

ORDINANCE No. 119618

WV

COUNCIL BILL No. 112837

Law Dept
The City

AN ORDINANCE relating to land use and zoning; adding a new Section 23.53.035 regarding structural building overhangs to the Seattle Municipal Code and amending Sections 23.22.062, 23.24.045, 23.44.016, 23.44.080, 23.49.212, 23.76.004, 23.76.006, and 23.84.024 of the Seattle Municipal Code to clarify code provisions, correct oversights, errors and omissions, and to make certain substantive amendments.

Honorable President:

Your Committee on _____

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

COMPTROLLER FILE No. _____

Introduced: AUG 9 9 1999	By: DRAGO
Referred: AUG 9 9 1999	To: Business, Economic & Community Development Committee
Referred:	To:
Referred:	To:
Reported: 8-23-99	Second Reading:
Third Reading: 8-23-99	Signed: 8-23-99
Presented to Mayor: 8-23-99	Approved:
Returned to City Clerk:	Published: full 13pp
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

8/17/99 BE

8/23-99 FOIL C

(Enclosed: C

Law Department

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

able President:

ommittee on

ch was referred the within Council Bill No.

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

8/17/99 BECA Do approve 2-0 as amended

*updated
8/22/99
Arayo
Mr. Ives*

173-99 FOIA Council: Passed 5-0

(Excused: Choe, Donaldson, Licata, Podlodowski)

Committee Chair

ORDINANCE 119618

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3 AN ORDINANCE relating to land use and zoning; adding a new Section 23.53.035
4 regarding structural building overhangs to the Seattle Municipal Code and
5 amending Sections 23.22.062, 23.24.045, 23.44.016, 23.44.080, 23.49.212,
6 23.76.004, 23.76.006, and 23.84.024 of the Seattle Municipal Code to clarify code
7 provisions, correct oversights, errors and omissions, and to make certain
8 substantive amendments.
9

10 NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS
11 FOLLOWS:
12

13 Section 1. Subsection A of Section 23.22.062 of the Seattle Municipal Code (SMC),
14 which Section was added by Ordinance 119239, is amended as follows:
15

16 **23.22.062 Unit lot subdivisions.**

17 A. The provisions of this Section apply exclusively to the unit subdivision of land for
18 townhouses, cottage housing developments, ((and)) residential cluster((ed)) ((housing))
19 developments ((in Single Family, Residential Small Lot and Lowrise zones)), and single
20 family residences in ((Lorwise)) zones where such uses are permitted.
21

22 ***

23
24 Section 2. Subsection A of Section 23.24.045 of the Seattle Municipal Code, which
25 Section was last amended by Ordinance 119239, is amended as follows:
26

27 **23.24.045 Unit lot subdivisions.**

28 A. The provisions of this Section apply exclusively to the unit subdivision of land for
29 townhouses, cottage housing developments, ((and)) residential cluster((ed)) ((housing))
30 developments ((in Single Family, Residential Small Lot and Lowrise zones)), and single
31 family residences in ((Lorwise)) zones where such uses are permitted.
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35 Section 3. Subsection B of Section 23.44.016 of the Seattle Municipal Code, which
36 Section was amended by Ordinance 118794, is amended as follows:
37



- 1 2. A structure occupied by a nonconforming residential use may be maintained,
2 repaired, renovated, or structurally altered:
- 3 a. as necessary to improve access for the elderly and disabled;
- 4 b. to construct structural features including, but not limited to, exterior decks
5 and balconies, bay windows, dormers, eaves and solar collectors added to a principal
6 structure, or a new or expanded accessory structure may be constructed, provided that the
7 addition or new structure conforms to the development standards of the zone;
- 8 c. only on lots of less than ten thousand (10,000) square feet, to construct an
9 addition which meets development standards for single family construction and does not
10 exceed any of the following conditions:
- 11 (1) five hundred (500) square feet of additional gross floor area;
- 12 (2) the average height of the closest principal structures on either side.
- 13 d. by special exception, Type II Master Use Permit, to construct an addition
14 ~~((which))~~ that exceeds one or more of the conditions listed in subsection D2c above but is
15 within the development standards permitted for single family development. DCLU may
16 approve or approve with conditions the special exception only if the lot is less than ten
17 thousand (10,000) square feet and only if the project is compatible with the surrounding
18 development in terms of:
- 19 (1) architectural character;
- 20 (2) existing streetscape and pattern of yards; and
- 21 (3) scale and proportion of principal structures.
- 22 e. If an addition proposed under subsections D2c or D2d above would
23 require additional parking under the requirements of Section 23.54.015 for multifamily
24 structures, then that additional parking shall be provided.

25
26 * * *

27
28 **Section 5.** Subsection D of Section 23.49.212 of the Seattle Municipal Code, which
29 Section was last amended by Ordinance 119484, is further amended as follows:

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31 **23.49.212 International District Mixed, transfer of development rights.**

32
33 ***

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35 **D. Transfer of Development Rights Agreements.**

- 36 1. The fee owners of the sending and receiving lots shall execute a deed or other
37 agreement which shall be recorded with the title to both lots.
- 38 2. The agreement or deed shall be for a term that ~~((which))~~ equals or exceeds the
39 life of the project on the receiving lot for which the rights were transferred.
- 40 3. For transfers from low income housing or low and low-moderate income
41 housing TDR sites, the agreement shall provide for the maintenance of the low income
42 housing or low and low-moderate income housing and, if applicable, the social service uses
43 necessary to qualify the sending lot as a low income housing or low and low-moderate



1 income housing TDR site as defined in Section 23.84.024, on the sending lot for a minimum
2 of twenty (20) years.

3 4. The agreement or deed shall state that the development rights transferred from
4 the sending lot to the receiving lot may not be reclaimed unless the project on the receiving
5 lot, or that portion of the project for which the rights were transferred, is demolished. The
6 deed or agreement shall also provide that its covenants or conditions shall run with the land
7 and shall be specifically enforceable by any party or by The City of Seattle.

8
9 **Section 6.** A new Section, 23.53.035, is hereby added to the Seattle Municipal Code
10 (SMC) to read as follows:

11
12 **23.53.035 Structural building overhangs.**

13 A. Structural building overhangs are encroachments into public property
14 that include cornices, eaves, sills, belt courses, bay windows, balconies, facade treatment and
15 other architectural features. They shall be designed in accordance with the standards set
16 forth in this section and rules promulgated by the Director. Structural building overhangs,
17 when approved, shall meet the following requirements:

18 1. Vertical clearance shall be a minimum of eight feet (8') from the sidewalk or
19 26 feet (26') from an alley, or greater when required by other regulations.

20 2. Overhead horizontal projections of a purely architectural or decorative
21 character such as cornices, eaves, sills, and belt courses shall be limited to a maximum
22 horizontal extension of one foot (1') and maximum vertical dimension of two feet (2') six
23 inches (6"), and shall not increase the floor area or the volume of space enclosed by the
24 building. At roof level, the projections may extend not more than three feet horizontally.
25 The vertical dimension of the overhead horizontal projection at the roof level may be
26 increased if the roof level is one hundred feet (100') or higher above the street elevation.
27 The total area of these projections shall not exceed thirty percent (30%) of the area of any
28 one façade (See Exhibit 23.53.035-A).

29



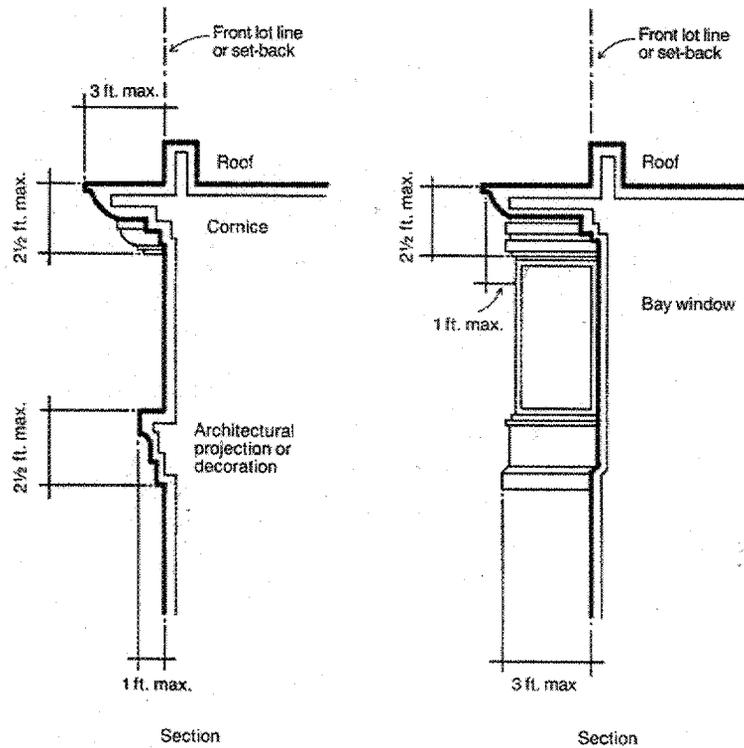


Exhibit 23.53.035-A

3. Exceptions to the standards in this section may be authorized for historic or rehabilitated buildings, when they are consistent with the scope and intent of these standards.

