Ordinance No. 120928

Council Bill No. 114222

AN ORDINANCE relating to land use and zoning, amending Chapter 23.57 and Sections 23.41.004, 23.41.012, 23.44.002, 23.44.012, 23.45.002, 23.45.009, 23.45.016, 23.45.050, 23.45.058, 23.45.066, 23.45.074, 23.47.002, 23.47.012, 23.47.024, 23.48.002, 23.48.010, 23.49.002, 23.49.008, 23.49.009, 23.49.208, 23.49.338, 23.50.002, 23.50.020, 23.66.122, 23.66.140, 23.66.322, 23.66.332, 23.76.022, 23.76.056, 23.84.006, and 25.05.675 of the Seattle Municipal Code to clarify regulations, to add additional regulations and to comply with new federal and state telecommunication laws.

CF No.

Date Introduced: JUL 1 - 2002	NICASTRO
Date 1st Referred: JUL 1 - 2002	To: (committee) Land Use Committee
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 9-23-02	Full Council Vote: 9-0
Date Presented to Mayor: 9-24-02	Date Approved: 10/2/02
Date Returned to City Clerk: 10/3/02	Date Published: T.O. ____ F.T. ____
Date Vetoed by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

The City of Seattl

Council Bill/Ordina

9-17-02 As Am

9-23-02 Pas

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

Councilmember

Committee Action:

9-17-02 As amended, Approve 3-0 (LN RC, BMP)

9-23-02 Passed As Amended 9-0

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

(initial/date)

Law Department

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed

DA,CM, and JHT
C.B. 114222
September 23, 2002
V #4 (As Passed By Council)

ORDINANCE 120928

AN ORDINANCE relating to land use and zoning, amending Chapter 23.57 and Sections 23.41.004, 23.41.012, 23.44.002, 23.44.012, 23.45.002, 23.45.009, 23.45.016, 23.45.050, 23.45.058, 23.45.066, 23.45.074, 23.47.002, 23.47.012, 23.47.024, 23.48.002, 23.48.010, 23.49.002, 23.49.008, 23.49.009, 23.49.208, 23.49.338, 23.50.002, 23.50.020, 23.66.122, 23.66.140, 23.66.322, 23.66.332, 23.76.022, 23.76.056, 23.84.006, and 25.05.675 of the Seattle Municipal Code to clarify regulations, to add additional regulations and to comply with new federal and state telecommunication laws.

WHEREAS, the City's Comprehensive Plan calls for universal access to state-of-the-art telecommunication services (Utilities G6) and for encouraging the development of telecommunications infrastructure citywide (Economic Development E24); and

WHEREAS, the Federal Telecommunications Act of 1996 encourages the growth of the telecommunications industry through deregulation, and places certain limits on local governmental authority to condition or deny applications for personal wireless service facilities; and

WHEREAS, the Federal Communications Commission has preempted local government control over certain small receive-only antennas; and

WHEREAS, the State of Washington amended the State Environmental Policy Act (SEPA) in 1996 to exclude certain telecommunications facilities from environmental review; and

WHEREAS, the City of Seattle recognizes the health, safety and public welfare aspects of telecommunication facilities; and

WHEREAS, the City of Seattle will encourage creative approaches in siting telecommunication facilities to minimize the unsightly characteristics that may be associated with these facilities, while providing for a wide range of locations and options for providers:

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection B of Section 23.41.004 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

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SMC 23.41.004 Applicability.

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B. Design Review -- Optional.

1. Design review is optional to any applicant for new multifamily, commercial or Major Institution structures not otherwise subject to this chapter, in the Stadium Transition Area Overlay District and in all multifamily, commercial or downtown zones.

2. An administrative design review process is an option to an applicant for new multifamily, or commercial structures, if the structure would not exceed SEPA thresholds or as provided in subsection B3 below, in the Stadium Transition Area Overlay District and in multifamily, commercial or downtown zones, according to the process described in Section 23.41.016.

3. Administrative Design Review to Protect Trees. As provided in Sections 25.11.070 and 25.11.080, an administrative design review process (Section 23.41.016) is an option to an applicant for new multifamily and commercial structures in Lowrise, Midrise, and commercial zones to protect a tree over two (2) feet in diameter measured four and one-half (4 ½) feet above the ground, even when the project exceeds SEPA thresholds but design review would not otherwise be required by Subsection A, above.

<u>4. An administrative design review process is an option to an applicant for installation of telecommunication devices on new or existing structures according to the process described in Section 23.41.016 in order to vary minor communication utility height limits in downtown zones set forth in SMC 23.57.013B, and telecommunication facilities development standards set forth in Section 23.57.016.</u>

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Section 2. Subsection B of Section 23.41.012 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

23.41.012 Development standard departures.

* * *

B. Departures may be granted from the following requirements:

1. Structure width and depth limits;
2. Setback requirements;
3. Modulation requirements;
4. SCM zone facade requirements, including transparency and blank facade provisions;
5. Design, location on the lot and access to parking requirements;
6. Open space or common recreation area requirements;
7. Lot coverage limits;
8. Screening and landscaping requirements;

9. Standards for the location and design of nonresidential uses in mixed use buildings;

10. Within Urban Centers, in L3 zones only, the pitched roof of a structure, as provided in Section 23.45.009 C, may incorporate additional height of up to twenty (20) percent of the maximum height permitted, as provided in Section 23.45.009 A, subject to the following limitations:

a. A pitched roof may not incorporate the additional height if the structure is on a lot abutting or across a street or alley from a single-family residential zone,

b. The proposed structure must be compatible with the general development potential anticipated within the zone,

c. The additional height must not substantially interfere with views from up-slope properties, and

d. No more than one (1) project on one (1) site within each Urban Center may incorporate additional height in the pitched roofs of its structures pursuant to this subsection unless development regulations enacted pursuant to a neighborhood planning process allow other projects to incorporate such additional height;

11. Building height within the Roosevelt Commercial Core, up to an additional three (3) feet, for properties zoned NC3-65', (Exhibit 23.41.012A, Roosevelt Commercial Core);

12. Building height within the Ballard Municipal Center master plan area, for properties zoned NC3-65', (Exhibit 23.41.012B, Ballard Municipal Center Master Plan area). The additional height may not exceed nine (9) feet, and may be granted only for townhouses that front a mid-block pedestrian connection or a park identified in the Ballard Municipal Center Master Plan;

13. Reduction in required parking for ground level retail uses that abut established mid-block pedestrian connections through private property as identified in the "Ballard Municipal Center Master Plan Design Guidelines, 2000." The parking requirement must be no less that the required parking for Pedestrian 1 designated areas shown in Section 23.47.044 Chart E;

