspects of street vending operations, including regulating, permitting and enforcement.
8. Use revenues raised from operation of program to support program.

CHS CITY CLERK

9. The regulating ordinance is only as effective as the enforcement of its guidelines and policies. Should have separate municipal unit for vending enforcement (like building code enforcement), not by the SPD.

Summary for Seattle

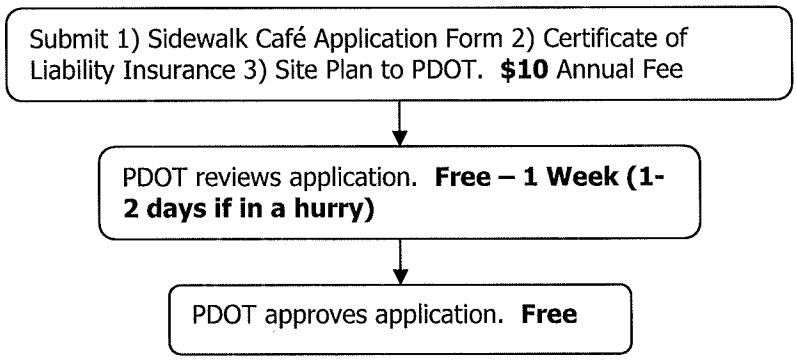
"The bottom line is that sidewalk vending is good for the bottom line of business and the community. The trick is to devise a program that protects shops and restaurants, avoids sidewalk congestion, reduces the potential liability of adjacent businesses and improves the overall image of Downtown."[63] To achieve this goal and create an effective street vendor program, Seattle should abide by the lessons illustrated in the preceding examples, and begin immediately by implementing the small, easy steps.

Sidewalk Cafés

Sidewalk cafés are an excellent method to activate the streetscape, and with proper management can provide great public benefit. Seattle has over 200 sidewalk cafes citywide, with approximately 150 in the Center City.[64] While at first glance this might seem like a large number, Melbourne, a city of similar size, has over 600, and Copenhagen, a city of similar size and harsher climate, has a "café culture" with over 5,000 sidewalk café seats in the Center City. Before pedestrianized streets there were almost no sidewalk cafés in Copenhagen, yet over the last 40 years, "an entirely new city activity for Scandinavia – café culture – has developed over a relatively short period of time in step with changes in society and quality improvements in the inner city."[65] Melbourne took a more pro-active approach, and developed the Street Trading Unit to provide the guiding principles, decision-making criteria and administrative guidelines for the effective management of street trading activities on the footpaths, streets, open spaces, and public spaces within the City of Melbourne and actively encourage sidewalk cafés. Short of creating pedestrianized streets and/or a government entity to pro-actively encourage and regulate sidewalk cafes, Seattle can easily activate the streets through an updated permitting process. A quick summary of the sidewalk café permitting process in other municipalities provides great lessons for Seattle on how a simplified process can encourage sidewalk cafés while mitigating any negative effects.

Portland, OR

- PDOT uses GIS layers and aerial photos for location review, and only conducts site visit if these show café might lie in "marginal" area.[66]



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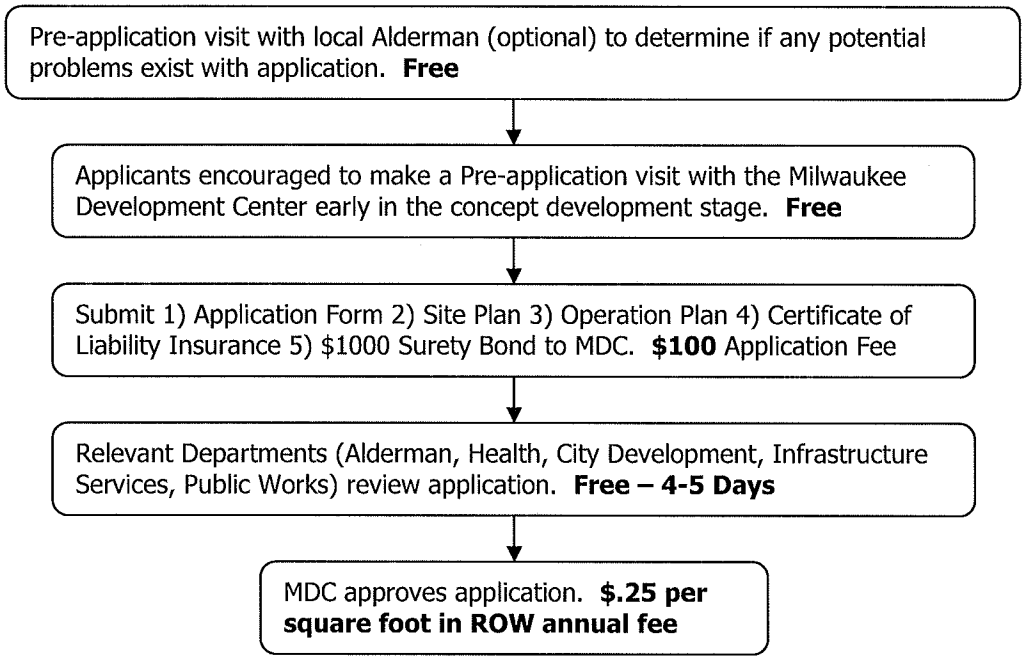
Milwaukee, WI

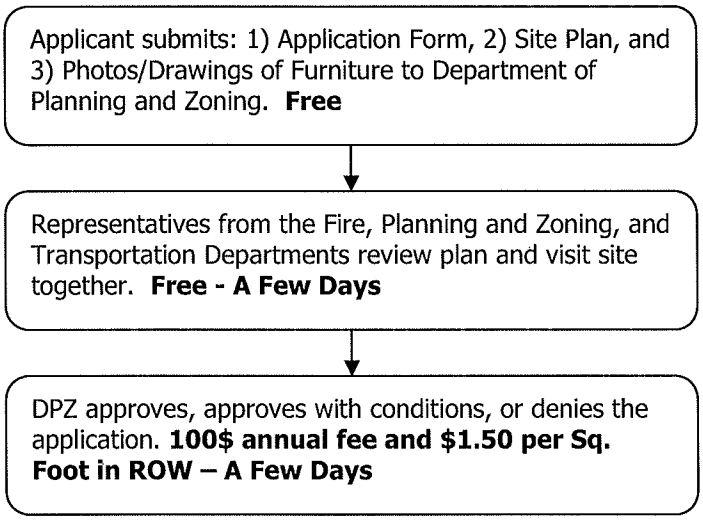
- In order to encourage sidewalk cafés Milwaukee simplified and consolidated permitting process into one government department, the Milwaukee Development Center.
- Adopted a set of guidelines, which address the location, design, and operation of sidewalk cafés, as part of this encouragement effort. Guidelines are available online and in person at the Milwaukee Development Center.
- The Milwaukee Development Center offers free advice for potential sidewalk café applicants in order to simplify the permitting process.
- These changes resulted in a city-wide proliferation of sidewalk cafés.



Alexandria, VA

- Adopted the King Street Outdoor Dining Overlay Zone to facilitate outdoor dining in Old Town in order to create an active streetscape, enhance the economic and social vitality of King Street, and promote pedestrian and retail friendly activity; to allow for the use of the public right-of-way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public's use of the sidewalks will not be significantly impaired by such dining, and that adjacent commercial and residential uses will be protected from any adverse impacts from such dining.[67]
- Ran multiple pilot projects to work out details with new plan.[68]
- Pre-established design guidelines save time and administrative expense.
- Fire, ADOT and Planning all go to site together for location review.

DHS CITY CLERK



16th St. Mall, Denver, CO

- The Mall Use Committee - a group comprised of representatives form the BID, the City's Public Works Department, District Six Police Department, Mounted Patrol and RTD - meets monthly to review standards, policies and applications for numerous Mall uses, including sidewalk cafés.[69]
- Formal Rules and Regulations establish design guidelines above and beyond City of Denver requirements.
- Charge more than City permit for location in a high traffic area.

Fee Summary

Portland

- $10 Annual Permit Fee
    - **$10 per year**

Milwaukee

- $100 Application Fee
- $.25 per square foot in the ROW per year
    - **$100 one time + $.25 per sq. foot in ROW per year**

Alexandria, VA

- $100 Annual Fee
- $1.50 per square foot in the ROW
    - **$100 per year + $1.50 per sq. foot in ROW per year**

San Francisco

- $36 Annual Fee per chair per year
- $100 minimum - $360 maximum per year
    - **$100 - $360 per year**

Vancouver, BC

- $212 Application Fee
- $5.45 per square foot in the ROW Downtown per year
- $3.87 per square foot in the ROW Outside of Downtown per year

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- **$212 one time + $5.45/$3.87 per sq. foot in ROW per year**

Melbourne, Australia

- $50 Application Fee
- $15.64 per square meter in the ROW Area 3 per year
- $33.55 per square meter in the ROW CBD per year
- $50.46 per square meter in the ROW Lygon St. per year
- $69.18 per square meter in the ROW Swanston St. per year
    - **$50 one time + $15.64 - $69.18 per sq. meter in ROW per year**

Seattle, WA

- $155 Intake Appointment Fee
- $165 Notice – Land Use Information Bulletin Fee
- $95 Notice – Posting Fee
- $1,250 Land Use Review Fee + $250 per additional hour
- $300 SDOT Review, ROW and Mapping Fee
- $131 Permit Fee in first year, $97 in subsequent years
- $1.56 per square foot in ROW per year
    - **$2,097 + $1.56 per sq. foot in ROW one time (minimum)**
    - **$97 + $1.56 per sq. foot per year in ROW in subsequent years**

16th St. Mall, Denver, CO

- $25 Application Fee
- $150 Security Deposit
- $3,000 Annual Base Fee
- $10 per square foot in ROW for 151 - 450 square feet
- $5 per square foot in ROW for over 450 square feet
    - **$3,175 + $0/$5/$10 per sq. foot in ROW one time**
    - **$3,000 + $0/$5/$10 per sq. foot in ROW per year in subsequent years**

Seattle, WA

Seattle currently has a long, complicated and expensive sidewalk café permitting process. Despite this complexity, the City provides little information on its website regarding how to navigate this process except for a CAM[70] which does a passable job. According to the most current Right-of-Way Improvement Manual, "Sidewalk cafés can provide vitality and interest to the sidewalk environment and are encouraged where they can be accommodated." Yet the City does little to encourage their proliferation, and through the complex, time consuming and expensive permitting process actually discourages their establishment. The current sidewalk café permitting process proceeds as follows:

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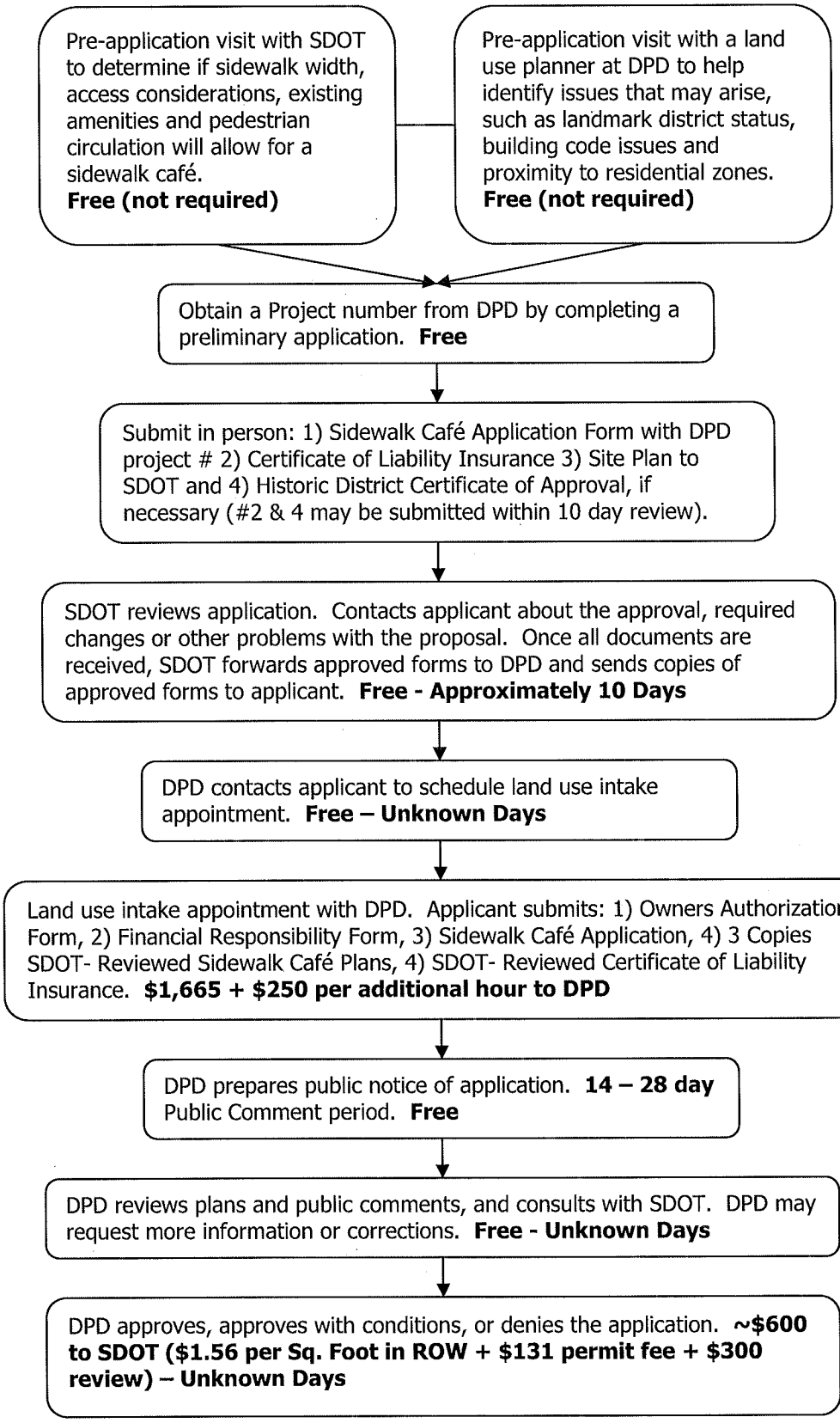

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History of Process

Prior to 1999, sidewalk cafés were a Type II application process subject to appeal by a hearing examiner, with the process going through both SEATRAN and DCLU. Type II applications entail discretionary review, require public notification of the application and decision, and are subject to public comment and appeal. While it seems to make sense that privatization of the public realm should at a minimum require a public comment period and discretionary review, between 1996 and 1999 only 24 sidewalk applications were filed, and none were appealed. Accordingly, DCLU proposed to change the sidewalk café application review from a Type II to Type I, in an attempt to streamline the process. In making this argument, DCLU argued that this change would have little impact on pubic safety, and that since these permits are revocable at any time and subject to annual renewal, adverse impacts could be mitigated in relatively short order. In a compromise decision (with some City Council Members concerned about a lack of public opportunity to comment), the 1999 Omnibus Land Use ordinance changed sidewalk cafés from a Type II to a Type I review, but maintained the Type II notice requirements. Without proper clarification, this resulted in much confusion for both the government entities and the applicants, as none were sure exactly which Type II procedures were required. Council Ordinance 122054 cleared up this confusion in 2006 by declaring that sidewalk cafés are Type I decisions (non-discretionary, not subject to review) with Type II notice of application procedures. This history has lead to the current process, which cost applicants well over $2,000 for an initial permit, and often takes much longer than the expected 6-8 weeks.

Consultation with individuals from both SDOT and DPD involved in sidewalk café permitting illustrates many problems with the current process:

- The process often takes much longer than the expected 6-8 weeks;
- Applicants must come to DPD before going to SDOT simply to acquire a project number because the two agencies lack information-sharing ability;
- Despite the CAM which attempts to explain the process, many applicants do not understand the process;
- High cost of permits discourages small restaurants from applying, while encouraging larger drinking establishment type restaurants to apply, the type which receive the most complaints;
- Lack of distinction between drinking/eating establishments and those that become drinking establishments at night;
- Unclear design guidelines lead to illegal platforms and unacceptable sidewalk café designs;
- Public comments serve no purpose; they are rarely made and play no role in decision; and
- DPD never supported the change to a Type 1 decision with Type II procedures, and still does not support this method.

These problems result from the current permitting process being designed to fit the City's administrative structure, rather than the administrative structure being designed to serve customer's needs. A perfect example involves the unnecessary step applicants make to begin the sidewalk café permitting process, in which they have to get a project number

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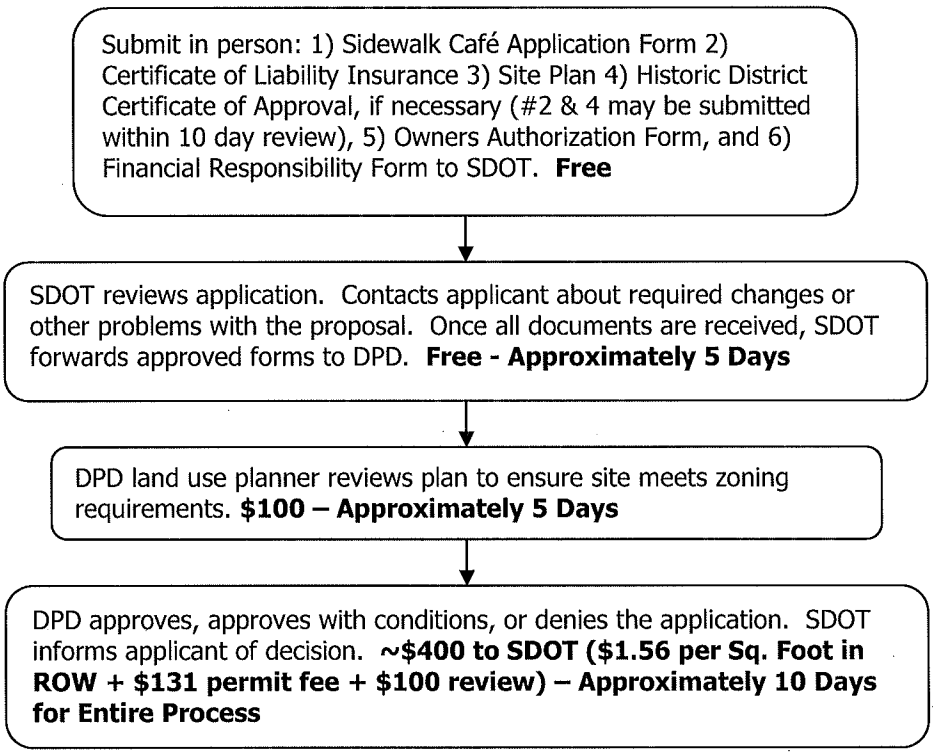
from DPD before going to SDOT to begin the plan review. This step exists for the simple fact that DPD and SDOT lack information sharing ability. Furthermore, the Type II notice of application procedures require many time consuming and expensive procedures by DPD, when in fact only 1 sidewalk café has been denied since 1999, and it received the go ahead after the owner sold the restaurant and the new owner resubmitted the application. In addition, a random survey of 20 of the 149 applications filed since the 1999 change found only 1 public comment received; this comment strongly supported the sidewalk café. Further illustrating the silliness of this hybrid application review, public comments made during the DPD review in no way affect the actual decision, and do not get forwarded to SDOT, they are simply microfilmed. Basically, the current process requires extraneous and expensive administrative steps, which add little value to the process, while any negative impacts are easily solved by the fact that sidewalk café permits are revocable at any time and subject to annual renewal. A few small changes could greatly reduce the time and expense of this process, and go a long way towards encouraging sidewalk cafés.

Recommended Small Changes to Sidewalk Café Permitting

- Integrate information sharing between SDOT and DPD.
    - This will eliminate the extraneous first step of the process.
- Develop a set of guidelines which address the location, design, and operation of sidewalk cafés, and make these available both online and in person.
    - These guidelines will save time and administrative expense.
- Use GIS and aerial photos as a substitute for SDOT and DPD site visits.
    - This use of technology will save time and administrative expense for the majority of applications.
- Reduce DPD Land Use Review fees.
    - Non-discretionary decisions should not cost $1,250.
- Coordinate between DPD and SDOT so that applicants have a single point of contact.
    - This will eliminate most applicant confusion and expedite the process.
- Amend the Land Use Code and change "Restaurant" sidewalk cafes to an entirely Type I decision, while leaving "Drinking establishments" under the current process.
    - This will greatly expedite the process and remove unnecessary fees for the type of establishments which receive the least complaints and often can't afford this expense.

SEA CITY CLERK

Proposed Sidewalk Café Permitting Process with Small Changes



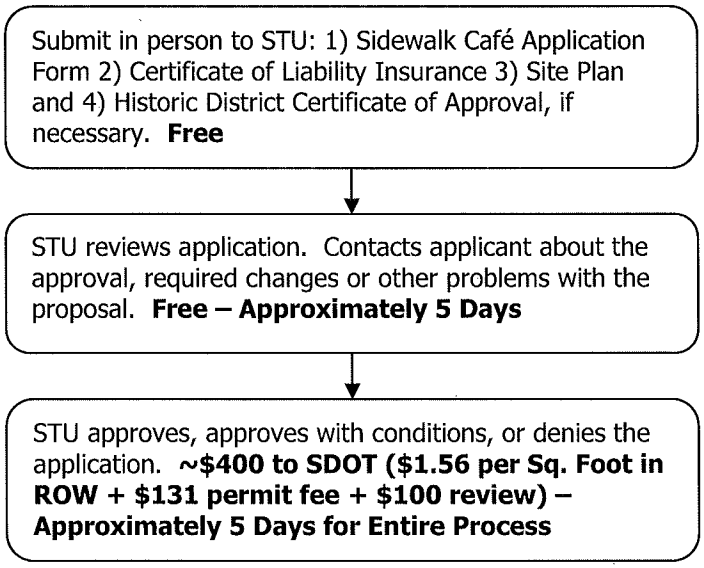
While a few small changes could have a large impact on the permitting process and greatly encourage an active street life through a proliferation of sidewalk cafes, the lessons learned from other municipalities illustrate that a cross-disciplinary government department assigned to sidewalk cafés (and other street-use concerns) could have an even greater positive impact.