4. Vertical bay (projecting) windows, balconies (other than balconies used for primary access), and similar features that increase either the floor area of the building or the volume of space enclosed by the building above grade, shall be limited as follows:

a. The maximum horizontal projection shall be three feet (3') and the projection shall in no case be closer than eight feet (8') to the center line of any alley (See Exhibit 23.53.035-B).

b. The glass areas of each bay window, and the open portions of each balcony, shall not be less than 50 percent (50%) of the sum of the areas of the vertical surfaces of such bay window or balcony above the required open area. At least one-third (1/3) of such required glass area of such bay window, and open portions of such balcony, shall be on one or more vertical surfaces situated at an angle of not less than thirty degrees (30°) to the line establishing the required open area. In addition, at least one-third (1/3) of such required glass area or open portions shall be on the vertical surface parallel to, or most nearly parallel to, the line establishing each open area over which the bay window or balcony projects.



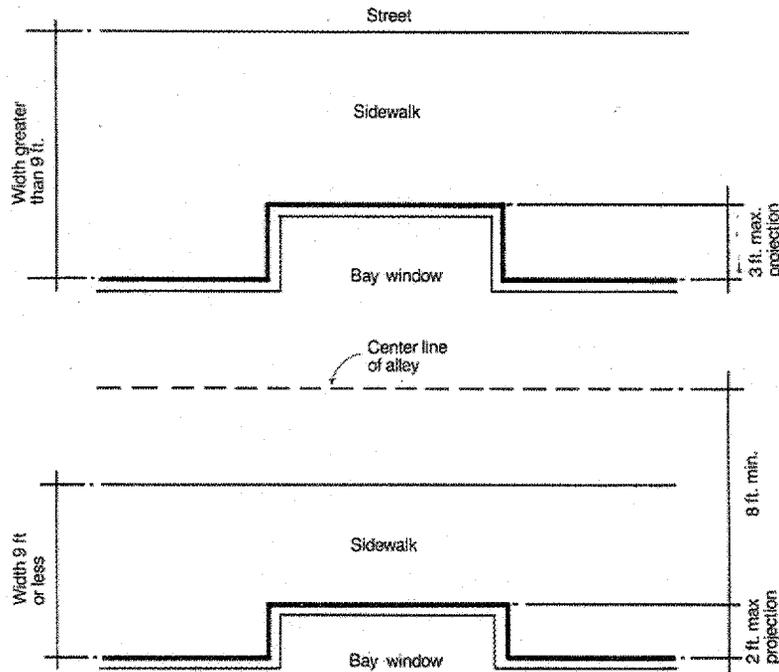


Exhibit 23.53.035-B

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5 c. The maximum length of each bay window or balcony shall be fifteen feet
6 (15') at the line establishing the required open area, and shall be reduced in proportion to the
7 distance from such line by means of forty-five degree (45°) angles drawn inward from the
8 ends of such fifteen foot (15') dimension, reaching a maximum of nine feet (9') along a line
9 parallel to and at a distance of three feet (3') from the line establishing the open area (See
10 Exhibit 23.53.035-C).
11

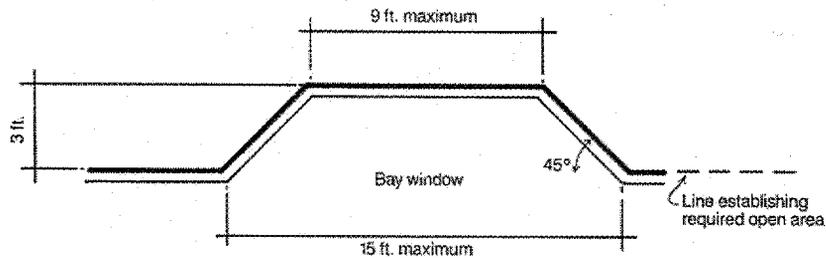
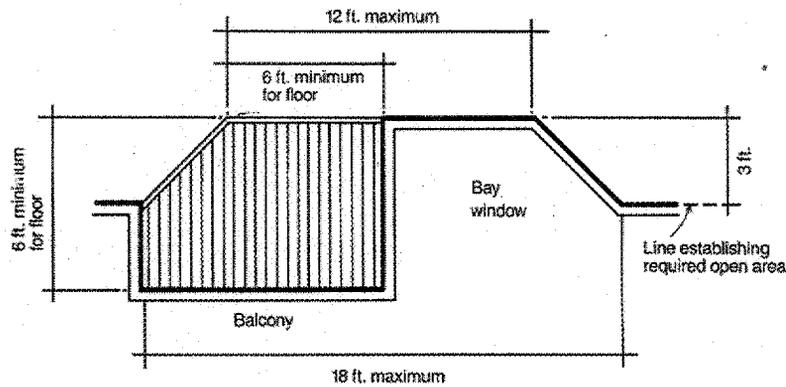


Exhibit 23.53.035-C

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16 d. Where a bay window and a balcony are located immediately adjacent to
17 one another, and the floor of such balcony in its entirety has a minimum horizontal
18 dimension of six feet (6'), the limit set in 4c above, shall be increased to a maximum length
19 of eighteen feet (18') at the line establishing the required open area, and a maximum of

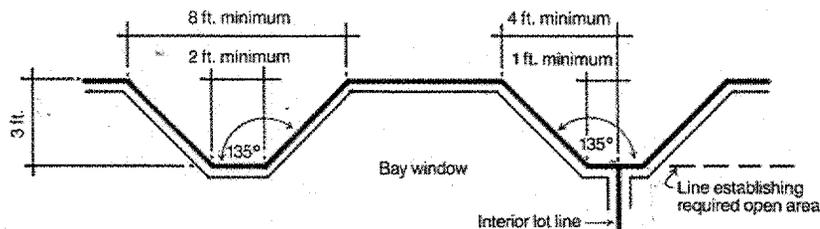


1 twelve feet (12') along a line parallel to and at a distance of three feet (3') from the line
2 establishing the required open area (See Exhibit 23.53.035-D).
3



4
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6 **Exhibit 23.53.035-D**
7

8 e. The minimum horizontal separation between bay windows, between
9 balconies, and between bay windows and balconies (except where a bay window and a
10 balcony are located immediately adjacent to one another, as provided for in 4d above), shall
11 be two feet (2') at the line establishing the required open area, and shall be increased in
12 proportion to the distance from such line by means of one hundred and thirty-five degree
13 (135) angles drawn outward from the ends of such two-foot (2') dimension, reaching a
14 minimum of eight feet (8') along a line parallel to and at a distance of three feet (3') from
15 the line establishing the required open area (See Exhibits 23.53.035-E).
16
17

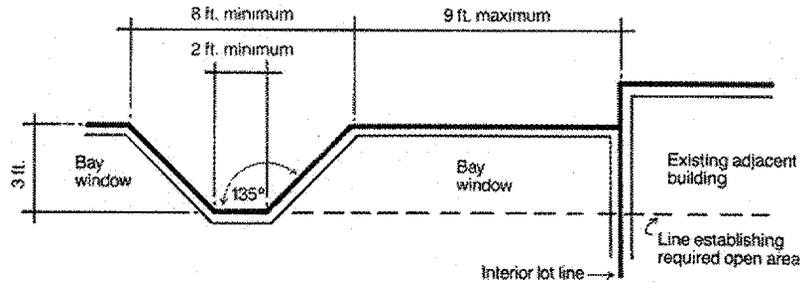


18
19
20 **Exhibit 23.53.035-E**
21

22 f. Each bay window or balcony over a street or alley shall also be
23 horizontally separated from interior lot lines (except where the wall or a building on the
24 adjoining lot is flush to the interior lot line immediately adjacent to the projecting portions
25 of such bay window or balcony) by not less than one foot (1') at the line establishing the
26 required open area, with such separation increased in proportion to the distance from such
27 line by means of a one hundred thirty-five degree (135°) angle drawn outward from such