14. Downtown or Stadium Transition Overlay District street facade requirements;

15. Downtown upper-level development standards;

16. Downtown coverage and floor size limits;

17. Downtown maximum wall dimensions;

18. Downtown street level use requirements;

19. Combined coverage of all rooftop features in downtown zones subject to the limitations in Section 23.49.008 C2;

20. Certain conditions to allowance of additional height in DOC 1 and DOC 2 zones pursuant to subsection 23.49.008A 2, as follows:

a. Limits on gross floor area of stories under subsection 23.49.008 A2a(2); and

b. Percentages of lot area that must be occupied by open space or by structures no greater than thirty-five (35) or sixty-five (65) feet in height, under subsection 23.49.008 A2b(1);

21. Building height in Lowrise zones, and parking standards of Section 23.54.015 in Midrise and Commercial zones, in order to protect existing trees as provided in Chapter 25.11; ((~~and~~))

22. Downtown view corridor and Downtown Green Street requirements to allow open railings on upper level roof decks or rooftop open space to project into the required view corridor or Green Street setback, provided such railings are determined to have a minimal impact on views and meet the requirements of the Building Code((~~.~~)); and

23. Minor communication utility height limits in downtown zones set forth in SMC 23.57.013B, and telecommunication facilities development standards set forth in Section 23.57.016.

Section 3. Section 23.44.002 of the SMC, which Section was last amended by Ordinance 116295, is amended as follows:

23.44.002 Applicability of provisions.

This chapter details those authorized uses and their development standards which are or may be permitted in the three (3) single-family residential zones: SF 9600, SF 7200 and SF 5000. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 4. Subsection C of Section 23.44.012 of the SMC, which Section was last amended by Ordinance 120609, is amended as follows:

23.44.012 Height limits.

* * *

C. Height Limit Exceptions.

1. ((~~Radio and Television Antennas and~~)) Flagpoles. Except in the Airport Height Overlay District, Chapter 23.64, ((~~receive-only radio and television antennas, except for dishes, and~~)) flagpoles are exempt from height limits, provided that they are no closer to any adjoining lot line than fifty (50) percent of their height above existing grade, or, if attached only to a roof, no closer than fifty (50) percent of their height above the roof portion where attached.

2. Other Features. Open rails, planters, skylights, and clerestories may extend no higher than the ridge of a pitched roof or four (4) feet above a flat roof. Chimneys may extend four (4) feet above the ridge of a pitched roof or above a flat roof.

3. Solar Collectors. For height exceptions for solar collectors, not including solar greenhouses, see Section 23.44.046.

4. For non-residential principal uses, the following rooftop features may extend up to ten (10) feet above the maximum height limit, as long as the combined total

coverage of all features does not exceed fifteen (15) percent of the roof area, or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses; and

b. Mechanical equipment.

5. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.010.

Section 5. Subsection B of Section 23.45.002 of the SMC, which Section was last amended by Ordinance 118414, is amended as follows:

23.45.002 Scope of provisions.

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B. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

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Section 6. Subsection D of Section 23.45.009 of the SMC, which Section was last amended by Ordinance 120609, is amended as follows:

23.45.009 Structure height—Lowise zones.

* * *

D. Rooftop Features.

1. ((~~Radio and television receive-only antennas, except for dish antennas, f~~))Flagpoles((~~,~~)) and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend no higher than the ridge of a pitched roof permitted under subsection C above or four (4) feet above the maximum height limit set in subsection A of this section. For cottage housing developments, these rooftop features may extend four (4) feet above the eighteen (18) foot height limit.

3. For cottage housing developments, chimneys may exceed the height limit by four (4) feet or may extend four (4) feet above the ridge of a pitched roof.

4. Except in cottage housing developments, the following rooftop features may extend ten (10) feet above the maximum height limit established in subsection A so long as the combined total coverage of all features does not exceed fifteen (15) percent of

the roof area or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys((~~.~~));

e. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

5. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

6. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection D6 at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to the maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted ((~~on rooftops by special exception~~)) according to the provisions of Chapter 23.57.011;

f. Nonfirewall parapets;

g. Play equipment.

7. For height limits and exceptions for communication utilities and devices, Section 23.57.011.

* * *

Section 7. Subsection B of Section 23.45.016 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.016 Open space requirements -- Lowrise zones.

* * *

B. Development Standards.

1. Lowrise Duplex/Triplex Zones and Ground-related Housing in Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones.

a. Lowrise Duplex/Triplex Zones -- Private Usable Open Space.

(1) Private usable open space shall be provided at ground level in one (1) contiguous parcel with a minimum area of four hundred (400) square feet,

except that in cottage housing developments, the quantity per unit shall be a minimum of two hundred (200) square feet. No horizontal dimension of the open space shall be less than ten (10) feet.

(2) Private usable open space shall be located a maximum of four (4) feet above or below a private entry to the unit it serves. The floor of the unit accessed by this entry shall have a minimum area of three hundred (300) square feet. This minimum area may include a private garage if habitable floor area of the same unit is located directly above.

b. Lowrise Duplex/Triplex Zones -- Common Open Space. Required common open space shall be provided at ground level in one (1) contiguous parcel with a minimum area of six hundred (600) square feet, except that in cottage housing developments, the quantity per unit shall be a minimum of one hundred fifty (150) square feet. In cottage housing developments, each cottage shall abut the common open space. No horizontal dimension of the open space shall be less than ten (10) feet.

c. Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones -- Ground-related Housing.

(1) In Lowrise 1 zones the required open space shall be provided in one (1) contiguous parcel, except that in cottage housing developments, the open space shall be allotted as described in subsections A2c above and B1c(5) below. In Lowrise 2, Lowrise 3 and Lowrise 4 zones, the required open space for each ground-related dwelling unit is not required to be in one (1) contiguous area, but no open space area shall be less than one hundred twenty (120) square feet. No horizontal dimension of the open space shall be less than ten (10) feet.

(2) Required open space may be located a maximum of ten (10) feet above or below the unit it serves, except as permitted in subsection B1c(4), provided that the access to such open space does not go through or over common circulation areas, common or public open spaces, or the open space serving another unit.

(3) At least fifty (50) percent of the required open space for a unit shall be level, provided that:

i. The open space may be terraced; and

ii. Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two (2) feet.