Recommended Large Changes to Sidewalk Café Permitting

- Simplify and coordinate entire process within an interagency coordinated department.
    - This Street Trading Unit (STU) can house elements of SDOT, DPD, OED, DON, OACA and other relevant Departments and serve to coordinate and encourage activities which lead to an activated streetscape (sidewalk cafés, street vending, street performers, public art in the right-of-way, etc…).
    - STU can also provide enforcement, mitigating many of the negative impacts created by private use of the right-of-way.
    - Follows Mayor's concept of simplify and coordinate and role of the Interdepartmental Team.
- Amend the Land Use Code and change all sidewalk cafes to an entirely Type I decision.
    - This will greatly expedite the process and remove unnecessary fees for all types of establishments.

SDS CITY CLERK

Proposed Sidewalk Café Permitting Process with Large Changes



This Street Trading Unit (STU) model follows the lessons of Melbourne, Vancouver, DC and Milwaukee which illustrate the effectiveness of cross-disciplinary government departments assigned to carry out a specific project. Instead of a sidewalk café permitting system designed around our current bureaucratic structure, the STU would form around the goal of activating the streets. This structure would simplify and coordinate not only the sidewalk café permitting system, but would coordinate and encourage all of the activities which lead to an activated streetscape (sidewalk cafés, street vending, street performers, public art in the right-of-way, etc…) while also providing enforcement to mitigate their negative impacts. Instead of trying to figure out how to best fit a permitting system within our current structure, Seattle should change the structure to best fit the permitting system.

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Key Lessons for Seattle

This paper outlines a series of lessons gleaned from successes in other cities with specific recommendations for Seattle, in addition to a set of programs which can easily be adopted to move the process forward. Most importantly, this research illustrates the following key lessons for Seattle in regards to streetscape activation and enhancement.

- **Think creatively about the of right-of-way, both in terms of how to improve it and how to fund these improvements**
- **Less Cars = Successful Open Space**
- **The effectiveness of cross-disciplinary government departments assigned to carry out a specific project**
- **A gradual, small step approach can have large impacts over time**
- **Comprehensive and coordinated urban design strategies can have a large impact in a short amount of time with public and political support**
- **Encouraging public life through small changes in the physical infrastructure can have an enormous impact on the quality of life and living in an urban environment.**

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[1] "Pedestrian Cities", *Metropolis*, Paul Makovsky, August/September 2002.
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[3] Ibid, pp. 40.
[4] *New City Spaces*, The Danish Architectural Press, 2003, Jan Gehl and Lars Gemzøe, pp. 52.
[5] *City Edge*, Architectural Press, "Melbourne, Back from the Edge," Rob Adams, 2005, pp. 50.
[6] www.melbourne.vic.gov.au/info.cfm?top=202&pg=2602
[7] Rob Adams email correspondence, 08-01-2007.
[8] *City Edge*, Architectural Press, "Melbourne, Back from the Edge," Rob Adams, 2005, pp. 61.
[9] Ibid, pp. 61-62.
[10] Places For People, City of Melbourne & Gehl Architects, 2004.
[11] www.melbourne.vic.gov.au/info.cfm?top=128&pg=1025
[12] Ibid
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[15] Showley, Roger M., "Utility box is a pox on the streetscape," San Diego Union-Tribune, 04-25-2004.
[16] urbanarttrail.com has additional information.
[17] Meeting, 08-27-2007.
[18] All info from www.downtownvancouver.net
[19] Gehl, Jan. *Life Between Buildings*, The Danish Architectural Press, 2003, pp. 25.
[20] Ibid, pp. 169.
[21] Jojola, Lloyd. *Albuquerque Journal*, -6-09-2007.
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[23] Email correspondence with John Kerns, Downtown Denver Partnership.
[24] portlandalliance.com/downtown_services/street-musician.html
[25] 207.114.6.204/resources/up335.aspx, see FAQ
[26] Meeting with Angela Steel, SDOT Street Use Permitting, 06-26-2007.
[27] Meeting, 08-07-2007.
[28] www.city.vancouver.bc.ca/engsvcs/streets/greenways/city/ridgeway.htm
[29] www.city.vancouver.bc.ca/engsvcs/streets/greenways/city/index.htm
[30] Sandy James, Greenways Planner.
[31] www.city.vancouver.bc.ca/engsvcs/streets/greenways/city/carrall/index.htm
[32] All above from Greenways website.
[33] Carrall St. Design and Implementation Plan.
[34] Jessica Chen-Adams, Greenways Planner.
[35] Sandy James, Greenways Planner.
[36] Chinatown's Festival Streets.
[37] Ellen Vanderslice, Project Manager.
[38] Chinatown's Festival Streets.
[39] Ibid
[40] PlaNYC, Open Space section.
[41] PlaNYC, Open Space Section.
[42] Gehl, Jan. *Life Between Buildings*, The Danish Architectural Press, 2003, pp. 157.
[43] DCStreetscapeImrpovements, also has pics.
[44] Ibid
[45] Ibid
[46] www.djc.com/news/co/11149492.html
[47] www.mrsc.org/Subjects/Econ/ed-revitalization.aspx
[48] Spitzer, Hugh. Puget Sound Business Journal, 04-21-2006.
[49] Ibid.
[50] www.buildthestreetcar.org/FAQS.asp#need
[51] WA LID Manual has additional information.
[52] www.pps.org/civic_centers/info/how_to/amenities_bb/Food, excerpted from *The Social Life of Small Urban Spaces*, William H. Whyte.
[53] Ibid

SEATTLE CITY CLERK

[54] St. Louis Post-Dispatch, November, 1998.
[55] Puget Sound Business Journal, 10-16-1998.
[56] multistorycomplex.org/street_food_vending_project
[57] Ball, Jennifer. Street Vending, A Survey of Ideas and Lessons for Planners, American Planning Association, 2002, pp. 9.
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[61] Vending in the District of Columbia Presentation (10-26-2006), DCRA.
[62] Ibid, pp. 39-40.
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[64] Angela Steel, Street Use Permitting, Annual Permits, SDOT, 06-26-2007.
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[66] John Deyo, PDOT, 07-25-2007.
[67] Outdoor Dining Overlay Zone Ordinance.
[68] Valerie Peterson, ADOT, 06-29-200.
[69] 16th St Mall Rules and Regulations.
[70] DPD CAM 225, Application for new Sidewalk Cafes.

2015 CITY CLERK

Form revised February 6, 2008

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Planning and Development	Mark Troxel/615-1739	Karen Grove/684-5805

Legislation Title:
An ordinance relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

- **Summary of the Legislation:**

Proposed legislation consolidates within Seattle Department of Transportation (SDOT) the authority to review and approve sidewalk cafes located in the right-of-way, and clarifies required distances from other features of the streetscape. Master Use Permits from the Department of Planning and Development (DPD) will no longer be required to establish a new sidewalk café in the right-of-way. The administration of permits for sidewalk cafes will be streamlined to encourage these streetscape-enhancing business activities.

- **Background:**

A review of the administrative procedures and requirements for permitting sidewalk cafes has determined that the process can be simplified with no reduction in oversight. Sidewalk cafés currently require both a Master Use Permit from the Department of Planning and Development (DPD) and a Street Use Permit from Seattle Department of Transportation (SDOT). Consolidating review and approval within SDOT's Street Use Permit authority, eliminating the need for a Master Use Permit from DPD if no significant construction is involved, will reduce fees and administrative time for applicants. SDOT Street Use Permits are revocable permits renewed annually. Sidewalk café operators will be subject to Street Use Permit terms and conditions appropriate to the café's location and circumstances.

- Any food-service establishment will be eligible to apply.
- Clear location criteria will be established with 25-foot setbacks from lots in single-family and lowrise residential zones.
- Amplified sound will be prohibited and Department of Executive Administration noise inspectors will enforce potential noise complaints.

- *Please check one of the following:*

____ **This legislation does not have any financial implications.**

_✓_ **This legislation has financial implications.**

The legislation will reduce the cost of applying to establish a sidewalk café by $1,665.00.

ORIGINAL CITY CLERK

Over the past 10 years, approximately 15 sidewalk café applications have been received per year. Sidewalk café applications comprise only a small part of DPD's annual permit application volume (36,295 permits issued in 2007). Consequently, no significant budget implications are anticipated.

- **What is the financial cost of not implementing the legislation?** *(Estimate the costs to the City of not implementing the legislation, including estimated costs to maintain or expand an existing facility or the cost avoidance due to replacement of an existing facility, potential conflicts with regulatory requirements, or other potential costs if the legislation is not implemented.)*

In the short term, we anticipate that there would be no financial cost of not implementing the legislation. DPD would continue to charge fees for redundant review of sidewalk café applications. Over the long term, Seattle will miss an opportunity to enliven streetscapes in a way that will draw citizens and visitors alike to a type of business – a café culture – that will strengthen our city's fabric of social and commercial exchanges.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** *(Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)*

There are no alternatives to the legislation that could achieve the same or similar objectives.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)*

In order to amend the Land Use Code, the City Council must hold a public hearing before the Planning, Land Use, and Neighborhoods Committee. This meeting requires 30 days' public notice.

- **Other Issues** (*including long-term implications of the legislation*):

None.

Please list attachments to the fiscal note below:

Attachment A: Director's Report and Recommendation

2008 CITY CLERK

DIRECTOR'S REPORT AND RECOMMENDATION
Sidewalk Cafes Legislation

SUMMARY

Seattle policies encourage sidewalk cafes, which are outdoor seating areas associated with an adjacent food-serving business and located in the right-of way. Sidewalk cafés activate the streetscape, giving it character, interest and a sense of safety and community. A review of the administrative procedures and requirements for permitting sidewalk cafes has determined that the process can be simplified with no reduction in oversight. Sidewalk cafés currently require both a Master Use Permit from the Department of Planning and Development (DPD) and a Street Use Permit from Seattle Department of Transportation (SDOT). Consolidating review and approval within SDOT's Street Use Permit authority, eliminating the need for a Master Use Permit from DPD if no significant construction is involved, will reduce fees and administrative time for applicants. SDOT Street Use Permits are revocable permits renewed annually. Sidewalk café operators will be subject to Street Use Permit terms and conditions appropriate to the café's location and circumstances.

- Any food-service establishment will be eligible to apply.
- Clear location criteria will be established with 25-foot setbacks from lots in single-family and lowrise residential zones.
- Amplified sound will be prohibited and Department of Executive Administration noise inspectors will enforce potential noise complaints.