1 one-foot (1') dimension, reaching a minimum of four feet (4') along a line parallel to and at
2 a distance of three feet (3') from the line establishing the required open area (See Exhibit
3 23.53.035-F).
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7 **Exhibit 23.53.035-F**
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9 **B. Submittal Requirements.**

10 1. An application for a structure containing features overhanging the public
11 right-of-way must show the following:

- 12 a. Dimensions on the site plan for canopies that overhang no closer than six
13 feet (6') to the curb.
14 b. Windows in any bays.
15 c. Where the SEATRAN Landscape Architect indicates that retention of the
16 street trees would be unfeasible, indicate planting of new street trees of at least four inch (4")
17 caliper.
18

19 **Section 7.** Exhibit A of Section 23.76.004, which exhibit was last amended by
20 Ordinance 119096, is amended as follows:



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Exhibit 23.76.004 A
LAND USE DECISION FRAMEWORK
Director's and Hearing Examiner's Decisions Requiring Master Use Permits

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<ul style="list-style-type: none"> • Compliance with development standards • Uses permitted outright • Temporary uses, four weeks or less • Certain street uses • Lot boundary adjustments • Modifications of features bonused under Title 24 • Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation • Temporary uses, twelve months or less, for relocation of police and fire protection • Exemptions from right-of-way improvement requirements • Special accommodation • Reasonable accommodation • Minor amendment to a Major Phased Development Permit 	<ul style="list-style-type: none"> • Temporary uses, more than four weeks • ((Certain street uses)) • Variances • Administrative conditional uses • Shoreline decisions (*Appealable to Shorelines Hearings Board along with all related environmental appeals) • Short subdivisions • Special exceptions • Design Review • Northgate General Development Plan • The following environmental determinations: <ol style="list-style-type: none"> 1. Determination of nonsignificance (EIS not required) 2. Determination of final EIS adequacy 3. Determinations of significance based solely on historic and cultural preservation 4. A decision by the Director to approve, condition or deny a project based on SEPA Policies 5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required) • Major Phased Development 	<ul style="list-style-type: none"> • Subdivisions (Preliminary Plats)

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 6
 7

Council Land Use Decisions

TYPE IV (Quasi-Judicial)	TYPE V (Legislative)
<ul style="list-style-type: none"> • Land use map amendments (Rezones) • Public project approvals • Major institution master plans • Council conditional uses • Downtown planned community developments 	<ul style="list-style-type: none"> • Land Use Code text amendments • Rezones to implement new City Policies • Concept approval for City facilities • Major institution designations • Waive or modify development standards for City facilities • Planned Action Ordinance



1 procedures for environmental review are established in SMC Chapter 25.05, Environmental
2 Policies and Procedures):

- 3 a. Determination of Nonsignificance (DNSs), including mitigated DNSs;
- 4 b. Determination that a final Environmental Impact Statement (EIS) is
5 adequate; and
- 6 c. Determination of Significance based solely on historic and cultural
7 preservation.

8 2. The following decisions, including any integrated decisions to approve,
9 condition or deny based on SEPA policies, are subject to appeal to the Hearing Examiner
10 (except shoreline decisions and related environmental determinations which are appealable
11 to the Shorelines Hearings Board):

- 12 a. Establishment or change of use for temporary uses more than four (4)
13 weeks not otherwise permitted in the zone or not meeting development standards, except
14 temporary relocation of police and fire stations for twelve (12) months or less;
- 15 b. Short subdivisions;
- 16 c. Variances, provided that variances sought as part of a Type IV decision
17 may be granted by the Council pursuant to Section 23.76.036;
- 18 d. Special exceptions, provided that special exceptions sought as part of a
19 Type IV decision may be granted by the Council pursuant to Section 23.76.036;
- 20 e. Design review;

21 ~~f. The following street use decisions:~~

- 22 ~~(1) Sidewalk cafes;~~
- 23 ~~(2) Structural building overhangs;~~
- 24 ~~(3) Areaways;~~

25 ~~g. Administrative conditional uses, provided that administrative~~
26 ~~conditional uses sought as part of a Type IV decision may be approved by the Council~~
27 ~~pursuant to Section 23.76.036;~~

28 ~~h. The following shoreline decisions (supplemental procedures for~~
29 ~~shoreline decisions are established in Chapter 23.60):~~

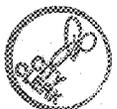
- 30 ~~(1) Shoreline substantial development permits,~~
- 31 ~~(2) Shoreline variances,~~
- 32 ~~(3) Shoreline conditional uses;~~

33 ~~i. Northgate General Development Plan;~~

34 ~~j. Major Phased Development; and~~

35 ~~k. Determination of project consistency with a planned action ordinance~~
36 ~~and EIS.~~

37
38 **Section 9.** Section 23.84.024 of the Seattle Municipal Code, which Section was last
39 amended by Ordinance 119484, is amended as follows (certain language shown as deleted in
40 Ordinance 119484 or in Ordinance 119273 is again shown as deleted to confirm the intent of
41 Section 41 of Ordinance 119484):
42
43



1 **Section 23.84.024**

2
3 "L"

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5 ***

6
7 (~~"Land Use and Transportation Plan for Downtown."~~ See "Land use policies,
8 ~~Downtown."~~

9 "Land Use Policies" means those policies set forth or incorporated by reference in
10 chapter 23.12, as such chapter is now in effect and as it may be hereafter amended, as the
11 same may be amended from time to time.

12 "~~Land Use Policies, Downtown," or "Land Use and Transportation Plan for Downtown"~~
13 means the portions of the ~~Land Use and Transportation Plan for Downtown Seattle, as~~
14 ~~amended, that are incorporated by reference in SMC Chapter 23.12, as such section is now~~
15 ~~in effect or hereafter amended."~~)

16 "Low income housing or low and low-moderate income housing TDR site" means a lot
17 meeting the following requirements:

- 18 1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones;
19 2. Each structure on the lot shall have a minimum of fifty (50) percent of total gross
20 floor area committed to low income housing or low and low-moderate income housing use
21 for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule
22 ((§)), except that a lot in an IDM zone may meet the following alternative standards:

- 23 (a) At least forty percent (40%) of the combined gross floor area in all structures
24 on the lot is committed to low income housing for twenty (20) years; and
25 (b) A total of at least one thousand square feet (1,000 sf) of combined gross floor
26 area in all structures on the lot is committed to use for social services providing necessary
27 support to a special population served by the low income housing on the sending lot, on
28 terms approved by the Director of the City Human Services Department (such services also
29 may serve other persons);

- 30 3. The lot has gross floor area equivalent to at least one (1) FAR committed to low-
31 income housing use for a minimum of twenty (20) years in accordance with the Public
32 Benefit Features Rule; and

Director's Report and Recommendation 1999 Land Use Code Omnibus Amendments

July 12, 1999

The Department of Design, Construction, and Land Use proposes a number of omnibus or maintenance amendments to the Land Use Code. These amendments range from correcting oversights to clarifying the interpretation of certain terms. In addition, a number of amendments are proposed that would have minor substantive impact, and do not warrant separate ordinances. The following is a section-by-section description of each of the proposed amendments:

Sections 23.22.062 and 23.24.045. Unit Subdivision

These two amendments remove the current zone designations eligible for unit subdivision, since the unit subdivision provisions only allow eligible housing types to be subdivided in zones in which they are already permitted uses. It is important to note that these amendments do not change the housing types permitted in any zones.

The removal of the zone restrictions is expected to have little impact, given that the "parent" or original lot must meet all applicable development and density standards. Under these amendments, the permitted housing types would become eligible for unit subdivision in Midrise and Highrise zones, but only for those housing types that are already permitted uses in these zones. Currently, unit subdivisions are not permitted in Midrise and Highrise zones. The impact of this change is expected to be minor. Since the type of housing development that would use this provision is low density development, it is likely to be used infrequently in Midrise and Highrise zones. However, the amendment would provide flexibility for such an option.