(4) For additional dwelling units proposed within a structure existing on August 11, 1982, the vertical distance between the unit and the private, landscaped open space may exceed ten (10) feet where the following criteria are met:

i. Where the structure was constructed with floor-to-floor heights in excess of ten (10) feet, the open space may be located a maximum of ten (10) feet plus the height between floors in excess of ten (10) feet, above or below the unit it serves; or

ii. Where the structure was constructed with the first floor in excess of two (2) feet above grade, the open space may be located a maximum of ten (10) feet plus the additional height of the first floor in excess of two (2) feet above grade, above or below the unit it serves.

(5) Lowrise 1 Zone -- Cottage Housing Developments.

i. At least fifty (50) percent of the required total open space per unit shall be provided as private usable open space in one (1) contiguous parcel. No horizontal dimension of the open space shall be less than ten (10) feet.

ii. Common open space shall be provided at ground level in one (1) contiguous parcel with a minimum area per unit of one hundred fifty (150) square feet. No horizontal dimension of the open space shall be less than ten (10) feet. Each cottage shall abut the common open space.

d. Required open space may be located in the front, sides or rear of the structure.

e. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit, or common areas which directly face the open space of a different unit, are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls or wingwalls.

f. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

g. Required private usable open space shall be landscaped according to standards promulgated by the Director for ground-related dwelling units.

2. Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones -- Apartments.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

d. In order to qualify as above-ground level open space, balconies, decks, and in L3 and L4 zones, individual unit decks on roofs, shall all have a minimum horizontal dimension of six (6) feet, and a total area of at least sixty (60) square feet, while common roof gardens in L3 and L4 zones shall have a minimum area of two hundred fifty (250) square feet. Common roof garden open space shall be landscaped according to the rules promulgated by the Director.

e. For cluster development, at least twenty (20) percent of the required open space shall be provided in one (1) contiguous area.

f. Terraced Housing on a Slope of Twenty-five (25) Percent or More.

(1) No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

(2) Required open space is permitted in the front, sides or rear of the structure.

(3) Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

(4) In order to qualify as above-ground-level open space, rooftop areas shall have a minimum horizontal dimension of at least ten (10) feet and a total area of at least one hundred twenty (120) square feet.

g. ((~~Rooftop space within the following parameters shall not count toward meeting open space requirements, the area eight (8) feet from and in front of a directional antenna and at least two (2) feet from the back of a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.~~)). When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

3. Open Space Exception. When all parking and access to parking is uncovered and is surfaced in permeable material, except gravel, the quantity of required ground-level open space shall be reduced by five (5) percent of the total lot area.

* * *

Section 8. Subsection D of Section 23.45.050 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.050 Midrise—Structure height.

* * *

D. Rooftop Features.

1. ((~~Radio and television receive-only antennas, except dish antennas, f~~))Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the maximum height limit set in subsections A and B of this ((s))Section.

3. The following rooftop features may extend ten (10) feet above the maximum height limit set in subsections A and B of this section, so long as the combined total coverage of all features does not exceed fifteen (15) percent of the roof area or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys;

e. Sun and wind screens;

f. Penthouse pavilions for the common use of residents;

~~b.~~ g. Greenhouses which meet minimum energy standards administered by the Director((.)) ;

h. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

4. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;
b. Planters;
c. Clerestories;
d. Greenhouses;
e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.011;
f. Nonfirewall parapets;
g. Play equipment;
h. Sun and wind screens;
i. Penthouse pavilions for the common use of residents.

6. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

Section 9. Subsection B of Section 23.45.058 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.058 Midrise—Open space requirements.

* * *

B. Development Standards.

1. Required open space shall be landscaped according to standards promulgated by the Director.

2. Ground-related Housing.

a. The required open space for each unit is not required to be in one (1) contiguous area, but no open space area shall be less than one hundred twenty (120) square feet, and no horizontal dimension shall be less than ten (10) feet.

b. Required open space may be located in the front, sides or rear of the structure.

c. Required open space may be located a maximum of ten (10) feet above or below the unit it serves, provided that the access to such open space does not go through or over common circulation areas, common or public open space, or the open space serving another unit, except as permitted in subsection B2g.

d. The grade of the open space can either be the existing grade or within eighteen (18) inches of existing grade. The portion of the open space which is within ten (10) feet of the unit shall include the point where the access to the open space from the unit occurs.

e. Direct access to the open space shall be from at least one (1) habitable room of at least eighty (80) square feet of the principal living areas of the unit. Principal living areas shall not include foyers, entrance areas, closets or storage rooms, hallways, bathrooms or similar rooms alone or in combination.

f. At least fifty (50) percent of the required open space for a unit shall be level, provided that:

(1) The open space may be terraced; and

(2) Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two (2) feet.

g. For additional dwelling units proposed within a structure existing on August 11, 1982, the vertical distance between the unit and the private, landscaped open space may exceed ten (10) feet where the following criteria are met:

(1) Where the structure was constructed with floor-to-floor heights in excess of ten (10) feet, the open space may be located a maximum of ten (10) feet plus the height between floors in excess of ten (10) feet, above or below the unit it serves; or

(2) Where the structure was constructed with the first floor in excess of two (2) feet above grade, the open space may be located a maximum of ten (10) feet plus the additional height of the first floor in excess of two (2) feet above grade, above or below the unit it serves.

h. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit or common area which directly faces the open space of a different unit are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls, or wingwalls. Fences, freestanding walls, or wingwalls located in setbacks shall be no more than six (6) feet in height in accordance with Section 23.45.014G.

i. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

3. Apartments.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

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c. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

d. In order to qualify as aboveground open space, balconies and decks shall have a minimum horizontal dimension of at least six (6) feet, and the minimum area shall be sixty (60) feet.

e. For cluster development, at least twenty (20) percent of the required open space shall be provided in one (1) contiguous area.

f. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

4. Terraced Housing on a Slope of Twenty-five (25) Percent or More.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

d. In order to qualify as aboveground open space, rooftop areas, balconies ((~~or~~)) and decks shall have a minimum horizontal dimension of at least ten (10) feet, and a total area of at least one hundred twenty (120) feet.

* * *

Section 10. Subsection C of Section 23.45.066 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.066 Highrise—Structure height.

* * *

C. Height Exceptions.

1. ((~~Radio and television receive-only antennas, except dish antennas, f~~))Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets, and firewalls may extend four (4) feet above the maximum height limit set in subsections A and B of this ((s))Section.

3. The following rooftop features may extend up to ten (10) feet above the maximum height limit, so long as the combined total coverage of all features does not

exceed fifteen (15) percent of the roof area, or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys;

e. Sun and wind screens;

f. Penthouse pavilions for the common use of residents((.)) ;

g. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

4. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed below at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.011;

f. Nonfirewall parapets;

g. Play equipment;

h. Sun and wind screens;

i. Penthouse pavilions for the common use of residents.

6. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

Section 11. Subsection B of Section 23.45.074 of the SMC, which Section was adopted by Ordinance 110570, is amended as follows:

23.45.074 Highrise--Open space requirements.

* * *

B. Development Standards.

1. No horizontal dimension for required open space at ground level or on the roof of the base structure shall be less than fifteen (15) feet, nor shall any open space area be less than two hundred twenty-five (225) square feet.

2. In order to qualify as above-ground-level open space, balconies, decks, or open space on the roof of a base structure shall be thirty-seven (37) feet or less above existing grade.

3. Required open space is permitted in the front, side or rear of the structure.

4. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State ((~~Rules and Regulations for Barrier-Free Design~~)) Building Code, Chapter 11, shall not be counted as open space.

5. In order to qualify as aboveground open space, no horizontal dimension for balconies and decks shall be less than six (6) feet, and the minimum area for balconies and decks shall be sixty (60) feet.

6. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

Section 12. Subsection E of Section 23.47.002 of the SMC, which Section was last amended by Ordinance 117430, is amended as follows:

23.47.002 Scope of provisions.

***

E. Requirements for streets, alleys and easements are provided in Chapter 23.53. Standards for parking quantity, access and design are provided in Chapter 23.54. Signs shall be regulated by Chapter 23.55. Methods for measurements are provided in Chapter 23.86. ((~~Requirements for c~~)) Communication utilities and accessory communication devices ((~~are contained~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

***

Section 13. Subsections H, J, and K of Section 23.47.012 of the SMC, which Section was last amended by Ordinance 120609, are amended as follows:

23.47.012 Structure height and floor area ratio.

* * *

H. Rooftop Features.

1. ((~~Radio and television receiving antennas, excluding dish antennas; ham radio towers; s~~)) Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend no higher than the ridge of a pitched roof as permitted by Section 23.47.012F or up to four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar Collectors.

a. In zones with height limits of thirty (30) feet or forty (40) feet, solar collectors may extend up to four (4) feet above the maximum height limit, with unlimited rooftop coverage.

b. In zones with height limits of sixty-five (65) feet or more, solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection does not exceed twenty (20) percent of the roof area or twenty-five (25) percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least fifteen (15) feet from the roof edge; and

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.012.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

6. Structures existing prior to May 10, 1986 may add new or replace existing mechanical equipment up to fifteen (15) feet above the roof elevation of the structure and shall comply with the noise standards of Section 23.47.018.

7. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

* * *

((~~J. Television Receiving Antennas. The maximum height of television receiving antennas, except for dish antennas, shall be no more than fifty (50) feet in zones where the maximum height limit does not exceed fifty (50) feet. In zones with a maximum height limit~~

~~which exceeds fifty (50) feet the maximum height of the antenna shall not exceed the maximum height allowed for all structures.~~

~~K.~~)) J. Height Exceptions for Public Schools.

1. For new public school construction on new public school sites, the maximum permitted height shall be the maximum height permitted in the zone.

2. For new public school construction on existing public school sites, the maximum permitted height shall be the maximum height permitted in the zone or thirty-five (35) feet plus fifteen (15) feet for a pitched roof, whichever is greater.

3. For additions to existing public schools on existing public school sites, the maximum height permitted shall be the maximum height permitted in the zone, the height of the existing school, or thirty-five (35) feet plus fifteen (15) feet for a pitched roof, whichever is greater.

4. Development standard departure for structure height may be granted or required pursuant to the procedures and criteria set forth in Chapter 23.79. For construction of new structures on new and existing public school sites to the extent not otherwise permitted outright, maximum height which may be granted as a development standard departure in zones with height limits of thirty (30) or forty (40) feet shall be thirty-five (35) feet plus fifteen (15) feet for a pitched roof for elementary schools and sixty (60) feet plus fifteen (15) feet for a pitched roof for secondary schools. All height maximums may be waived by the Director when waiver would contribute to reduced demolition of residential structures.

5. To qualify for the pitched roof exception, all parts of the roof above the height limit must be pitched at a rate of not less than three to twelve (3:12). No portion of a shed roof shall extend above the height limit under this provision.

Section 14. Subsection B of Section 23.47.024 of the SMC, which Section was last amended by Ordinance 118794, is amended as follows:

23.47.024 Open space standards.

* * *

B. Open Space Development Standards.

1. When permitted, required usable open space may be provided at ground level or may be provided above the ground in the form of balconies, decks, solaria, greenhouses, or roof gardens or decks.

2. Balconies and decks provided above the ground as open space shall have a minimum area of sixty (60) square feet and no horizontal dimension shall be less than six (6) feet.

3. Usable open space at ground level, and roof gardens, solaria, and greenhouses provided above ground as open space shall have a minimum area of two hundred fifty (250) square feet. No horizontal dimension shall be less than ten (10) feet.

4. Required usable open space is permitted at the front, sides, or rear of the structure.

5. Parking areas, driveways, and pedestrian access to the nonresidential or residential entrances, except for pedestrian access meeting the Washington State Building Code, Chapter 11 -- Accessibility, shall not be counted as open space.

6. Required open space shall be landscaped according to standards promulgated by the Director.

7. ((~~Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight (8) feet from and in front of a directional antenna and at least two (2) feet from the back of a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.~~)) When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.012.

Section 15. Subsection B of Section 23.48.002 of the SMC, which Section was last amended by Ordinance 119239, is amended as follows:

23.48.002 Scope of provisions.

***

B. Other regulations, such as requirements for streets, alleys and easements (Chapter 23.53); standards for parking quantity, access and design (Chapter 23.54); signs (Chapter 23.55); and methods for measurements (Chapter 23.86) ((~~and requirements for communication utilities and accessory communication devices (Chapter 23.57)~~))may apply to development proposals. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 16. Subsection C of Section 23.48.010 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.48.010 General structure height.

***

C. Rooftop Features.

1. ((~~Radio and television receiving antennas excluding dish antennas; ham radio towers; s~~)) Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport

Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend up to four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection D4 does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. Atriums, greenhouses, and solariums;

e. Play equipment and open mesh fencing which encloses it, as long as the fencing is at least fifteen (15) feet from the roof edge; and

f. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.012.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection D5 at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Atriums, greenhouses and solariums;

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices according to the provisions of ((~~Chapter~~)) Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

6. Screening. Rooftop mechanical equipment and elevator penthouses shall be screened with fencing, wall enclosures, or other structures.

7. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

Section 17. Subsection E of Section 23.49.002 of the SMC, which Section was last amended by Ordinance 116295, is amended as follows:

23.49.002 Scope of provisions.

***

E. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 18. Subsection C of Section 23.49.008 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

((~~(1) Major or minor communication utilities,~~))
((~~(2)~~)) (1) Religious symbols for religious institutions,
((~~(3)~~)) (2) Smokestacks, and
((~~(4)~~)) (3) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features, not to exceed thirty-five (35) percent of the roof area, may be permitted through the Design Review process for Development Standard Departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;
(2) Stair penthouses;

(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone.

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 of this section.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

((~~d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.~~))

((e))d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection C5b of this section:

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection C5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection C5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection C5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

Section 19. Subsection E of Section 23.49.009 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.009 Open space.

* * *

E. Limitations. Open space satisfying the requirement of this section for any project shall not be used to satisfy the open space requirement for any other project, nor shall any bonus be granted to any project for open space meeting the requirement of this section for any other project. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.013. Open space on the site of any building for which a Master Use Permit decision was issued or a complete building permit application was filed prior to the effective date of the ordinance codified in this section, that is not required under the Land Use Code in effect when such permit decision was issued or such application filed but that would have been required for the same building by this section, shall not be used to satisfy the open space requirement or to gain an FAR bonus for any other project.

* * *

Section 20. Section 23.49.208 of the SMC, which Section was last amended by Ordinance 113279, is amended as follows:

23.49.208 International District Mixed, structure height.

* * *

B. Rooftop features may be permitted according to the provisions of Section 23.66.332.

((~~B~~))C. In the seventy-five (75) to eighty-five (85) foot height district, structures in excess of seventy-five (75) feet, to a maximum of eighty-five (85) feet, shall be permitted only if fifty (50) percent of the gross floor area, excluding parking, is in residential use.

((~~C~~))D. In the one hundred (100) to one hundred twenty (120) foot height district, structures in excess of one hundred (100) feet, to a maximum of one hundred twenty (120) feet shall be permitted if seventy-five (75) percent or more of the gross floor area, excluding parking, is in residential use, or may be permitted as part of a planned community development, pursuant to Section 23.49.036, Planned community development.

((~~D~~))E. In the sixty-five (65) to one hundred twenty (120) foot height district, structures in excess of sixty-five (65) feet, to a maximum of one hundred twenty (120) feet, may be permitted only as a part of a planned community development, pursuant to Section 23.49.036, Planned community development.

Section 21. Subsection A of Section 23.49.338 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.338 Pike Market Mixed, prohibited uses.

A. The following uses are prohibited as both principal and accessory uses in areas outside of the Pike Place Market Historical District, Map 1L:

1. Drive-in businesses, except gas stations located in parking garages;
2. Outdoor storage;
3. Adult motion picture theaters and adult panorams;
4. Transportation facilities;
5. Major ((~~C~~))communication utilities;
6. All general manufacturing uses;
7. All salvage and recycling uses, except recycling collection stations;
8. All industrial uses;
9. Jails; and
10. Work-release centers.

* * *

Section 22. Subsection C of Section 23.50.002 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

23.50.002 Scope of provisions.

***

C. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57. Requirements for streets, alleys and easements are provided in Chapter 23.53. Standards for parking access and design are provided in Chapter 23.54. Signs are regulated by Chapter 23.55. Methods for measurements are provided in Chapter 23.86. Definitions are in Chapter 23.84.

***

Section 23. Subsection A of Section 23.50.020, which Section was last amended by Ordinance 120117, is amended as follows:

23.50.020 All Industrial zones—Structure height exceptions and additional restrictions.

A. Rooftop Features. Where height limits are otherwise applicable to a structure, and except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the following conditions shall apply to rooftop features:

1. ((~~Radio and television receiving antennas, excluding dish antennas; amateur radio towers; s~~)) Smokestacks; chimneys and flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, as long as the combined total coverage of all features listed in this subsection does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment; and

d. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.015.

* * *

Subchapter I General Provisions

Section 24. Section 23.57.001 of the SMC, which Section was last amended by Ordinance 118414, is amended as follows:

23.57.001 Intent and Objectives.

((~~The intent of this chapter is to provide~~)) This Chapter provides regulations and development standards for major and minor communication utilities and accessory communication devices. The regulations and development standards contained in this chapter are imposed to minimize the health, safety and visual impact of telecommunication utilities on nearby areas. Development of communication utilities and accessory devices may also be subject to other regulations, including but not limited to ((~~Title 25 of the Municipal Code (~~))Chapter 25.05, SEPA Policies and Procedures and ((~~; Chapter 25.09, Regulations for Environmentally Critical Areas;~~)) Chapter 25.10, Radiofrequency Radiation ((~~)~~)), in addition to the Land Use Code.

Section 25. Section 23.57.002 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.002 Scope ((~~of provisions~~)) and applicability of provisions.

A. The provisions of this chapter shall apply to communication utilities and accessory communication devices in all zones where permitted.

1. Direct broadcast satellite service, video programming service, or fixed wireless service antennas, as defined in applicable federal regulations, that measure one (1) meter (3.28 feet) or less in diameter or diagonal measurement are exempt from the provisions of this chapter, except in special review, historic and landmark districts and on buildings designated by the Seattle Landmarks Preservation Board.

2. Special rule for satellite dish antennas. Satellite dish antennas are exempt from the provisions of this chapter when:

a. the antenna measures one (1) meter (3.28 feet) or less in diameter in residential zones; or

b. the antenna measures two (2) meters (6.56 feet) or less in diameter in non-residential zones.

B. The provisions of this Chapter do not apply to Citizen Band radios, equipment designed and marketed as consumer products such as computers (including internet linkage), telephones, microwave ovens and remote control toys, and to television broadcast and radio receive-only antennas except satellite dishes not exempted in subsection A.

((~~B~~))C. Lots located in the Shoreline District shall meet the requirements of the Seattle Shoreline Master Program in addition to the provisions of this chapter. In the event there is a conflict between the regulations of the Shoreline Master Program and this chapter, the provisions of the Shoreline Master Program shall apply.

D. Communication Utilities and Accessory Communication Devices Located in Major Institutional Overlay Districts. Communication Utilities located in Major Institutional Overlay Districts (Chapter 23.69) shall be subject to the use provisions and development standards of Chapter 23.57. Communication devices accessory to major institution uses located in a Major Institutional Overlay District shall be subject to the use provisions and development standards of Chapter 23.57 unless such devices are addressed in a Master Plan adopted pursuant to Subchapter VI of Chapter 23.69. Accessory Communication Devices associated with the University of Washington are subject to Subsection 23.69.006.A.