Proposed amendments to Seattle Municipal Code (SMC) Title 15, *Street and Sidewalk Use*, and new administrative procedures for enforcing uses in the right-of-way, will clarify and strengthen the City's ability to respond to potential adverse consequences associated with promoting more lively commercial streetscapes.

BACKGROUND AND CURRENT REGULATIONS

Sidewalk cafés increase public use, enjoyment and safety in neighborhood business districts and within established urban centers. They create appealing street activity and add "eyes on the street" that can strengthen the social fabric and reduce crime.

Seattle already allows sidewalk cafes. When an "eating and drinking establishment" (a Land Use Code term) provides service at outdoor tables located on private property, DPD regulates those areas as an accessory use to the existing business. When the outdoor tables are located in the public right-of-way, they comprise a sidewalk café, regulated by SMC Chapter 15.16. Under existing regulations in Title 15, sidewalk cafés must be associated with an adjacent "café, restaurant or tavern."

Attachment A to the Fiscal Note
Attachment 1: Seattle Comprehensive Plan Support for Active Streetscapes
Attachment 2: Center City Public Realm

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SDOT records show over 200 sidewalk cafes citywide, with approximately 150 in the Center City. Attachment 1 lists Comprehensive Plan goals and policies supporting proliferation of streetscape-activating uses such as sidewalk cafes. Despite this strong policy support, however, Seattle's permitting process for sidewalk cafés is complex and costly. Figure 1 summarizes the current process requirements and fees.

Figure 1.
Seattle Sidewalk Café Permitting Process

- $155 Intake Appointment Fee
- $165 Notice – Land Use Information Bulletin Fee
- $95 Notice – Posting Fee
- $1,250 Land Use Review Fee + $250 per additional hour
- $300 SDOT Review, ROW and Mapping Fee
- $131 Permit Fee in first year, $97 in subsequent years
- $1.56 per square foot in ROW per year
    - **$2,097 + $1.56 per sq. foot in ROW one time (minimum)**
    - **$97 + $1.56 per sq. foot per year in ROW in subsequent years**

The notice requirement alone can add two to four weeks to the time required to obtain the necessary permits for a sidewalk café.

Attachment 2, *Center City Public Realm*, is a 2007 DPD analysis of how the City can activate streetscapes and use the right-of-way to supplement open space in Seattle's more urban neighborhoods. One method it identifies is wider use of sidewalk cafés.

Approval of a sidewalk café is unique among land uses in that it is a Type I decision that requires public notices as if it were a Type II decision (SMC 23.76.006 B3c). Type I decisions are nonappealable administrative decisions that generally involve little or no discretion. Type II decisions are discretionary decisions that are subject to an administrative open records appeal to the Hearing Examiner. While the added fees for posting notice on the site and in the Land Use Information Bulletin are a source of frustration to applicants, potential frustration on the part of neighbors who, because of the notice, might seek to appeal a sidewalk café's approval could be far greater because the approval is not subject to appeal. To reassure concerned neighbors of sidewalk cafés, the proposal relies on the revocability of SDOT's Street Use Permit.

ANALYSIS

The proposed legislation is part of a planning effort to invigorate public spaces, which include rights-of-way. Demand for public open space is growing, and the high cost of land often precludes substantial City purchases of open space. Seattle can improve its pedestrian environment and broaden the ways in which the public can use its rights-of-way, which constitute approximately 35% of Seattle's land, to create additional quality open space for the public.

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WHERE ALLOWED. Current regulations require that sidewalk cafés be associated with an adjacent "café, restaurant or tavern." Those terms in SMC Title 15, Street and Sidewalk Use, refer to outdated definitions within Title 23, Land Use Code. Rather than update to corresponding contemporary Land Use Code terms, the proposal broadens the range of uses allowed to have a sidewalk café. In recent decades, serving food has become an accessory activity within many kinds of businesses. In order to promote sidewalk cafés, the proposal allows a permit to be sought in conjunction with a "food-service establishment" as that term is defined in SMC Chapter 10.10, Food Code. This will enable businesses, such as grocery stores, bakeries, or school cafeterias, to seek a Street Use Permit for establishing a sidewalk café.

RIGHT-OF-WAY SAFETY. Under existing regulations, sidewalk cafés must not unduly or unreasonably impair pedestrian passage on the sidewalk. These provisions will not change. An SDOT Director's Rule will clarify the technical requirements related to preserving pedestrian passage. The rule will establish setbacks applicable to sidewalk cafés for the variety of fixtures found in the right-of-way such as pay stations, utility poles, street trees, fire hydrants, or bike racks and for alleys, bus zones, handicapped access zones, and commercial loading zones. Existing provisions in SMC Chapter 15.16 already require that the applicant be responsible for keeping the sidewalk in a clean and safe condition for pedestrian travel, and reserve to the SDOT Director, or appropriate City officers such as the Chief of Police or the Fire Chief, the right to require that the sidewalk be cleared when not in use.

SEATING PLATFORMS. Seating platforms in the right-of-way will generally be discouraged. If the right-of-way is sufficiently wide, the SDOT Director may allow seating platforms on, for example, sloping sidewalks. New language in the proposal will allow the SDOT Director to require that designs for seating platforms or other structures in the right-of-way be stamped by a registered design professional. An SDOT Director's Rule will clarify the sidewalk configurations in which seating platforms will be allowed. Design guidelines will specify materials and preferred designs for seating platforms. Existing provisions require that all structures in the right-of-way will be removed and the sidewalk restored to its original condition when the sidewalk café is discontinued.

ACCESSIBILITY UNDER THE AMERICANS WITH DISABILITIES ACT. Section 15.16.040 A2 currently requires that any proposed sidewalk café be consistent with any applicable standards established by the federal Americans with Disabilities Act (*See* 28 CFR 36.406). These provisions of SMC Chapter 15.16 will not change. More detailed design requirements in an SDOT Director's Rule will specify how federal regulations will apply to sidewalk cafés.

NOISE. Under the proposal amplified sound would be prohibited in any part of a sidewalk café. New location criteria will prohibit sidewalk cafés within 25 feet of any lot in a strictly residential zone. Based on City staff's experience with noise enforcement, these provisions should prevent most noise complaints. Inspectors from the Department

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of Executive Administration will respond to noise complaints associated with sidewalk cafés as part of their duties related to nightclubs' public safety and neighborhood quality of life issues under Seattle's noise regulations, SMC Chapter 25.08.

SERVING LIQUOR. Existing regulations allow sidewalk cafés to serve liquor when allowed by the Washington State Liquor Control Board (WSLCB). The proposed amendments update Municipal Code references recognizing WSLCB authority over the sale of alcoholic beverages. WSLCB regulations require 42-inch high fences between sidewalk cafés that serve liquor and the remaining right-of-way. Design guidelines will specify materials and transparency for required fencing.

DESIGN GUIDELINES. SDOT staff, with assistance from other City departments, will develop design guidelines to address aesthetic issues such as fencing, seating area configurations appropriate to the site.

APPLICATION PROCESS IMPROVEMENTS. Consolidating the permit process for sidewalk cafés (that are part of existing businesses) within SDOT will give most applicants a single point of contact within the City, will reduce permit review time by 14 to 28 days, and will reduce applications fees by $1,665.00.

INTERNAL PROCESS IMPROVEMENTS. New inspectors within the Department of Executive Administration will respond to noise complaints, and SDOT inspectors will respond to complaints regarding inappropriate encroachment on the right-of-way. Currently, noise complaints

An SDOT Director's Rule will be developed jointly by SDOT and DPD clarifying how to meet federal and WSLCB requirements and specifying technical requirements for preserving a safe route of pedestrian travel. Design guidelines and a revised Client Assistance Memo 225, Applications for New Sidewalk Cafés, will promote quality design. The terms and conditions of revocable SDOT Street Use Permits will allow permit reviewers to respond to site-specific conditions on an annual basis.

RECOMMENDATION

DPD recommends adoption of the sidewalk café legislation. It will reduce the cost and time required to establish new sidewalk cafés while increasing the City's capacity to respond to potential problems. A proliferation of sidewalk cafés will activate commercial streets, and enhance Seattle's pedestrian culture, fostering personal health, environmental health, and greater appreciation for the smaller spaces and businesses one can discover at a walking pace.

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ATTACHMENT 1
SEATTLE COMPREHENSIVE PLAN SUPPORT FOR ACTIVE STREETSCAPES

Crown Hill/Ballard Policy 2 – Improve the attractiveness of the business areas in the Ballard Hub Urban Village and the Crown Hill Residential Urban Village to businesses, residents and shoppers through creation of pleasant streetscapes and public spaces.

Belltown Goal 3 – A neighborhood with a vibrant streetscape.

Eastlake Goal 2 – A safe and interesting streetscape with pedestrian activity, a strengthened commercial identity and residential community, and reduced conflicts between residential and commercial uses along Eastlake Avenue E.

Eastlake Goal 4 – A community with pedestrian activity, and attractive close-in and distant views along streetscapes, alleys and shorelines.

Fremont Policy 22 – Encourage attractive, pedestrian-oriented streetscapes through design guidelines, zoning refinements, and streetscape improvements.

Green Lake Goal 1 – A vibrant residential urban village with pedestrian-friendly streetscapes that preserve and enhance the unique scale and character of the village.

Greenwood/Phinney Ridge Goal 1 – A vital Greenwood commercial area with a pedestrian-friendly streetscape.

Greenwood/Phinney Ridge Policy 21 –Encourage new development, both public and private, to provide trees and greenery, pedestrian amenities, and improved streetscapes as part of facility design.

North Beacon Hill Goal 3 – An urban village that is a pleasant place to walk and use alternative transportation, where streetscapes are lively, friendly places, and where roadways are seen as public access for walkers, bicycles, and buses as well as cars.

North Beacon Hill Policy 19 – Enhance streetscapes on Beacon Avenue and provide pedestrian and bicycle improvements that will contribute to an improved image of the business district.

North Beacon Hill Policy 24 – Develop, through public programs and public/private partnerships, at key locations within the commercial core along Beacon Avenue, small civic open spaces, gateways, landscaped features and pedestrian streetscape amenities.

North Rainier Goal 1 – A Town Center with the highest densities in the neighborhood that is well connected with the regional light rail station, consists of housing and vital commercial activities, provides living-wage employment opportunities, is pedestrian and bicycle oriented, and has attractive streetscape and amenities.

Downtown Open Space Policy 4 – Accommodate active and passive pedestrian space on portions of existing street rights-of-way designated as Green Streets in accordance with the Pedestrian Classification Policy (Policy T10) and maps adopted by ordinance. Classify the various street segments comprising a Green Street according to desired vehicle circulation characteristics. In residential areas, generally develop Green Streets to reinforce neighborhood character. Encourage neighborhood commercial activities at appropriate locations along Green Streets to enliven the space with outdoor cafes, stalls and displays to the

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extent consistent with the basic transportation use of the right-of-way. In office and mixed use areas, improve Green Streets to provide a focus for new development and add open space for the enjoyment of workers, residents, and shoppers. Encourage interesting street level uses and pedestrian amenities to enliven the Green Street space and lend a special identity to the surrounding area.