Section 23.44.016. Parking Location and Access in Single Family Zones

This amendment is proposed to preserve the aesthetic quality of Single Family neighborhoods. This proposed amendment clarifies the distinction between permitted parking and outdoor storage of vehicles in Single Family zones. When more than five vehicles are parked outdoors on a Single Family lot, the Director will presume that the lot is being used for auto storage. An auto storage lot is not permitted as either a principal or accessory use in a Single Family zone.

Section 23.44.080. Nonconforming uses

The purpose of this proposed amendment is to include a restriction previously approved by Council in Ordinance 119242, to limit additions to nonconforming multifamily residential uses in Single Family residential zones to existing structures on lots less than 10,000 square feet. Ordinance 119242 added provisions for permitted additions to nonconforming residential uses in Single Family zones, but inadvertently did not indicate the previously approved lot size restriction. This amendment is proposed to limit when the expansion of a non-conforming structure will be allowed, and to protect the character of Single Family zones.



Sections 23.49.212 and 23.84.024 "L." IDM, Transfer of Development Rights

This amendment would add flexibility for low-income housing providers for meeting the eligibility requirements for transferring development rights to other Downtown zones. Currently, low-income housing providers are required to dedicate at least 50 percent of their total gross floor area to housing for low-income households. This amendment would allow a second option for meeting the eligibility criteria for transfer of development rights for sending sites in the IDM zone only. A minimum of 40 percent of the gross floor area may be dedicated to housing low-income households, when an additional 1,000 square feet of supportive human services are also provided.

Section 23.53.035 Structural Building Overhangs (new section)

This proposed amendment would complete the transfer of provisions for structural building overhangs from the Seattle Building Code to the Land Use Code. These provisions were removed from the Seattle Building Code in 1998, at which time it was determined that the appropriate location for provisions for these aesthetic features was the Land Use Code. A more detailed discussion on the provisions for structural building overhangs is attached.

Sections 23.76.004 and 23.76.006 Master Use Permits Required

This amendment proposes to change the land use review of structural building overhangs, sidewalk cafés, and areaways from Type II to Type I decisions.



Structural Building Overhangs, Sidewalk Cafes, and Areaways

Summary

The Department of Design, Construction, and Land Use is proposing amendments to the City's Land Use Code to change the review procedures for three different street uses: structural building overhangs, sidewalk cafes, and areaways. Until 1998, structural building overhangs were regulated by the Seattle Building Code. However, due to the aesthetic nature of these features, it was determined to be inappropriately addressed in the Building Code and were subsequently eliminated. By this proposed amendment to the Land Use Code, structural building overhangs would be added to the Land Use Code and they, along with areaways and sidewalk cafes, would become Type I Master Use Permit decisions made by the Director for which there would be no discretionary review and no appeal of the Director's decision.

Background and Analysis

Master Use Permits are required for three types of street use decisions: structural building overhangs, areaways, and sidewalk cafes. Typically, street use decisions involve those activities or portions of structures that occur within the public right-of-way or encroach upon the public right-of-way, such as a sidewalk or a street. Seattle Transportation (SEATLAN) would normally be responsible for regulating activities or encroachments in the public right-of-way. However, due to the relationship of these aspects of private structures or uses closely related to private structures, these decisions are made in the context of a Master Use Permit associated with private development proposals.

Structural Building Overhangs

Structural building overhangs are those portions of a structure's facade that may, by design, encroach upon the public right-of-way, above the pedestrian or traveled path. These extensions of the structure are usually in the form of an architectural feature, such as cornices, eaves, sills, belt courses, bay windows, balconies, or other facade treatments and are generally incorporated into a structure's design for aesthetic purposes and not part of the basic structural framework. Until 1998, structural building overhangs were regulated by the Seattle Building Code. However, due to the limited relationship between these features and public fire and life safety issues, it was determined that the appropriate location for these features was the Land Use Code. The 1997 edition of the Seattle Building Code (effective August 15, 1998) no longer contains regulations covering structural building overhangs.

In accordance with Director's Rule 26-83, structural building overhangs are not permitted unless all of the following facts and conditions are found to exist:

1. *The encroachment must be reasonable and minor, in conformance with the design standards set forth in Director's Rule 26-83.*



2. *The encroachment is an architectural attachment to the building which is not part of its basic structural framework and is removable.*
3. *A determination is made that a public benefit will accrue based on adopted City Policy including the Land Use Code and Land Use Policies, the Historic Preservation and Landmark Ordinances, the SEPA policies including view corridors, the Downtown Guidelines and other applicable policies.*
4. *The encroachment is consistent with the concept that the City acts as trustee for the benefit of the general public and is subordinate to and not inconsistent with the primary object of the street, the convenience of public travel.*

Sidewalk Cafes

Sidewalk cafes are use of public right-of-way, usually a pedestrian walkway or sidewalk for the extension of food and beverage service outdoors from an adjoining eating and drinking establishment.

A Street Use Permit issued by SEATRAN is required before an applicant may occupy any part of the public right-of-way.

The Street Use Division of SEATRAN must determine that the plan for the sidewalk café is acceptable and send the applicant a "Public Place Indemnity Agreement" for signature. This document is a security or protective agreement against damage of the public space being used for the sidewalk café. A representative of SEATRAN visits the proposed sidewalk café to determine that sufficient, unobstructed sidewalk width for wheelchairs and for sidewalk users generally will remain when the proposed sidewalk café is in operation. The Seattle-King County Department of Public Health must also review the proposed sidewalk café to determine if health regulations have been adequately addressed.

Under the City's Street Use Ordinance, SMC 15.16, Sidewalk Cafés, DCLU reviews proposals and issues Master Use Permits for sidewalk cafés. DCLU review criteria for sidewalk cafes are provided in SMC Section 15.16.040, Street and Sidewalk Use, Sidewalk Cafes, Terms & Conditions. These criteria generally provide circumstances upon which the Director may authorize the specific placement of furniture, limit the amount of furniture, limit noise and/or impacts of lighting and illumination, require the removal of furniture when café is not in operation, and ensure that the operation would not unnecessarily or unreasonably impede the progress of pedestrians.

Sidewalk café decisions made as part of a Master Use Permit application are classified as Type II, discretionary decisions, requiring public notification of the application and decision, and subject to public comment and appeal. In reality, sidewalk cafés average only 8 permit applications per year with no appeals of a sidewalk café decisions among the last 24 applications dating back to 1996.



Areaways

Areaways are useable areas, generally in the street right-of-way, constructed under the sidewalk between the building foundation and the street wall. Access to areaways is generally gained through the basement of adjoining buildings. The street wall retains the earth below the road surface and provides the support for the structural sidewalk which spans between the street wall and building wall.

Areaways may be used by adjoining property owners for locating mechanical equipment, storing materials or using as an accessory space. Permits are issued for areaways as floor area appurtenant to a use in the adjoining building. New areaways are allowed only in the downtown historic districts and existing areaways are generally required to be demolished or filled in when demolition of adjoining structures occurs.

All Cases - Number of Applications/Appeals

Since 1995 DCLU and SEATRAN made 34 Structural Building Overhang (SBO) decisions, 24 Sidewalk Café (SC) decisions, and no Areaway decisions. A total of 58 projects over a three year period, about 19 per year. In this time frame there was one appeal challenging the granting of a SBO. The appeal was arguably due to the overall controversy surrounding the project rather than the concern for the specific SBO proposed. The Hearing Examiner upheld the SBO decision. Prior to this decision, no earlier appeals of an SBO could be confirmed.

Structural Building Overhangs:

Total Projects	34
1996	15
1997	11
1998	8
Average Per Year	11.3

Sidewalk Cafes:

Total Projects	24
1996	7
1997	9
1998	8
Average per year	8



Recommendation

DCLU recommends that the review of structural building overhangs, sidewalk cafés, and areaways be changed from a Type II Master Use Permit decision to a Type I, non-discretionary Master Use Permit decision. This recommendation is based on three factors. First, these actions have proven to be capable of being completed in a manner whereby the public interest is served by the consistent review in the presence of verifiable standards and conditioning of the street use permit approval. Second, the limited number of applications and absence of appeals in the historical record suggests that public notice and an appealable process for these permit decisions is unnecessary. Finally, recognizing the ministerial nature of these decisions, this would further City policy objectives to minimize time and cost associated with the permit process.