Section 26. Subsection B of Section 23.57.003 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.003 Nonconforming uses and structures.

* * *

B. The following activities shall be permitted outright for existing major and minor communication utilities and accessory communication devices which are nonconforming structures: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation or repair. The addition of new telecommunication devices to an existing major communication utility transmission tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four (4) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four (4) feet in any dimension, plus any proposed additional such horn or dish antenna, are accessory to the communication utility. Physical expansion shall be prohibited, except as may be permitted by ((~~Council Conditional Use~~)) the provisions in each zone.

Section 27. A new Section 23.57.004 is hereby added to Chapter 23.57 to read as follows:

23.57.004 Removal of Unused Facilities

There shall be a rebuttable presumption that any major or minor communication utility or accessory communication device that is regulated by this Chapter and that is not operated for a period of twelve (12) months shall be considered abandoned. This presumption may be rebutted by a showing that such utility or device is an auxiliary, back-up, or emergency utility or device not subject to regular use or that the facility is otherwise not abandoned. For those utilities deemed abandoned, all equipment, including but not limited to antennas, poles, towers, and equipment shelters associated with the utility or accessory communication device shall be removed within twelve (12) months of the cessation of operation. Irrespective of any agreement among them to the contrary, the owner or operator of such unused facility, or the owner of a building or land upon which the utility is located, shall be jointly and severally responsible for the removal of abandoned utilities or devices.

Subchapter II Major Communication Utilities

Section 28. Section 23.57.005, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.005 Permitted and prohibited locations.

A. Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial 1, 2 and 3, and the Seattle Cascade Mixed Zones.

1. New major communication utilities shall be prohibited.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

B. Commercial 1 and 2 Zones.

1. New Major Communication Utilities.

a. Single-occupant major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to the development standards in Section 23.57.008.

b. Shared-use major communication utilities may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

C. Downtown Zones.

1. In Pioneer Square Mixed, International District Mixed, International District Residential and Pike Market Mixed Zones, new major communication utilities shall be prohibited.

2. In all other downtown zones, establishment or physical expansion of major communication utilities may be permitted, whether single-occupant or shared, by Administrative Conditional Use under the evaluation criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

D. Industrial Zones.

Establishment or physical expansion of major communication utilities, whether single- occupant or shared, may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and the development standards in Section 23.57.008. The following activities shall be permitted outright for existing communication utilities and

accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

Section 29. Subsections A and H of Section 23.57.008 of the SMC, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.008 Development standards.

A. In Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial, and Seattle Cascade Mixed zones, physical expansion of a major communication utility may be permitted only when:

1. The expanded facility will be a shared-use utility, and another broadcaster has contracted to relocate its transmitter to the expanded facility; and

2. A different existing tower of similar size in the immediate vicinity will be removed within six (6) months of issuance of the certificate of occupancy.

* * *

H. Equipment shelters and other accessory structures shall comply with the development standards of this Section whether or not physical expansion, as defined in Section 23.84.006, is proposed.

Subchapter III Minor Communication Utilities and Accessory Communication Devices

Section 30. Section 23.57.009 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.009 Permitted and prohibited locations for all minor communication utilities, and d((~~D~~))evelopment standards for minor communication utilities with freestanding transmission towers ((~~for minor communication utilities~~)) in all zones.

A. Permitted And Prohibited Locations For All Minor Communication Utilities. New Minor Communication Utilities and Accessory Communication devices shall be regulated as provided in Sections 23.57.010, 23.57.011, 23.57.012, 23.57.013, 23.57.014,

and 23.57.015. However, minor communication utilities shall be permitted at any location if the applicant can demonstrate by technical studies that 1) the facility is for commercial mobile service, unlicensed wireless services, fixed wireless service, or common carrier wireless exchange access service as defined by applicable federal statutes or regulations; and 2) a facility at the site proposed is necessary to close an existing significant gap or gaps in the availability of a wireless carrier's communication service or to provide additional call capacity and that, absent the proposed facility, remote users of a wireless carrier's service are unable to connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication; and 3) that the facility and the location proposed is the least intrusive facility at the least intrusive location consistent with effectively closing the service gap. In considering the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic and the displacement of residential dwelling units in a residential zone.

B. Interior Locations. Minor communication utilities located entirely within the interior of a structure shall be permitted outright on lots developed with non-single family principal uses in single family zones, and on all lots in all other zones. The installation of the utility shall not result in the removal of a dwelling unit in a residential zone.

C. Minor communication utilities with ((~~F~~))freestanding transmission towers ((~~for minor communication utilities~~)) shall be subject to the access, setback, screening and landscaping requirements for major communication utilities in subsections B, C, ((~~and~~)) E and H of Section 23.57.008 in addition to the standards of each zone as described in this Chapter.

Section 31. Section 23.57.010 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.010 Single Family and Residential Small Lot zones.

A. Uses Permitted Outright.

1. ((~~Amateur Radio Devices.~~)) Amateur radio devices accessory to a residential use ((~~which~~)) that meet the development standards of subsection E are permitted outright.

2. Minor communication utilities are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Accessory Communication Devices.

1. ((~~Receive-only c~~)) Communication devices, regulated by this Chapter pursuant to Section 23.57.002, that are accessory to residential uses and ((~~which~~)) meet the development standards of subsection E are permitted outright;

2. Communication devices on the same lot ((~~site~~)) as and accessory to institutions, public facilities, public utilities, major institutions and nonconforming

residential uses, which meet the development standards of subsection E are permitted outright.

C. Uses Permitted by Administrative Conditional Use. ((~~When locating on the same lot as an existing utility or public facility, minor communication utilities~~))

1. The following may be permitted by Administrative Conditional Use, pursuant to the ((~~following~~)) criteria listed in Subsection C2, as applicable:

a. The establishment or expansion of a minor communication utility, except on lots zoned Single Family or Residential Small Lot and containing a single family residence or no use.

b. Mechanical equipment associated with minor communication utilities whose antennas are located on another site or in the right-of-way, where the equipment is completely enclosed within a structure that meets the development standards of the zone. The equipment shall not emit radiofrequency radiation, and shall not result in the loss of a dwelling unit. Antennas attached to City-owned poles in the right-of-way shall follow the terms and conditions contained in Section 15.32.300.