North Neighborhoods (Lake City) Policy 45 – Provide amenities along sidewalks which are attractive and safe.

Pike/Pine Policy 21 – Seek to enhance sidewalks and alleys to make a better overall environment for pedestrians as well as retail activities.

Roosevelt Transportation Policy 2 – Promote sidewalk design on principal and minor arterials to encourage pedestrian use and improve pedestrian safety.

University Community Policy 5 – Strengthen pedestrian-oriented retail on University Way through physical improvements to the street and sidewalk and encouraging private property owners to improve their properties.

Wallingford Policy 19 Strive to create streets with sidewalks that are pleasant public places with safe and convenient street crossings and a balanced interaction between pedestrian, bicycle, car, bus and truck traffic.

First Hill Policy 12 – Encourage a 24-hour activity climate and increased street activity throughout the neighborhood as a crime deterrent by promoting eyes-on-the-street surveillance.

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ORDINANCE _____

AN ORDINANCE relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

WHEREAS, sidewalk cafes can complement available open space resources by activating sidewalks in areas of Seattle where commercial activity is allowed; and

WHEREAS, "eyes on the street" from patrons and responsible proprietors can enhance neighborhood safety and public perception of safety; and

WHEREAS, enjoyable public spaces advance Seattle's character and quality of life; and

WHEREAS, Seattle's procedures for authorizing sidewalk cafes associated with adjacent food-service establishments can be simplified with no significant loss of necessary oversight; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.02.046 of the Seattle Municipal Code, which section was last amended by Ordinance 121925, is amended as follows:

15.02.046 Definitions N through S.

* * *

H. "Sidewalk cafe" means a portion of ((~~sidewalk area~~))the public right-of-way in which ((~~are placed~~))tables and chairs are placed for the use of patrons ((~~while~~)) consuming food and/or beverages, including alcoholic beverages, served by a food-service establishment (as defined in Section 10.10.040 of Title 10)((~~cafe, restaurant or tavern~~)) located on adjacent property.

* * *

Section 2. Section 15.04.015 of the Seattle Municipal Code, which section was last amended by Ordinance 121276, is amended as follows:

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15.04.015 Authorizing official.

A. The Director of Planning and Development may authorize the construction of a curb cut((~~, a sidewalk cafe,~~)) or a structural building overhang, or reconstruction of an areaway in a public place under the Master Use Permit procedures of Chapter 23.76, particularly Section 23.76.006 B((~~6~~))3, or removal of trees and vegetation located in an environmentally critical area under Chapter 25.09. An authorization for construction in a park drive, boulevard, or area under the jurisdiction of the Superintendent of Parks and Recreation identified in Appendix I or shown on the map as Appendix II is dependent upon (a) a description of the encroachment or use in the application for the Master Use Permit or the accompanying materials; (b) its identification as park drive, boulevard, or property under the jurisdiction of the Superintendent of the area to be used; (c) the written concurrence of the Superintendent; (d) payment of applicable fees; and (e) if there is a modification, written concurrence of the Superintendent thereto. Continuation of such uses after completion of construction is subject to compliance with the terms and conditions of this title; inspection and administration by the Director of Transportation or the Superintendent, as the case may be; and payment of an annual fee, if applicable.

* * *

Section 3. Section 15.16.010 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.010 Permit – Required.

It ((~~shall be~~))is unlawful to operate a sidewalk café without obtaining a street use((~~written~~)) permit to do so from the Director of Transportation((~~Construction and Land Use~~)),

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as provided in this chapter and Section 15.04.010. A street use permit to operate a sidewalk café shall not be transferred or assigned.

Section 4. A new section 15.16.012 is added to the Seattle Municipal Code to read as follows:

15.16.012 Permit – Expiration, renewal, and revocation.

A street use permit for a sidewalk café expires when the adjacent food service establishment changes ownership, when the adjacent food-service establishment's permit expires, or if fees are not paid according to the provisions of Section 15.04.074 B. A street use permit for a sidewalk café is wholly of a temporary nature, vests no permanent rights whatsoever, and is revocable pursuant to SMC 15.04.070. The Director of Transportation may suspend or revoke the street use permit for a sidewalk café if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.

Section 5. Section 15.16.030 of the Seattle Municipal Code, which section was last amended by Ordinance 120611, is repealed as follows:

((~~15.16.030 Notification of surrounding tenants and owners.~~

~~The Director of the Department of Design, Construction and Land Use shall provide notice of receipt of an application for a sidewalk café permit in accordance with the notice provisions of the Master Use Permit Process, SMC Chapter 23.76.~~))

Section 6. Section 15.16.040 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.040 Terms and conditions.

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A. The Director of Transportation((~~Construction and Land Use~~)) may issue a street use permit in accordance with Section 15.04.035 for use of a ((~~sidewalk~~))portion of the right-of-way for a sidewalk café ((~~purposes in the event and to the extent that~~))if he or she determines that:

1. The applicant is the owner or occupant of the adjacent property and operates a food-service establishment permitted under Title 10((~~cafe, restaurant, or tavern~~)) thereon;

2. The proposed use for a sidewalk cafe would

a. not unduly and unreasonably impair pedestrian passage ((~~to and fro by the public~~))in or on the right-of-way ((~~sidewalk~~));

b. allow at least six (6) feet of clear path of travel for pedestrian passage if the permit application is submitted after the effective date of the ordinance codified in this section (see Exhibit 15.16.040 A, Location of Sidewalk Café), and at least five (5) feet of clear path of travel for pedestrian passage for sidewalk cafes established before that date;

c. be located at least five (5) feet from alleys, bus zones, parking zones for handicapped persons, and commercial loading zones (see Exhibit 15.16.040 A, Location of Sidewalk Café);

d. be located at least five (5) feet from curb ramps or from the beginning of the corner curb radius where curb ramps do not exist, parking meters or pay stations, traffic signs, utility poles, fire hydrants, bike racks, and other street fixtures (see Exhibit 15.16.040 A, Location of Sidewalk Café);

e. be located at least three (3) feet from the curb in order to provide access to on-street parking when pedestrian passage is located between the sidewalk café and the food-service establishment (see Exhibit 15.16.040 A, Location of Sidewalk Café);

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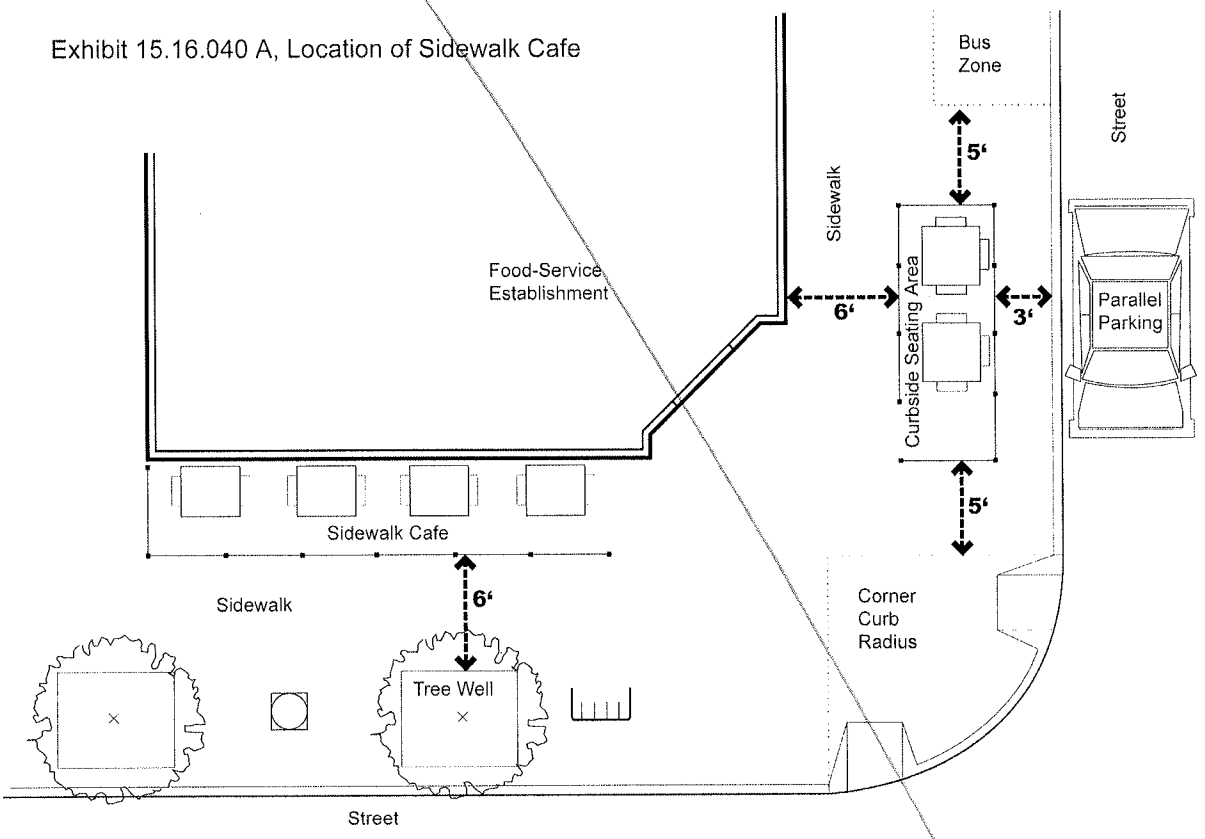
f. have obtained a certificate of approval for the sidewalk café from the appropriate Board or Commission when located in a Landmark District or Historic District subject to the provisions of Title 25; and

g. ((~~for which the permit is sought and is~~))be consistent with any applicable standards established by the federal Americans with Disabilities Act;((~~and~~))



3. The proposed sidewalk cafe ((~~area~~)) is ((~~included within~~))authorized by a food-service establishment permit issued pursuant to Seattle Municipal((~~City~~)) Code Chapter 10.10, or by the Seattle-King County Director of Public Health or his or her representative((~~, has otherwise authorized such a use of the area~~)); and

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4. The proposed sidewalk café is located at least twenty-five (25) feet from a lot zoned RSL, SF, L1, L2, L3 or L4, and that does not have an RC designation, as shown on the Official Land Use Map, as these zoning designations are defined under Section 23.30.010 A of Title 23.