In order to effect the department's recommendation, the criteria for structural building overhangs must be moved from the Seattle Building Code to the Land Use Code. The remainder of the amendment entails changing the Master Use Permit Procedures Chapter 23.76, to move these certain street use decisions into the appropriate decision type, in this case, from Type II, discretionary to Type I, nondiscretionary.

A change in review process for structural building overhangs, sidewalk cafés, and areaways from Type II decisions subject to appeal, into Type I decisions would maximize efficiency, minimize the delay and expense involved in the decision and permitting process, and maintain the public interest in the right-of-way and public safety. The amendment would be consistent with the Land Use Code and City Policy to establish appropriate process and procedures for the effective administration of the City's land use regulations.

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City of Seattle

Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

MEMORANDUM

TO: Councilmember Sue Donaldson, President

FROM: Rick Krochalis, Director 

DATE: July 28, 1999

SUBJECT: Proposed Amendments Relating to Land Use Code Maintenance

I am pleased to submit to you the attached ordinance proposing omnibus or maintenance amendments to the City's Land Use Code. The purpose of this proposal is to clarify code provisions, correct oversights, errors and omissions, and to make certain substantive amendments to the Seattle Land Use Code.

The proposed amendments would complete the transfer of the provisions for structural building overhangs from the Seattle Building Code to the Seattle Land Use Code, and change the review of structural building overhangs, sidewalk cafés, and areaways from Type II to Type I Master Use Permit decisions. The amendments would also slightly modify the housing type eligibility criteria in the provisions for unit subdivision. Also proposed is a limit to on-site outdoor parking on a Single Family Residential lot to five vehicles. Another proposed amendment would limit the expansion of nonconforming uses in Single Family zones to lots that are less than 10,000 square feet. Currently, there is no lot size limit on such expansions. A final proposal would amend the provisions in Sections 23.49.212 and 23.84.024, related to the transfer of development rights for sending sites located in the International District Mixed (IDM) zone.

The Department has conducted environmental review on the proposed legislation and has issued a Determination of Non-Significance on July 29, 1999. The appeal period on this decision will end on August 12, 1999. The public hearing on the proposed legislation is scheduled on Wednesday, August 4, 1999 at 6:30 PM. Implementation costs will be minor, and can be accommodated within existing resources. If you have any questions, please call Pierre Rowen at (206) 615-1256 or John Skelton at (206) 233-3883.



ORDINANCE

AN ORDINANCE relating to land use and zoning; adding a new Section 23.53.035 regarding structural building overhangs to the Seattle Municipal Code and amending Sections 23.22.062, 23.24.045, 23.44.016, 23.44.080, 23.49.212, 23.76.004, 23.76.006, and 23.84.024 of the Seattle Municipal Code to clarify code provisions, correct oversights, errors and omissions, and to make certain substantive amendments.

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

Section 1. Subsection A of Section 23.22.062 of the Seattle Municipal Code (SMC), which Section was added by Ordinance 119239, is amended as follows:

23.22.062 Unit lot subdivisions.

A. The provisions of this Section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, ~~((and)) residential cluster((ed)) ((housing)) developments ((in Single Family, Residential Small Lot and Lowrise zones)),~~ and single family residences in ~~((Lowrise))~~ zones where such uses are permitted.

Section 2. Subsection A of Section 23.24.045 of the Seattle Municipal Code, which Section was last amended by Ordinance 119239, is amended as follows:

23.24.045 Unit lot subdivisions.

A. The provisions of this Section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, ~~((and)) residential cluster((ed)) ((housing)) developments ((in Single Family, Residential Small Lot and Lowrise zones)),~~ and single family residences in ~~((Lowrise))~~ zones where such uses are permitted.

Section 3. Subsection B of Section 23.44.016 of the Seattle Municipal Code, which Section was amended by Ordinance 118794, is amended as follows:

23.44.016 Parking location and access.



1
2 B. Parking on Lot of Principal Use.

3 1. Except as otherwise provided in this subsection, accessory parking shall be
4 located on the same lot as the principal use.

5 2. Parking on planting strips is prohibited.

6 3. No more than five (5) vehicles may be parked outdoors on any lot.

7 4((3)). Parking accessory to a floating home may be located on another lot if
8 within six hundred (600) feet of the lot on which the floating home is located.

9 5((4)). Parking accessory to a single-family structure existing on June 11, 1982
10 may be established on another lot if all the following conditions are met:

11 a. There is no vehicular access to permissible parking areas on the lot.

12 b. Any garage constructed is for no more than ((two (2))) two (2) axle or two
13 (2) up-to-four (4) wheeled vehicles.

14 c. Any garage is located and screened or landscaped per Section 23.44.016 E
15 if applicable, as required by the Director who shall consider development patterns of the
16 block or nearby blocks.

17 d. The lot providing the parking is within the same block or across the alley
18 from the principal use lot.

19 e. The accessory parking shall be tied to the lot of the principal use by a
20 covenant or other document recorded with the King County Department of Records and
21 Elections.

22 6((5)). Trailers, boats, recreational vehicles and similar equipment shall not be
23 parked in required front and side yards.

24
25 ***

26
27 **Section 4.** Subsection D of Section 23.44.080 of the Seattle Municipal Code, which
28 Section was last amended by Ordinance 119242, is amended as follows:

29
30 **23.44.080 Nonconforming uses.**

31
32 ***

33
34 D. Alterations to nonconforming residential uses.

35 1. The number of dwelling units in a nonconforming residential use shall not be
36 increased. For a nonconforming residential use that was not a multifamily use, the number
37 of residents may not be increased beyond the maximum number that was allowed by the
38 standards of the zone at the time of approval or, if permitted by conditional use, the number
39 shall not be allowed to increase above that number permitted by the conditional use
40 approval.

41 2. A structure occupied by a nonconforming residential use may be maintained,
42 repaired, renovated, or structurally altered:

43 a. as necessary to improve access for the elderly and disabled;

44 b. to construct structural features including, but not limited to, exterior decks
45 and balconies, bay windows, dormers, eaves and solar collectors added to a principal

1 structure, or a new or expanded accessory structure may be constructed, provided that the
2 addition or new structure conforms to the development standards of the zone;

3 c. only on lots of less than ten thousand (10,000) square feet, to construct an
4 addition which meets development standards for single family construction and does not
5 exceed any of the following conditions:

- 6 (1) five hundred (500) square feet of additional gross floor area;
7 (2) the average height of the closest principal structures on either side.

8 d. by special exception, Type II Master Use Permit, to construct an addition
9 ((which)) that exceeds one or more of the conditions listed in subsection D2c above but is
10 within the development standards permitted for single family development. DCLU may
11 approve or approve with conditions the special exception only if the ((project)) lot is less
12 than ten thousand (10,000) square feet and only if the project is compatible with the
13 surrounding development in terms of:

- 14 (1) architectural character;
15 (2) existing streetscape and pattern of yards; and
16 (3) scale and proportion of principal structures.

17 e. If an addition proposed under subsections D2c or D2d above would
18 require additional parking under the requirements of Section 23.54.015 for multifamily
19 structures, then that additional parking shall be provided.

20 * * *

21
22
23 **Section 5.** Subsection D of Section 23.49.212 of the Seattle Municipal Code, which
24 Section was last amended by Ordinance 119484, is further amended as follows:

25
26 **23.49.212 International District Mixed, transfer of development rights.**

27 * * *

28
29
30 **D. Transfer of Development Rights Agreements.**

31 1. The fee owners of the sending and receiving lots shall execute a deed or other
32 agreement which shall be recorded with the title to both lots.

33 2. The agreement or deed shall be for a term that ((which)) equals or exceeds the
34 life of the project on the receiving lot for which the rights were transferred.

35 3. For transfers from low income housing or low and low-moderate income
36 housing TDR sites, the agreement shall provide for the maintenance of the low income
37 housing or low and low-moderate income housing and, if applicable, the social service uses
38 necessary to qualify the sending lot as a low income housing or low and low-moderate
39 income housing TDR site as defined in Section 23.84.024, on the sending lot for a minimum
40 of twenty (20) years.