2. Administrative Conditional Use Criteria.

((~~1.~~))a. The proposal shall not ((~~result in a commercial intrusion which would~~)) be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

b. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

c. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

(i) The antenna is at least one hundred feet (100') from a MIO boundary, and

(ii) The antenna is substantially screened from the surrounding neighborhood's view.

((~~2~~))d. If the proposed minor communication utility is proposed to exceed the permitted height of the zone ((~~or is a transmission tower~~)), the applicant shall demonstrate the following:

((~~a. The need for the proposed communication utility to be in a Single Family zone and a justification for the proposed height;~~

~~b. That the materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~c. That proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.~~))

(i) The requested height is the minimum necessary for the effective functioning of the minor communication utility, and

(ii) Construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

e. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

f. If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009 A, except for minor communication utilities located on a freestanding water tower or similar facility.

D. Uses Permitted by Council Conditional Use. The establishment or expansion of a minor communication utility other than as described in subsection C above, may be permitted as a Council Conditional Use, pursuant to the following criteria, as applicable:

((~~1. The minor communication utility shall not result in a commercial intrusion which would be substantially detrimental to the residential character of the surrounding residentially zoned area.~~))

1. The proposal is for a personal wireless facility that meets the criteria contained in subsection 23.57.009A;

2. If located on a lot developed with a single family dwelling, the proposed minor communication utility is clearly incidental to the use of the property as a dwelling;

((~~2~~)) 3. If the proposed minor communication utility is proposed to exceed the permitted height of the zone ((~~or is a transmission tower~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. ((~~the following:~~

~~a. The need for the proposed communication utility to be in a Single Family zone and a justification for the proposed height;~~

~~b. That the materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~c. That proposed communication utility will not be substantially detrimental to the residential character of an area, for example through the demolition of residential dwelling units in a residential zone.~~))

E. Development Standards.

1. Location. Minor communication utilities and accessory communication devices regulated pursuant to Section 23.57.002 and amateur radio towers:

a. ((~~Dish antennas~~)) are prohibited in the required front yard, and amateur radio towers are additionally prohibited in side yards.

((~~b. Dish antennas shall be set back a minimum of ten feet (10') from all lot lines, except as provided in subsection D5.~~))

b. ((~~c. Dish antennas~~)) when ground-mounted, shall be ((~~counted~~)) included in lot coverage and rear yard coverage calculations. For dish antennas, lot ((~~C~~))coverage shall be calculated with the dish in a horizontal position.

c. ((~~d. Dish antennas~~)) may be located on rooftops of non-residential buildings, but shall not be located on rooftops of principal or accessory structures containing residential uses, except as provided in subsection E5.

((~~e. Accessory amateur radio towers may not be located in required front or side yards.~~))

2. Height and Size.

a. The height limit of the ((~~underlying~~)) zone shall apply to ((~~transmission towers~~)) minor communication utilities and accessory communication devices. Exceptions to the height limit may be authorized through the approval of an Administrative Conditional Use (see subsection C above) ((~~if located on an existing utility or public facility,~~)) or a Council Conditional Use (subsection D above).

((~~b. The maximum height for dish antennas shall be twelve feet (12') above finished grade, except as provided in subsection E5.~~))

((~~c~~)) b. The maximum diameter of dish antennas shall be ((~~twelve feet (12')~~)) six feet (6'), except for major institutions within a Major Institution Overlay District, when regulated as an administrative conditional use in subsection C above.

((~~d~~)) c. The maximum height of an accessory amateur radio tower shall be no more than fifty feet (50') above existing grade. Cages and antennas may extend to a maximum additional fifteen feet (15'). The base of the tower shall be ((~~located at a distance~~)) setback from any lot line a distance at least equivalent to one-half (1/2) the height of the total structure, including tower or other support, cage and antennas.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. A screen for freestanding antennas shall be six feet (6') tall and may be a view-obscuring fence, wall or hedge and shall be maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height above the rooftop of the installed antenna.~~

~~c. Exceptions. No screening shall be required in the following circumstances:~~

~~(i) As provided in subsection E5;~~

~~(ii) If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii) For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv) If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~

~~d. The visibility of a minor communication utility on a rooftop shall be minimized by painting it the same color as the building upon which it is located.~~)) All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4. Access and Signage. Access to transmitting accessory communication devices and to minor communication utilities shall be restricted to authorized personnel by fencing or other means of security. If located on a residential structure or on a public utility, warning signs at every point of access to the transmitting antenna shall be posted with information on the existence of radiofrequency radiation.

5. ((~~Special Exceptions for Dish Antenna~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to provisions of Chapter 23.76,~~)) the Director may grant a waiver ((~~may be permitted~~)) from development standards of subsections E1b((~~,~~)) and E1d~~, E2b and E3~~ of this ((~~subs~~))Section and the screening requirements of Section 23.57.016. The first waiver to be considered will be ((~~from the requirement for a ten-foot (10') setback; the second,~~)) reduction, then waiver from screening ((~~; and the third from the maximum permitted elevation up to a maximum of eighteen feet (18')~~)). Only if these waived regulations would still result in obstruction shall rooftop location be considered. Approval of a ((~~special exception~~)) waiver shall be subject to the following criteria:

a. The applicant shall demonstrate that the obstruction is a result of factors beyond the property owner's control, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

b. The applicant shall be required to use material, shape and color to minimize visual impact.

c. If a ((~~special exception~~)) waiver is sought per this subsection to permit a rooftop location, the maximum permitted height of the device shall be four (4) feet above the existing roofline or four (4) feet above the zone height limit, whichever is higher.

Section 32. Section 23.57.011 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.011 Lowrise, Midrise and Highrise zones.

A. Uses Permitted Outright.

1. Amateur radio devices accessory to a residential use that meet the development standards of subsection C are permitted outright.

2. ((~~Accessory Communication Devices.~~)) Communication devices accessory to residential, public facility, public utility, major institution or institutional use are permitted outright when they meet the development standards of subsection C.

3. Mechanical equipment, associated with minor communication utilities whose antennas are located on another site or in the right-of-way, is permitted outright where the equipment is completely enclosed within a structure that meets the development standards of the zone. The equipment shall not emit radiofrequency radiation, and shall not result in the loss of a dwelling unit. Antennas attached to City-owned poles in the right-of-way shall follow the terms and conditions contained in Section 15.32.300.

4. Minor communication utilities are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses Permitted by Administrative Conditional Use. ((~~Minor communication utilities~~)) The establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002, may be permitted as an Administrative Conditional Use when they meet the development standards of subsection C and the following criteria, as applicable:

1. ((~~The minor communication utility shall not result in a commercial intrusion which would be substantially detrimental to the residential character of the surrounding residentially zoned area.~~)) The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

3. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

a.) the antenna is at least one hundred feet (100') from a MIO boundary, and

b.) the antenna is substantially screened from the surrounding neighborhood's view.