B. The Director of Transportation may require additional information from an applicant in accordance with Section 15.04.030, and may include in the street use permit such terms and conditions as he or she((~~the Director may~~)) deems appropriate including, but not limited to:

1. Design standards;

2.((*)) Restrictions as to the ((~~number and placement of tables and chairs and as to the~~))hours and dates of use;

3.((*)) A requirement that the sidewalk café((~~area~~)) be removed((~~cleared~~)) when ((~~not in use as a~~))the street use permit for a sidewalk café expires, or upon the order of the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives;

4.((*)) Provisions that the permittees shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel;

5.((*)) A requirement that the applicant clear the right-of-way((~~sidewalk~~)) as may be necessary to accommodate reasonable access((~~deliveries~~)) to adjacent or other nearby properties;

6. A requirement that designs for platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be certified by a registered professional civil engineer or architect;

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7. A requirement that platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be maintained in an as-built condition;

8.((*)) Regulations upon lighting and illumination of the sidewalk cafe; limitations upon noise; and restrictions upon the placement of furniture or equipment used in connection with the sidewalk cafe;

9.((*)) The posting of a surety bond in accordance with the provisions of Section 15.04.044 or establishment of an escrow account in accordance with the provisions of Section 15.04.042((~~this title~~));

10.((*)) If the sidewalk cafe causes a change in pedestrian travel patterns, appropriate repairs to the right-of-way((~~sidewalk~~)) in the immediate vicinity in order to accommodate the change or to assure compliance with the federal Americans with Disabilities Act;

11.((*)) Restoration of the right-of-way((~~sidewalk~~)) upon completion of the use.

C. The Director of Transportation shall promulgate rules to implement this chapter. The rules may address the subjects identified in this section and other subjects the Director believes may aid in the implementation of this chapter.

D. Unless expressly authorized by the Director of Transportation pursuant to the street use permit for a sidewalk café,((~~City~~)) no right-of-way surface ((~~pavement~~)) shall be broken or((~~, no sidewalk surface~~)) disturbed, and no permanent fixture of any kind shall be installed in or on the right-of-way ((~~sidewalk area~~)) in connection with a sidewalk cafe.

E. Amplified sound is prohibited within the sidewalk café.

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((~~D. The Director of Construction and Land Use or the Director of Transportation may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.~~))

Section 7. Section 15.16.050 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.050 Liquor.

Liquor, as defined in RCW 66.04.010(24((~~16~~))), as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized ((~~in~~))by the street use permit;((~~both~~)) the food-service establishment((~~use~~)) permit((~~and provided for in this chapter~~)) issued pursuant to Seattle Municipal Code Chapter 10.10, or by the Seattle-King County Director of Public Health or his or her representative; and by permit ((~~of~~))issued by the Washington State Liquor Control Board, and not otherwise.

Section 8. Section 15.16.060 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.060 Insurance

An applicant for a permit for a sidewalk cafe shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Director of Transportation sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the use of right-of-way((~~sidewalk~~)) area for sidewalk cafe purposes, naming the City an additional insured.

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Section 9. Section 15.16.070 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.070 Indemnity.

The applicant or permittee shall agree to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents against:

1. Any liability, claims, causes of action, judgments, or expenses, including reasonable attorney fees, resulting directly or indirectly from any act or omission of the applicant or permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the applicant/permittee's use or occupancy of the public right-of-way; and

2. All loss by the failure of the applicant or permittee to fully or adequately perform, in any respect, all authorizations of obligations under the sidewalk café permit. ((~~The applicant for a sidewalk cafe permit shall execute and deliver to the City upon a form supplied by the Director of Transportation an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk cafe. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the~~

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~~sidewalk cafe furniture ordered removed. Every such agreement, after it has been received in his or her office and numbered, and shall be filed with the City Clerk.~~))

Section 10. Section 15.16.080 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.080 Sidewalk Condition

The applicant shall comply with the terms and conditions of the sidewalk cafe permit issued, and shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.

Section 11. Subsection B of Section 23.76.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.76.006 Master Use Permits required.

* * *

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

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

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

a. Curb cut for access to parking,

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

c. ((~~Sidewalk cafes provided that Type II notice of application procedures shall be followed,~~

~~d.~~)) Structural building overhangs,

d((e)). Areaways;

4. Lot boundary adjustments;

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

a. Plazas,

b. Shopping plazas,

c. Arcades,

d. Shopping arcades,

e. Voluntary building setbacks;

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

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

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

9. Special accommodation pursuant to Section 23.44.015;

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10. Reasonable accommodation;

11. Minor amendment to Major Phased Development Permit;

12. Determination of public benefit for combined lot development; and

13. Other Type I decisions that are identified as such in the Land Use Code.

* * *

Section 12. 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 _____, 2008, and signed by me in open session in authentication of its passage this

_____ day of _____, 2008.

_____
President _____of the City Council

Approved by me this ____ day of _____, 2008.

_____
Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2008.

_____
City Clerk

(Seal)

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ORDINANCE _____

AN ORDINANCE relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

WHEREAS, sidewalk cafes can complement available open space resources by activating sidewalks in areas of Seattle where commercial activity is allowed; and

WHEREAS, "eyes on the street" from patrons and responsible proprietors can enhance neighborhood safety and public perception of safety; and

WHEREAS, enjoyable public spaces advance Seattle's character and quality of life; and

WHEREAS, Seattle's procedures for authorizing sidewalk cafes associated with adjacent food-service establishments can be simplified with no significant loss of necessary oversight; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.02.046 of the Seattle Municipal Code, which section was last amended by Ordinance 121925, is amended as follows:

15.02.046 Definitions N through S.

* * *

H. "Sidewalk cafe" means a portion of ((~~sidewalk area~~))the public right-of-way in which ((~~are placed~~))tables and chairs are placed for the use of patrons ((~~while~~)) consuming food and/or beverages, including alcoholic beverages, served by a food-service establishment (as defined in Section 10.10.040 of Title 10)((~~cafe, restaurant or tavern~~)) located on adjacent property.

* * *

Section 2. Section 15.04.015 of the Seattle Municipal Code, which section was last amended by Ordinance 121276, is amended as follows:

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15.04.015 Authorizing official.

A. The Director of Planning and Development may authorize the construction of a curb cut((~~, a sidewalk cafe,~~)) or a structural building overhang, or reconstruction of an areaway in a public place under the Master Use Permit procedures of Chapter 23.76, particularly Section 23.76.006 B((~~6~~))3, or removal of trees and vegetation located in an environmentally critical area under Chapter 25.09. An authorization for construction in a park drive, boulevard, or area under the jurisdiction of the Superintendent of Parks and Recreation identified in Appendix I or shown on the map as Appendix II is dependent upon (a) a description of the encroachment or use in the application for the Master Use Permit or the accompanying materials; (b) its identification as park drive, boulevard, or property under the jurisdiction of the Superintendent of the area to be used; (c) the written concurrence of the Superintendent; (d) payment of applicable fees; and (e) if there is a modification, written concurrence of the Superintendent thereto. Continuation of such uses after completion of construction is subject to compliance with the terms and conditions of this title; inspection and administration by the Director of Transportation or the Superintendent, as the case may be; and payment of an annual fee, if applicable.

* * *

Section 3. Section 15.16.010 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.010 Permit – Required.

It ((~~shall be~~))is unlawful to operate a sidewalk café without obtaining a street use((~~written~~)) permit to do so from the Director of Transportation((~~Construction and Land Use~~)),

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as provided in this chapter and Section 15.04.010. A street use permit to operate a sidewalk café shall not be transferred or assigned.

Section 4. A new section 15.16.012 is added to the Seattle Municipal Code to read as follows:

15.16.012 Permit – Expiration, renewal, and revocation.

A street use permit for a sidewalk café expires when the adjacent food service establishment changes ownership, when the adjacent food-service establishment's permit expires, or if fees are not paid according to the provisions of Section 15.04.074 B. A street use permit for a sidewalk café is wholly of a temporary nature, vests no permanent rights whatsoever, and is revocable pursuant to SMC 15.04.070. The Director of Transportation may suspend or revoke the street use permit for a sidewalk café if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.

Section 5. Section 15.16.030 of the Seattle Municipal Code, which section was last amended by Ordinance 120611, is repealed as follows:

~~((15.16.030 Notification of surrounding tenants and owners.~~

~~The Director of the Department of Design, Construction and Land Use shall provide notice of receipt of an application for a sidewalk café permit in accordance with the notice provisions of the Master Use Permit Process, SMC Chapter 23.76.~~))

Section 6. Section 15.16.040 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.040 Terms and conditions.

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A. The Director of Transportation((~~Construction and Land Use~~)) may issue a street use permit in accordance with Section 15.04.035 for use of a ((~~sidewalk~~))portion of the right-of-way for a sidewalk café ((~~purposes in the event and to the extent that~~))if he or she determines that:

1. The applicant is the owner or occupant of the adjacent property and operates a food-service establishment permitted under Title 10((~~cafe, restaurant, or tavern~~)) thereon;

2. The proposed use for a sidewalk cafe would

a. not unduly and unreasonably impair pedestrian passage ((~~to and fro by the public~~))in or on the right-of-way ((~~sidewalk~~));

b. if located in the Downtown Urban Center as established in the Comprehensive Plan, allow at least six (6) feet of clear path of travel for pedestrian passage if the permit application is submitted after the effective date of the ordinance codified in this section (see Exhibit 15.16.040 A, Location of Sidewalk Café) and at least five (5) feet of clear path of travel for pedestrian passage for sidewalk cafes established before that date;

c. if located outside of the Downtown Urban Center as established in the Comprehensive Plan, allow at least five (5) feet of clear path of travel for pedestrian passage (see Exhibit 15.16.040 A, Location of Sidewalk Café) unless the Seattle Department of Transportation deems it necessary to require six (6) feet to allow safe pedestrian passage;

d. be located at least five (5) feet from alleys, bus zones, parking zones for handicapped persons, and commercial loading zones (see Exhibit 15.16.040 A, Location of Sidewalk Café);

e. be located at least five (5) feet from curb ramps or from the beginning of the corner curb radius where curb ramps do not exist, parking meters or pay stations, traffic