41 4. The agreement or deed shall state that the development rights transferred from
42 the sending lot to the receiving lot may not be reclaimed unless the project on the receiving
43 lot, or that portion of the project for which the rights were transferred, is demolished. The
44 deed or agreement shall also provide that its covenants or conditions shall run with the land
45 and shall be specifically enforceable by any party or by The City of Seattle.

Section 6. A new Section, 23.53.035, is hereby added to the Seattle Municipal Code (SMC) to read as follows:

23.53.035 Structural building overhangs.

A. Structural building overhangs are encroachments into public property that include cornices, eaves, sills, belt courses, bay windows, balconies, facade treatment and other architectural features. They shall be designed in accordance with the standards set forth in this section and rules promulgated by the Director. Structural building overhangs, when approved, shall meet the following requirements:

1. Vertical clearance shall be a minimum of eight feet (8') from the sidewalk or 26 feet (26') from an alley, or greater when required by other regulations.

2. Overhead horizontal projections of a purely architectural or decorative character such as cornices, eaves, sills, and belt courses shall be limited to a maximum horizontal extension of one foot (1') and maximum vertical dimension of two feet (2') six inches (6"), and shall not increase the floor area or the volume of space enclosed by the building. At roof level, the projections may extend not more than three feet horizontally. The vertical dimension of the overhead horizontal projection at the roof level may be increased if the roof level is one hundred feet (100') or higher above the street elevation. The total area of these projections shall not exceed thirty percent (30%) of the area of any one façade (See Exhibit 23.53.035-A).

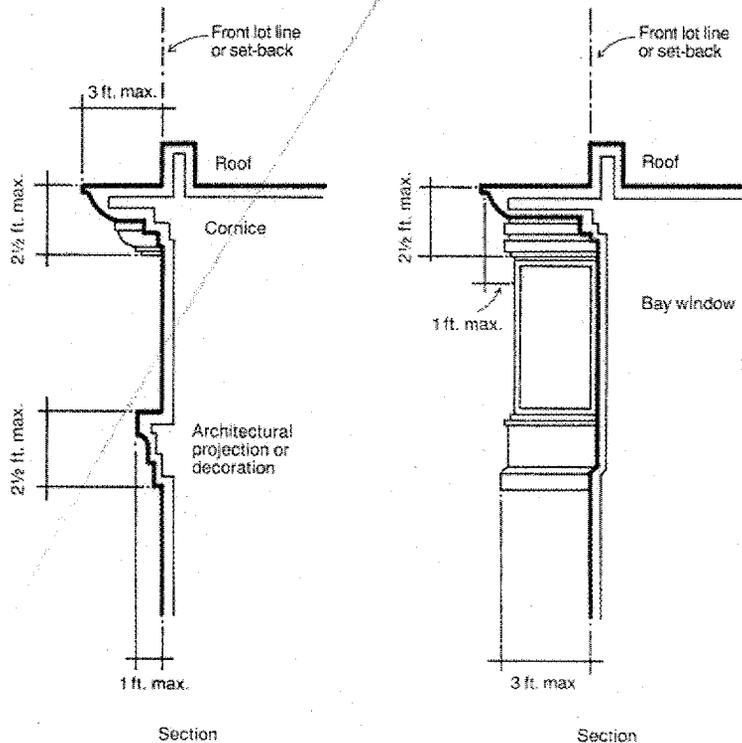


Exhibit 23.53.035-A



3. Exceptions to the standards in this section may be authorized for historic or rehabilitated buildings, when they are consistent with the scope and intent of these standards.

4. Vertical bay (projecting) windows, balconies (other than balconies used for primary access), and similar features that increase either the floor area of the building or the volume of space enclosed by the building above grade, shall be limited as follows:

a. The maximum horizontal projection shall be three feet (3') and the projection shall in no case be closer than eight feet (8') to the center line of any alley (See Exhibit 23.53.035-B).

b. The glass areas of each bay window, and the open portions of each balcony, shall not be less than 50 percent (50%) of the sum of the areas of the vertical surfaces of such bay window or balcony above the required open area. At least one-third (1/3) of such required glass area of such bay window, and open portions of such balcony, shall be on one or more vertical surfaces situated at an angle of not less than thirty degrees (30°) to the line establishing the required open area. In addition, at least one-third (1/3) of such required glass area or open portions shall be on the vertical surface parallel to, or most nearly parallel to, the line establishing each open area over which the bay window or balcony projects.

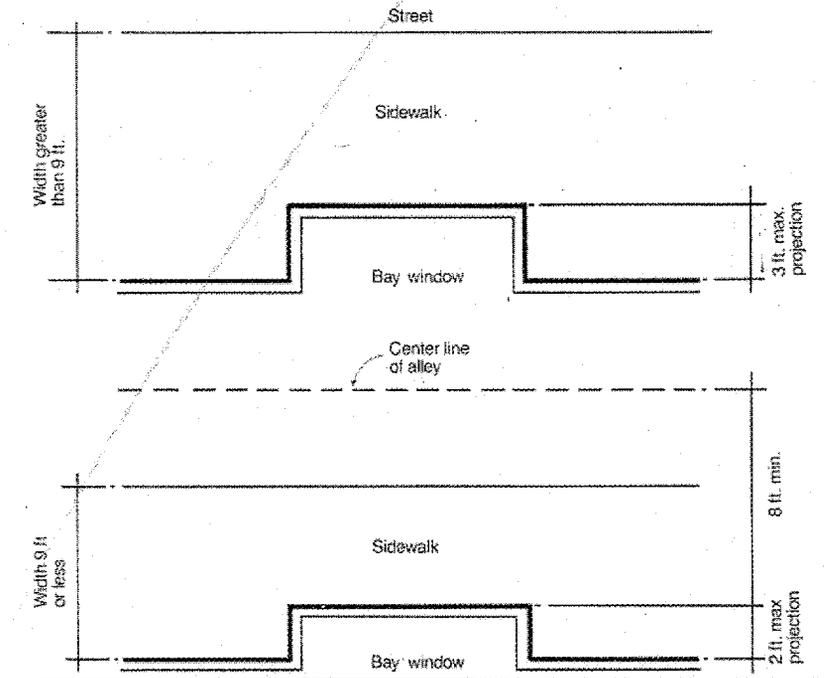
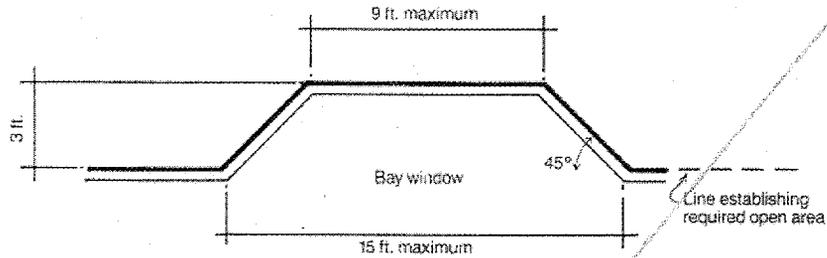


Exhibit 23.53.035-B

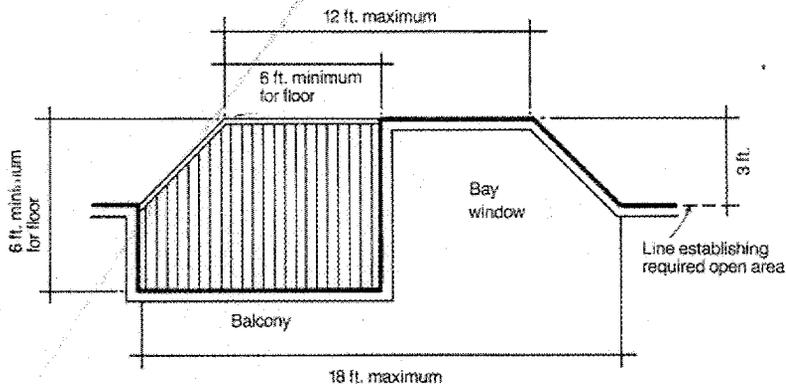
c. The maximum length of each bay window or balcony shall be fifteen feet (15') at the line establishing the required open area, and shall be reduced in proportion to the distance from such line by means of forty-five degree (45°) angles drawn inward from the ends of such fifteen foot (15') dimension, reaching a maximum of nine feet (9') along a line

1 parallel to and at a distance of three feet (3') from the line establishing the open area (See
2 Exhibit 23.53.035-C).
3



4
5
6 **Exhibit 23.53.035-C**
7

8 d. Where a bay window and a balcony are located immediately adjacent to
9 one another, and the floor of such balcony in its entirety has a minimum horizontal
10 dimension of six feet (6'), the limit set in 4c above, shall be increased to a maximum length
11 of eighteen feet (18') at the line establishing the required open area, and a maximum of
12 twelve feet (12') along a line parallel to and at a distance of three feet (3') from the line
13 establishing the required open area (See Exhibit 23.53.035-D).
14



15
16
17 **Exhibit 23.53.035-D**
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19 e. The minimum horizontal separation between bay windows, between
20 balconies, and between bay windows and balconies (except where a bay window and a
21 balcony are located immediately adjacent to one another, as provided for in 4d above), shall
22 be two feet (2') at the line establishing the required open area, and shall be increased in
23 proportion to the distance from such line by means of one hundred and thirty-five degree
24 (135) angles drawn outward from the ends of such two-foot (2') dimension, reaching a
25 minimum of eight feet (8') along a line parallel to and at a distance of three feet (3') from
26 the line establishing the required open area (See Exhibits 23.53.035-E).
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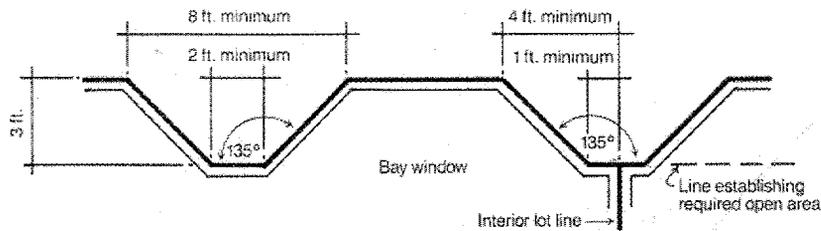


Exhibit 23.53.035-E

f. Each bay window or balcony over a street or alley shall also be horizontally separated from interior lot lines (except where the wall or a building on the adjoining lot is flush to the interior lot line immediately adjacent to the projecting portions of such bay window or balcony) by not less than one foot (1') at the line establishing the required open area, with such separation increased in proportion to the distance from such line by means of a one hundred thirty-five degree (135°) angle drawn outward from such one-foot (1') dimension, reaching a minimum of four feet (4') along a line parallel to and at a distance of three feet (3') from the line establishing the required open area (See Exhibit 23.53.035-F).

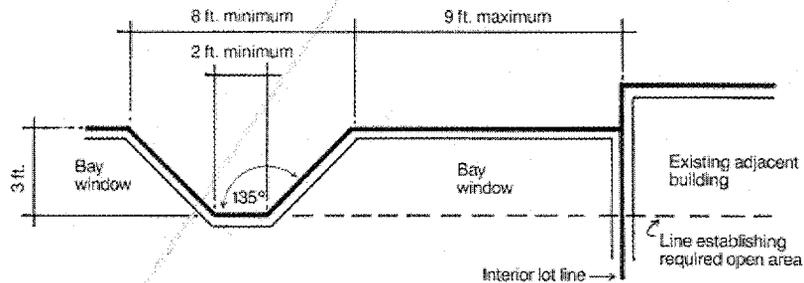


Exhibit 23.53.035-F

B. Submittal Requirements.

1. An application for a structure containing features overhanging the public right-of-way must show the following:

- a. Dimensions on the site plan for canopies that overhang no closer than six feet (6') to the curb.
- b. Windows in any bays.
- c. Where the SEATRAN Landscape Architect indicates that retention of the street trees would be unfeasible, indicate planting of new street trees of at least four inch (4") caliper.

Section 7. Exhibit A of Section 23.76.004, which exhibit was last amended by Ordinance 119096, is amended as follows:



1 b. Determination that a final Environmental Impact Statement (EIS) is
2 adequate; and
3 c. Determination of Significance based solely on historic and cultural
4 preservation.

5 2. The following decisions, including any integrated decisions to approve,
6 condition or deny based on SEPA policies, are subject to appeal to the Hearing Examiner
7 (except shoreline decisions and related environmental determinations which are appealable
8 to the Shorelines Hearings Board):

9 a. Establishment or change of use for temporary uses more than four (4)
10 weeks not otherwise permitted in the zone or not meeting development standards, except
11 temporary relocation of police and fire stations for twelve (12) months or less;

12 b. Short subdivisions;

13 c. Variances, provided that variances sought as part of a Type IV decision
14 may be granted by the Council pursuant to Section 23.76.036;

15 d. Special exceptions, provided that special exceptions sought as part of a
16 Type IV decision may be granted by the Council pursuant to Section 23.76.036;

17 e. Design review;

18 ~~f. The following street use decisions:~~

19 ~~(1) Sidewalk cafes;~~

20 ~~(2) Structural building overhangs;~~

21 ~~(3) Areaways;)~~

22 f(~~g~~). Administrative conditional uses, provided that administrative
23 conditional uses sought as part of a Type IV decision may be approved by the Council
24 pursuant to Section 23.76.036;

25 g(~~h~~). The following shoreline decisions (supplemental procedures for
26 shoreline decisions are established in Chapter 23.60):

27 (1) Shoreline substantial development permits,

28 (2) Shoreline variances,

29 (3) Shoreline conditional uses;

30 h(~~i~~). Northgate General Development Plan;

31 i(~~j~~). Major Phased Development; and

32 j(~~k~~). Determination of project consistency with a planned action ordinance
33 and EIS.

34
35 **Section 9.** Section 23.84.024 of the Seattle Municipal Code, which Section was last
36 amended by Ordinance 119484, is amended as follows (certain language shown as deleted in
37 Ordinance 119484 or in Ordinance 119273 is again shown as deleted to confirm the intent of
38 Section 41 of Ordinance 119484):

39
40
41 **Section 23.84.024**

42 "L"

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44
45 ***

1
2 (~~"Land Use and Transportation Plan for Downtown." See "Land use policies,~~
3 ~~Downtown."~~)

4 "Land Use Policies" means those policies set forth or incorporated by reference in
5 chapter 23.12, as such chapter is now in effect and as it may be hereafter amended, as the
6 same may be amended from time to time.

7 "~~Land Use Policies, Downtown," or "Land Use and Transportation Plan for Downtown"~~
8 means the portions of the Land Use and Transportation Plan for Downtown Seattle, as
9 amended, that are incorporated by reference in SMC Chapter 23.12, as such section is now
10 in effect or hereafter amended.")

11 "Low income housing or low and low-moderate income housing TDR site" means a lot
12 meeting the following requirements:

- 13 1. The lot is located in any Downtown zone except PMM, DH-1 and DH-2 zones;
14 2. Each structure on the lot shall have a minimum of fifty (50) percent of total gross
15 floor area committed to low income housing or low and low-moderate income housing use
16 for a minimum of twenty (20) years in accordance with the Public Benefit Features Rule
17 ((:)), except that a lot in an IDM zone may meet the following alternative standards:

18 (a) At least forty percent (40%) of the combined gross floor area in all structures
19 on the lot is committed to low income housing for twenty (20) years; and

20 (b) A total of at least one thousand square feet (1,000 sf) of combined gross floor
21 area in all structures on the lot is committed to use for social services providing necessary
22 support to a special population served by the low income housing on the sending lot, on
23 terms approved by the Director of the City Human Services Department (such services also
24 may serve other persons);

25 3. The lot has gross floor area equivalent to at least one (1) FAR committed to low-
26 income housing use for a minimum of twenty (20) years in accordance with the Public
27 Benefit Features Rule; and

28 4. The low income housing or low and low-moderate income housing commitment
29 on the lot has been certified by the Director of the Office of Housing ~~((and Human~~
30 ~~Services))~~ as satisfying the Public Benefit Features Rule.

31
32 ***

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34 **Section 10.** The provisions of this ordinance are declared to be separate and
35 severable. The invalidity of any particular provision shall not affect the validity of any other
36 provision.
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Section 11. 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 _____, 1999, and signed by me in open session in authentication of its passage this _____ day of _____, 1999.