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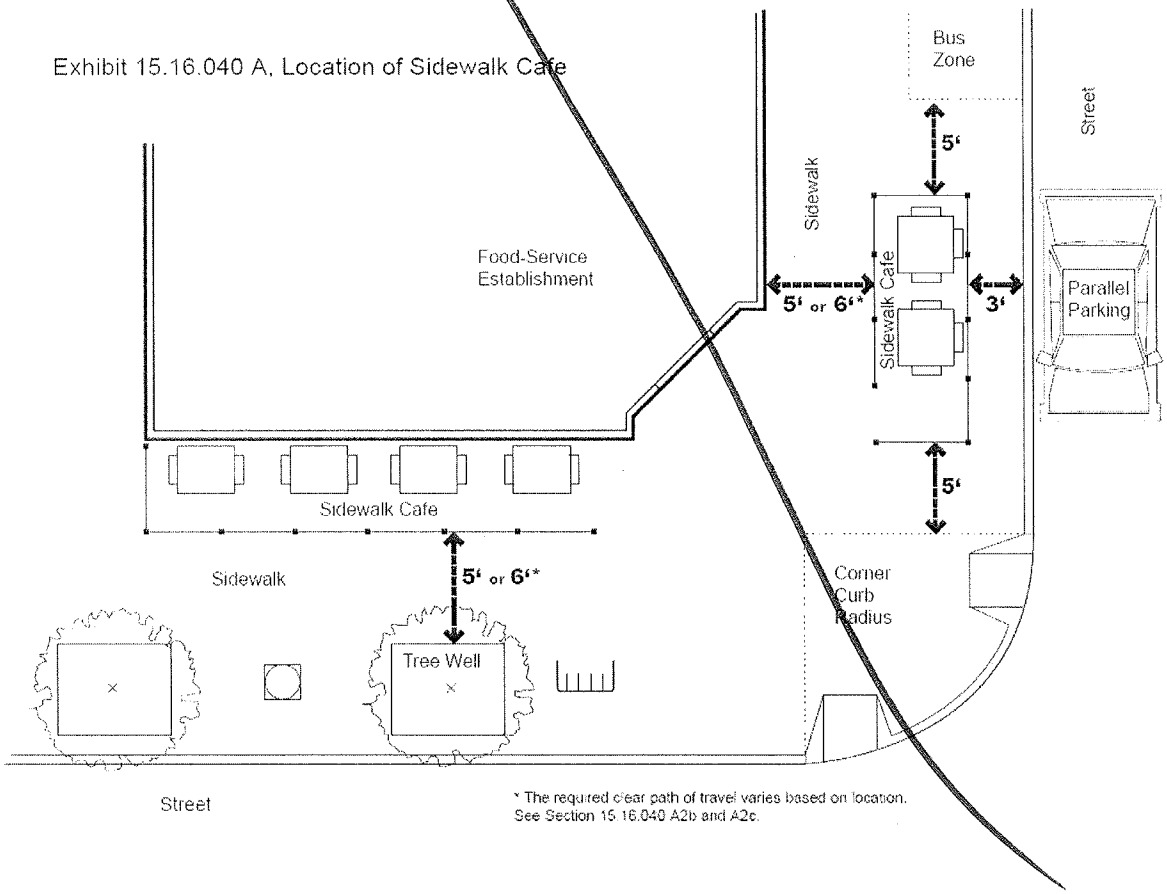
signs, utility poles, fire hydrants, bike racks, and other street fixtures (see Exhibit 15.16.040 A, Location of Sidewalk Café);

f. be located at least three (3) feet from the curb in order to provide access to on-street parking when pedestrian passage is located between the sidewalk café and the food-service establishment (see Exhibit 15.16.040 A, Location of Sidewalk Café);

g. have obtained a certificate of approval for the sidewalk café from the appropriate Board or Commission when located in a Landmark District or Historic District subject to the provisions of Title 25; and

h. ((~~for which the permit is sought and is~~))be consistent with any applicable standards established by the federal Americans with Disabilities Act;((~~and~~))

Exhibit 15.16.040 A, Location of Sidewalk Cafe



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3. The proposed sidewalk cafe ((~~area~~)) is ((~~included within~~))authorized by a food-service establishment permit issued pursuant to Seattle Municipal((~~City~~)) Code Chapter 10.10, or by the Seattle-King County Director of Public Health or his or her representative((~~, has otherwise authorized such a use of the area~~)); and

4. The proposed sidewalk café is located at least fifty (50) feet from a lot zoned RSL, SF, L1, L2, L3 or L4, and that does not have an RC designation, as shown on the Official Land Use Map, as these zoning designations are defined under Section 23.30.010 A of Title 23.

B. The Director of Transportation may require additional information from an applicant in accordance with Section 15.04.030, and may include in the street use permit such terms and conditions as he or she((~~the Director may~~)) deems appropriate including, but not limited to:

1. Design standards;

2.((~~*~~)) Restrictions as to the((~~number and placement of tables and chairs and as to the~~))hours and dates of use;

3.((~~*~~)) A requirement that the sidewalk café((~~area~~)) be removed((~~cleared~~)) when ((~~not in use as a~~))the street use permit for a sidewalk café expires, or upon the order of the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives;

4.((~~*~~)) Provisions that the permittees shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel;

5.((~~*~~)) A requirement that the applicant clear the right-of-way((~~sidewalk~~)) as may be necessary to accommodate reasonable access((~~deliveries~~)) to adjacent or other nearby properties and utilities;

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6. A requirement that designs for platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be certified by a registered professional civil engineer or architect;

7. A requirement that platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be maintained in an as-built condition;

8.((*)) Regulations upon lighting and illumination of the sidewalk cafe; limitations upon noise; and restrictions upon the placement of furniture or equipment used in connection with the sidewalk cafe;

9.((*)) The posting of a surety bond in accordance with the provisions of Section 15.04.044 or establishment of an escrow account in accordance with the provisions of Section 15.04.042((~~this title~~));

10.((*)) If the sidewalk cafe causes a change in pedestrian travel patterns, appropriate repairs to the right-of-way((~~sidewalk~~)) in the immediate vicinity in order to accommodate the change or to assure compliance with the federal Americans with Disabilities Act;

11.((*)) Restoration of the right-of-way((~~sidewalk~~)) upon completion of the use.

C. The Director of Transportation shall promulgate rules to implement this chapter. The rules may address the subjects identified in this section and other subjects the Director believes may aid in the implementation of this chapter.

D. Unless expressly authorized by the Director of Transportation pursuant to the street use permit for a sidewalk café,((~~City~~)) no right-of-way surface ((~~pavement~~)) shall be broken or((,

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~~no sidewalk surface~~)) disturbed, and no permanent fixture of any kind shall be installed in or on the right-of-way ((~~sidewalk area~~)) in connection with a sidewalk cafe.

E. Amplified sound is prohibited within the sidewalk café.

((~~D. The Director of Construction and Land Use or the Director of Transportation may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.~~))

Section 7. Section 15.16.050 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.050 Liquor.

Liquor, as defined in RCW 66.04.010(24((~~16~~))), as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized ((~~in~~))by the street use permit;((~~both~~)) the food-service establishment((~~use~~)) permit((~~and provided for in this chapter~~)) issued pursuant to Seattle Municipal Code Chapter 10.10, or by the Seattle-King County Director of Public Health or his or her representative; and by permit ((~~of~~))issued by the Washington State Liquor Control Board, and not otherwise.

Section 8. Section 15.16.060 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.060 Insurance

An applicant for a permit for a sidewalk cafe shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Director of Transportation sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be

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related to the use of right-of-way((~~sidewalk~~)) area for sidewalk cafe purposes, naming the City an additional insured.

Section 9. Section 15.16.070 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.070 Indemnity.

The applicant or permittee shall agree to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents against:

1. Any liability, claims, causes of action, judgments, or expenses, including reasonable attorney fees, resulting directly or indirectly from any act or omission of the applicant or permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the applicant/permittee's use or occupancy of the public right-of-way; and

2. All loss by the failure of the applicant or permittee to fully or adequately perform, in any respect, all authorizations of obligations under the sidewalk café permit. ((~~The applicant for a sidewalk cafe permit shall execute and deliver to the City upon a form supplied by the Director of Transportation an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk cafe. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall~~

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~~not be operated in accordance with the provisions of this title, the same may be revoked and the sidewalk cafe furniture ordered removed. Every such agreement, after it has been received in his or her office and numbered, and shall be filed with the City Clerk.~~))

Section 10. Section 15.16.080 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.080 Sidewalk Condition

The applicant shall comply with the terms and conditions of the sidewalk cafe permit issued, and shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.

Section 11. Subsection B of Section 23.76.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.76.006 Master Use Permits required.

* * *

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

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

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

a. Curb cut for access to parking,

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

c. ((~~Sidewalk cafes provided that Type II notice of application procedures shall be followed,~~

~~d.~~)) Structural building overhangs,

d((e)). Areaways;

4. Lot boundary adjustments;

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

a. Plazas,

b. Shopping plazas,

c. Arcades,

d. Shopping arcades,

e. Voluntary building setbacks;

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

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

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

9. Special accommodation pursuant to Section 23.44.015;

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10. Reasonable accommodation;

11. Minor amendment to Major Phased Development Permit;

12. Determination of public benefit for combined lot development; and

13. Other Type I decisions that are identified as such in the Land Use Code.

* * *

Section 12. By January 1, 2010, the Director of Transportation shall provide the City Council with a written report concerning sidewalk cafes. The report shall include the following information:

1. A list of all the street use permit applications for sidewalk cafes received by the Seattle Department of Transportation between November 1, 2008 and November 1, 2010. The list shall specify whether each permit application was approved, denied, or approved subject to changes requested by a City department. The specific reason(s) for each denial and any requested changes to individual permit applications shall also be described.

2. The number and content of the public comments and complaints about sidewalk cafes received by the City between November 1, 2008 and November 1, 2010.

Section 13. 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 _____, 2008, and signed by me in open session in authentication of its passage this

_____ day of _____, 2008.

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_____
President _____of the City Council

Approved by me this ____ day of _____, 2008.

_____
Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2008.

_____
City Clerk

(Seal)

2015 CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

230303 No.
CITY OF SEATTLE,CLERKS OFFICE

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:122824 ORDINANCE

was published on

10/17/08

The amount of the fee charged for the foregoing publication is the sum of $ 681.43, which amount has been paid in full.

Subscribed and sworn to before me on

10/17/08

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 122824

AN ORDINANCE relating to sidewalk cafés and amending the City's Street Use and Land Use Codes, creating a new Section 15.16.012, repealing Section 15.16.030, and amending Sections 15.02.046, 15.04.015, 15.16.010, 15.16.040, 15.16.050, 15.16.060, 15.16.070, 15.16.080, 23.76.006.

WHEREAS, sidewalk cafes can complement available open space resources by activating sidewalks in areas of Seattle where commercial activity is allowed; and

WHEREAS, "eyes on the street" from patrons and responsible proprietors can enhance neighborhood safety and public perception of safety; and

WHEREAS, enjoyable public spaces advance Seattle's character and quality of life; and

WHEREAS, Seattle's procedures for authorizing sidewalk cafes associated with adjacent food-service establishments can be simplified with no significant loss of necessary oversight; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.02.046 of the Seattle Municipal Code, which section was last amended by Ordinance 121925, is amended as follows:

15.02.046 Definitions N through S.

* * *

H. "Sidewalk cafe" means a portion of ((~~sidewalk area~~))the public right-of-way in which ((~~are placed~~))tables and chairs are placed for the use of patrons ((~~while~~)) consuming food and/or beverages, including alcoholic beverages, served by a food-service establishment (as defined in Section 10.10.040 of Title 10))((~~cafe, restaurant or tavern~~)) located on adjacent property.

* * *

Section 2. Section 15.04.015 of the Seattle Municipal Code, which section was last amended by Ordinance 121276, is amended as follows:

15.04.015 Authorizing official.

A. The Director of Planning and Development may authorize the construction of a curb cut((~~, a sidewalk cafe,~~)) or a structural building overhang, or reconstruction of an areaway in a public place under the Master Use Permit procedures of Chapter 23.76, particularly Section 23.76.006 B((6))3, or removal of trees and vegetation located in an environmentally critical area under Chapter 25.09. An authorization for construction in a park drive, boulevard, or area under the jurisdiction of the Superintendent of Parks and Recreation identified in Appendix I or shown on the map as Appendix II is dependent upon (a) a description of the encroachment or use in the application for the Master Use Permit or the accompanying materials; (b) its identification as park drive, boulevard, or property under the jurisdiction of the Superintendent of the area to be used; (c) the written concurrence of the Superintendent; (d) payment of applicable fees; and (e) if there is a modification, written concurrence of the Superintendent thereto. Continuation of such uses after completion of construction is subject to compliance with the terms and conditions of this title; inspection and administration by the Director of Transportation or the Superintendent, as the case may be; and payment of an annual fee, if applicable.

* * *

Section 3. Section 15.16.010 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.010 Permit – Required.

It ((~~shall be~~))is unlawful to operate a sidewalk café without obtaining a street use((~~written~~)) permit to do so from the Director of Transportation((~~Construction and Land Use~~)), as provided in this chapter and Section 15.04.010. A street use permit to operate a sidewalk café shall not be transferred or assigned.

Section 4. A new section 15.16.012 is added to the Seattle Municipal Code to read as follows:

15.16.012 Permit – Expiration, renewal, and revocation.

A street use permit for a sidewalk café expires when the adjacent food service establishment changes ownership, when the adjacent food-service establishment's permit expires, or if fees are not paid according to the provisions of Section 15.04.074 B. A street use permit for a sidewalk café is wholly of a temporary nature, vests no permanent rights whatsoever, and is revocable pursuant to SMC 15.04.070. The Director of Transportation may suspend or revoke the street use permit for a sidewalk café if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.

Section 5. Section 15.16.030 of the Seattle Municipal Code, which section was last amended by Ordinance 120611, is repealed as follows:

~~**((15.16.030 Notification of surrounding tenants and owners.**~~

~~The Director of the Department of Design, Construction and Land Use shall provide notice of receipt of an application for a sidewalk café permit in accordance with the notice provisions of the Master Use Permit Process, SMC Chapter 23.76.~~))

Section 6. Section 15.16.040 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.040 Terms and conditions.

A. The Director of Transportation((~~Construction and Land Use~~)) may issue a street use permit in accordance with Section 15.04.035 for use of a ((~~sidewalk~~))portion of the right-of-way for a sidewalk café ((~~purposes in the event and to the extent that he or she~~))if the Director determines that:

1. The applicant is the owner or occupant of the adjacent property and operates a food-service establishment thereon that is permitted under Title 10 or by the Seattle-King County Director of Public Health or the Director's representative((~~cafe, restaurant, or tavern thereon~~));

2. The proposed use for a sidewalk cafe would not unduly and unreasonably impair pedestrian passage ((~~to and fro by the public~~))in or on the right-of-way((~~sidewalk for which the permit is sought and is consistent with any applicable standards established by the federal Americans with Disabilities Act;~~)) and allow

a. if located in the Downtown Urban Center as established in the Comprehensive Plan, at least six (6) feet of clear path of travel for pedestrian passage if the permit application is submitted after the effective date of the ordinance codified in this section (see Exhibit 15.16.040 A, Location of Sidewalk Café) and at least five (5) feet of clear path of travel for pedestrian passage for sidewalk cafes established before that date;

b. if located outside of the Downtown Urban Center as established in the Comprehensive Plan, at least five (5) feet of clear path of travel for pedestrian passage (see Exhibit 15.16.040 A, Location of Sidewalk Café);

c. a wider clear path of travel for pedestrian passage than is required in subsections 2a and 2b when required by the Director of Transportation to facilitate the use of the sidewalk by pedestrians;

3. The proposed sidewalk café would be located ((~~is included within a food-service establishment permit pursuant to Seattle City Code Chapter 10.10, or the Seattle-King County Director of Public Health or his or her representative, has otherwise authorized such a use of the area.~~))

a. at least five (5) feet from alleys, bus zones, parking zones for handicapped persons, and commercial loading zones (see Exhibit 15.16.040 A, Location of Sidewalk Café);

b. at least five (5) feet from curb ramps or from the beginning of the corner curb radius where curb ramps do not exist, parking meters or pay stations, traffic signs, utility poles, fire hydrants, bike racks, and other street fixtures (see Exhibit 15.16.040 A, Location of Sidewalk Café);

c. at least three (3) feet from the curb in order to provide access to on-street parking when pedestrian passage is located between the sidewalk café and the food-service establishment (see Exhibit 15.16.040 A, Location of Sidewalk Café);

d. at least fifty (50) feet from a lot zoned RSL, SF, L1, L2, L3 or L4, and that does not have an RC designation, as shown on the Official Land Use Map, as these zoning designations are defined under Section 23.30.010 A of Title 23; and

e. at a distance farther than that required in 3a, 3b or 3c, based upon the Director of Transportation's determination that such additional distance is needed to facilitate the use of the sidewalk by pedestrians;

4. The applicant has obtained a certificate of approval for the sidewalk café from the appropriate Board or Commission when located in a Landmark District or Historic District subject to the provisions of Title 25;

5. The proposed sidewalk café is consistent with any applicable standards established by the federal Americans with Disabilities Act; and

6. The applicant has posted a notice of the application for the street use permit for the sidewalk café. The notice shall be clearly visible from the adjacent sidewalk and shall state that comments on the application may be sent to the Director of Transportation and will be considered in reviewing the application.

B. The Director of Transportation may require additional information from an applicant in accordance with Section 15.04.030, and may include in the street use permit such terms and conditions as he or she ((~~the Director may~~)) deems appropriate including, but not limited to:

1. Design standards;

2.((*)) Restrictions as to the ((~~number and placement of tables and chairs and as to the~~))hours and dates of use;

3.((*)) A requirement that the sidewalk café((~~area~~)) be removed((~~cleared~~)) when ((~~not in use as a~~))the street use permit for a sidewalk café expires, or upon the order of the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives;

4.((*)) Provisions that the permittees shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel;

5.((*)) A requirement that the applicant clear the right-of-way((~~sidewalk~~)) as may be necessary to accommodate reasonable access((~~deliveries~~)) to adjacent or other nearby properties and utilities;

6. A requirement that designs for platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be certified by a registered professional civil engineer or architect;

7. A requirement that platforms or other structures in the right-of-way, for which a separate permit from the Director of Transportation has been obtained, be maintained in an as-built condition;

8.((*)) Regulations upon lighting and illumination of the sidewalk cafe; limitations upon noise; and restrictions upon the placement of furniture or equipment used in connection with the sidewalk cafe;

9.((*)) The posting of a surety bond in accordance with the provisions of Section 15.04.044 or establishment of an escrow account in accordance with the provisions of Section 15.04.042((~~this title~~));

10.((*)) If the sidewalk cafe causes a change in pedestrian travel patterns, appropriate repairs to the right-of-way((~~sidewalk~~)) in the immediate vicinity in order to accommodate the change or to assure compliance with the federal Americans with Disabilities Act;

11.((*)) Restoration of the right-of-way((~~sidewalk~~)) upon completion of the use.

C. The Director of Transportation shall promulgate rules to implement this chapter. The rules may address the subjects identified in this section and other subjects the Director believes may aid in the implementation of this chapter.

D. Unless expressly authorized by the Director of Transportation pursuant to the street use permit for a sidewalk café, ((~~City~~)) no right-of-way surface((~~pavement~~)) shall be broken or((~~, no sidewalk surface~~)) disturbed, and no permanent fixture of any kind shall be installed in or on the right-of-way ((~~sidewalk area~~)) in connection with a sidewalk cafe.

E. Amplified sound is prohibited within the sidewalk café.

~~((D. The Director of Construction and Land Use or the Director of Transportation may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.~~))

Section 7. Section 15.16.050 of the Seattle Municipal Code, which section was last amended by Ordinance 109740, is amended as follows:

15.16.050 Liquor.

Liquor, as defined in RCW 66.04.010(24((~~16~~))), as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized ((~~in~~))by the street use permit;((~~both~~)) the food-service establishment((~~use~~)) permit((~~and provided for in this chapter~~)) issued pursuant to Seattle Municipal Code Chapter 10.10, or by the Seattle-King County Director of Public Health or his or her representative; and by permit ((~~of~~))issued by the Washington State Liquor Control Board, and not otherwise.

Section 8. Section 15.16.060 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.060 Insurance

An applicant for a permit for a sidewalk cafe shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Director of Transportation sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the use of right-of-way((~~sidewalk~~)) area for sidewalk cafe purposes, naming the City an additional insured.

Section 9. Section 15.16.070 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.070 Indemnity.

The applicant or permittee shall agree to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents against:

1. Any liability, claims, causes of action, judgments, or expenses, including reasonable attorney fees, resulting directly or indirectly from any act or omission of the applicant or permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the applicant/permittee's use or occupancy of the public right-of-way; and

2. All loss by the failure of the applicant or permittee to fully or adequately perform, in any respect, all authorizations of obligations under the sidewalk café permit. ((~~The applicant for a sidewalk cafe permit shall execute and deliver to the City upon a form supplied by the Director of Transportation an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk cafe. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the sidewalk cafe furniture ordered removed. Every such agreement, after it has been received in his or her office and numbered, and shall be filed with the City Clerk.~~))

Section 10. Section 15.16.080 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

15.16.080 Sidewalk Condition

The applicant shall comply with the terms and conditions of the sidewalk cafe permit issued, and shall maintain the right-of-way((~~sidewalk~~)) in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.

Section 11. Subsection B of Section 23.76.006 of the Seattle Municipal Code, which section was last amended by Ordinance 122054, is amended as follows:

23.76.006 Master Use Permits required.

* * *

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;

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

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

a. Curb cut for access to parking,

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

c. ((~~Sidewalk cafes provided that Type II notice of application procedures shall be followed,~~

d.)) Structural building overhangs,

d((~~e~~)). Areaways;

4. Lot boundary adjustments;

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

a. Plazas,

b. Shopping plazas,

c. Arcades,

d. Shopping arcades,

e. Voluntary building setbacks;

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

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

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

9. Special accommodation pursuant to Section 23.44.015;

10. Reasonable accommodation;

11. Minor amendment to Major Phased Development Permit;

12. Determination of public benefit for combined lot development; and

13. Other Type I decisions that are identified as such in the Land Use Code.

* * *

Section 12. By January 1, 2010, the Director of Transportation shall provide the City Council with a written report concerning sidewalk cafes. The report shall include the following information:

1. A list of all the street use permit applications for sidewalk cafes received by the Seattle Department of Transportation between November 1, 2008 and November 1, 2010. The list shall specify whether each permit application was approved, denied, or approved subject to changes requested by a City department. The specific reason(s) for each denial and any requested changes to individual permit applications shall also be described.

2. The number and content of the public comments and complaints about sidewalk cafes received by the City between November 1, 2008 and November 1, 2010.

Section 13. 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 6th day of October, 2008, and signed by me in open session in authentication of its passage this 6th day of October, 2008.

Richard Conlin

President of the City Council

Approved by me this 13th day of October, 2008.

Gregory J. Nickels, Mayor.

Filed by me this 14th day of October, 2008.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

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