President of the City Council

Approved by me this _____ day of _____, 1999.

Paul Schell, Mayor

Filed by me this _____ day of _____, 19____.

City Clerk

(SEAL)



SPONSORSHIP

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

Jan Prago

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE



STATE OF WASHINGTON - KING COUNTY

109743
City of Seattle, City Clerk

—ss.

No. IN FULL

Affidavit of Publication

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

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

CT:119618 ORDINANCE

was published on

09/03/99

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

R. Patterson

Subscribed and sworn to before me on

09/06/99

McLivar

Notary Public for the State of Washington,
residing in Seattle

(Continued on Next Page)

City of Seattle

ORDINANCE 119618

AN ORDINANCE relating to land use and zoning; adding a new Section 23.53.035 regarding structural building overhangs to the Seattle Municipal Code and amending Sections 23.22.062, 23.24.045, 23.44.016, 23.44.080, 23.49.212, 23.76.004, 23.76.006, and 23.84.024 of the Seattle Municipal Code to clarify code provisions, correct oversights, errors and omissions, and to make certain substantive amendments.

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

Section 1. Subsection A of Section 23.22.062 of the Seattle Municipal Code (SMC), which Section was added by Ordinance 119239, is amended as follows:

23.22.062 Unit lot subdivisions.
 A. The provisions of this Section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, ((and)) residential cluster((ed)) ((housing)) developments ((in Single-Family, Residential Small-Lot and Low-rise zones)), and single family residences in ((Low-rise)) zones where such uses are permitted.

Section 2. Subsection A of Section 23.24.045 of the Seattle Municipal Code, which Section was last amended by Ordinance 119239, is amended as follows:

23.24.045 Unit lot subdivisions.
 A. The provisions of this Section apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, ((and)) residential cluster((ed)) ((housing)) developments ((in Single-Family, Residential Small-Lot and Low-rise zones)), and single family residences in ((Low-rise)) zones where such uses are permitted.

Section 3. Subsection B of Section 23.44.016 of the Seattle Municipal Code, which Section was amended by Ordinance 118794, is amended as follows:

23.44.016 Parking location and access.

B. Parking on Lot of Principal Use.

- Except as otherwise provided in this subsection, accessory parking shall be located on the same lot as the principal use.
- Parking on planting strips is prohibited.
- No more than three (3) vehicles may be parked outdoors on any lot.
- (3). Parking accessory to a floating home may be located on another lot if within six hundred (600) feet of the lot on which the floating home is located.
- (4). Parking accessory to a single-family structure existing on June 11, 1982 may be established on another lot if all the following conditions are met:
 - There is no vehicular access to permissible parking areas on the lot.
 - Any garage constructed is for no more than ((two (2))) two (2) axle or two (2) up-to-four (4) wheeled vehicles.
 - Any garage is located and screened or landscaped per Section 23.44.016 E if applicable, as required by the Director who shall consider development patterns of the block or nearby blocks.
 - The lot providing the parking is within the same block or across the alley from the principal use lot.
 - The accessory parking shall be tied to the lot of the principal use by a covenant or other document recorded with the King County Department of Records and Elections.
- (5). Trailers, boats, recreational vehicles and similar equipment shall not be parked in required front and side yards.

Section 4. Subsection D of Section 23.44.080 of the Seattle Municipal Code, which Section was last amended by Ordinance 119242, is amended as follows:

23.44.080 Nonconforming uses.

D. Alterations to nonconforming residential uses.

- The number of dwelling units in a nonconforming residential use shall not be increased. For a nonconforming residential use that was not a multifamily use, the number of residents may not be increased beyond the maximum number that was allowed by the standards of the zone at the time of approval or, if permitted by conditional use, the number shall not be allowed to increase above that number permitted by the conditional use approval.

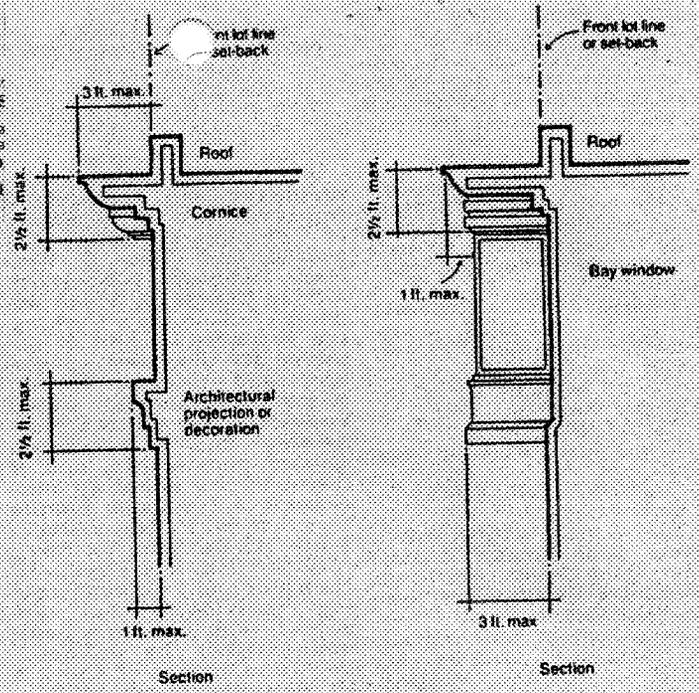


Exhibit 23.53.035-A

3. Exceptions to the standards in this section may be authorized for historic or rehabilitated buildings, when they are consistent with the scope and intent of these standards.

4. Vertical bay (projecting) windows, balconies (other than balconies used for primary access), and similar features that increase either the floor area of the building or the volume of space enclosed by the building above grade, shall be limited as follows:

- The maximum horizontal projection shall be three feet (3') and the projection shall in no case be closer than eight feet (8') to the center line of any alley (See Exhibit 23.53.035-B).
- The glass areas of each bay window, and the open portions of each balcony, shall not be less than 50 percent (50%) of the sum of the areas of the vertical surfaces of such bay window or balcony above the required open area. At least one-third (1/3) of such required glass area of such bay window, and open portions of such balcony, shall be on one or more vertical surfaces situated at an angle of not less than thirty degrees (30°) to the line establishing the required open area. In addition, at least one-third (1/3) of such required glass area or open portions shall be on the vertical surface parallel to, or most nearly parallel to, the line establishing each open area over which the bay window or balcony projects.

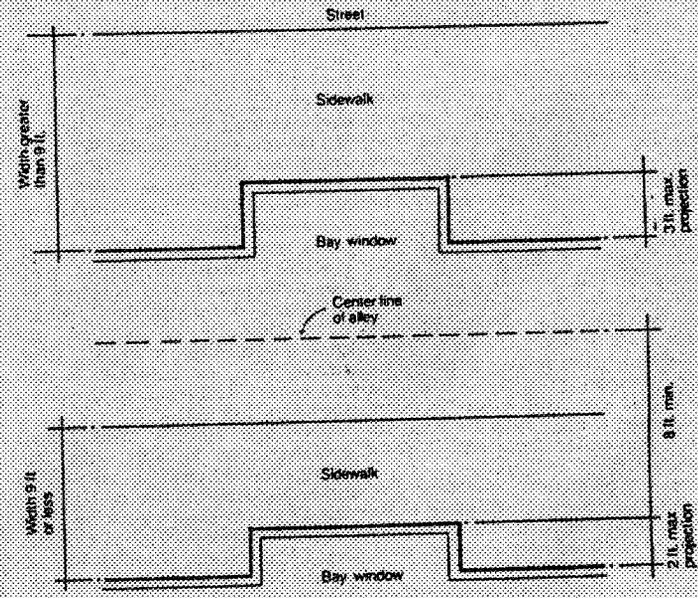


Exhibit 23.53.035-B

c. The maximum length of each bay window or balcony shall be fifteen feet (15') at the line establishing the required open area, and shall be reduced in proportion to the distance from such line by means of forty-five degree (45°) angles drawn inward from the ends of such fifteen foot (15') dimension, reaching a maximum of nine feet (9') along a line parallel to and at a distance of three feet (3') from the line establishing the open area (See Exhibit 23.53.035-C).

8 ft. maximum