((~~2~~))4. If the minor communication utility is proposed to exceed the zone height limit ((~~or is a transmission tower~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. ((~~the following:~~

~~(i) The need for the proposed communication utility to be in a residential zone and a justification for the proposed height;~~

~~(ii) That the proposed materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~(iii) That the proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.~~))

5. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

C. Development Standards.

1. Location. Minor communication utilities and accessory communication devices regulated pursuant to Section 23.57.002 and amateur radio towers:

a. ((~~Minor accessory communication devices and amateur radio towers may not be located~~)) are prohibited in a required front or side setback.

b. ((~~Minor communication utilities other than freestanding transmission towers , accessory communication devices and amateur radio towers~~)) may be located in a required rear setback, except for transmission towers.

((~~c. In all Lowrise zones, dish antennas shall not be located on rooftops of principal or accessory structures, except as provided in subsection C5.~~))

((~~d. In Midrise and Highrise zones, minor communication utilities and accessory communication devices may be located on rooftops and may exceed the zone height limit by a maximum of four feet (4').~~))

((~~e~~)) c. In all Lowrise, Midrise and Highrise zones, minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and penthouses above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report. ((~~are prohibited on the outside, except rooftops, of buildings containing the residential units.~~))

2. Height and Size.

a. The height limit of the ((~~underlying~~)) zone shall apply ((~~for transmission towers~~)) to minor communication utilities and accessory communication devices, except as may be permitted in subsection ((~~B~~)) C of this section.

((~~b. The maximum height above finished grade for freestanding dish antennas shall be twelve feet (12'), except as provided in subsection C5.~~))

((~~e~~)) b. The maximum diameter of dish antennas shall be ((~~twelve feet (12')~~)) six feet (6'), except for major institutions within the Major Institution Overlay District, regulated through an administrative conditional use in subsection C above.

((~~d~~)) c. The maximum height of an amateur radio tower shall be no more than fifty feet (50') above existing grade. Cages and antennas may extend to a maximum additional fifteen feet (15'). The base of the tower shall be ((~~located at a~~

~~distance~~)) setback from any lot line a distance at least equivalent to one-half (1/2) the height of the total structure, including tower or other support, cage and antennas.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. A screen for freestanding antennas shall be six feet (6') tall, may be a view-obscuring fence, wall or hedge, and shall be maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height above the roof of the installed antenna.~~

~~c. Exceptions. No screening shall be required under the following circumstances:~~

~~(i)As provided in subsection C5;~~

~~(ii)If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii)For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv)If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~))
All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4. Access and Signage. Access to transmitting minor communication utilities and to accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

5. ((~~Special Exceptions for Dish Antenna.~~)) Reception Window Obstruction. ((~~a.~~)) When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76,~~)) the Director may grant a waiver ((~~may be permitted~~)) from the ((~~development standards~~)) screening requirements of ((~~subsections C1c, C2b, and C3~~)) Section 23.57.016. ((~~The first waiver to be considered will be from the requirement of subsection C2b, and the second from C3. Only if these waived regulations still result in obstruction shall rooftop location requirements of subsection C1c be considered.~~)) Approval of a ((~~special exception~~)) waiver shall be subject to the following criteria:

((~~(i)~~)) a. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

((~~(ii)~~)) b. The applicant shall use material, shape and color to minimize visual impact.

((~~b. If a special exception is sought to permit a rooftop location, the maximum permitted height of the device shall be four feet (4') above the roofline or four feet (4') above the zone permitted height, whichever is higher.~~))

((~~c. If a special exception is sought from subsection C2b, the maximum permitted height shall be eighteen feet (18').~~))

Section 33. Section 23.57.012 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.012 Commercial zones.

A. Uses Permitted Outright.

1. In Neighborhood Commercial, Commercial, and the Seattle Cascade Mixed zones, minor communication utilities other than freestanding transmission towers and accessory communication devices shall be permitted outright when meeting the height limit of the zone as modified by ((~~the development standards of~~)) subsection C of this section ((~~and the height limit of the zone~~)).

2. ((~~In Commercial zones, minor communication utilities and accessory communication devices shall be permitted outright when meeting the development standards of subsection C. The height limit of the underlying zone shall not apply unless the lot is adjacent to a Single Family zone.~~)) Minor communication utilities that do not meet the height limit of the zone are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses permitted by Administrative Conditional Use.

((~~1.~~)) In Neighborhood Commercial, Commercial, and the Seattle Cascade Mixed zones, an Administrative Conditional Use shall be required for the establishment or expansion of a free standing transmission tower, regardless of height, and for minor communication utilities and accessory communication devices that ((~~, other than whip antennas, to~~)) exceed the height limit of the underlying zone as modified by subsection C of this Section ((~~, which includes the rooftop provisions of subsection C1c~~)). Approval shall be pursuant to the following criteria, as applicable: ((~~of subsection B3.~~

~~2. In Commercial zones, an Administrative Conditional Use shall be required for minor communication utilities and accessory communication devices proposed to be located on lots adjacent to Single Family zones to exceed the height limit of the underlying zone. Approval shall be pursuant to the criteria of subsection B3.~~

~~3. Administrative Conditional Use Criteria.~~

~~a. The applicant shall use material, shape and color to minimize adverse visual impacts on the neighboring residential zone.~~))

((~~b~~))1. The proposal shall not result in a significant change in the pedestrian or retail character of the commercial area.

((e))2. If the minor communication utility is proposed to exceed the zone height limit as modified by subsection C of this section, t((~~T~~))he applicant shall demonstrate that ((~~compliance with the height limit is not feasible and that the proposed height will deviate to the least practicable extent from this standard.~~)) the requested height is the minimum necessary for the effective functioning of the minor communication utility.

3. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

C. Development Standards.

1. Location and Height. Facilities in special review, historic, and landmark districts are subject to the standards of Section 23.57.014. On sites that are not in special review, historic, or landmark districts, antennas may be located on the rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, subject to the height limits in Paragraphs 1.a and 1.b, as limited by Paragraph 1.c, below:

a. Utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen feet (15') above the height of the building legally existing as of the effective date of this ordinance.

b. Utilities and devices located on a rooftop of a building that conforms to the height limit may extend up to fifteen feet (15') above the zone height limit or above the highest portion of a building, whichever is less.

c. Any height above the underlying zone height limit permitted under Paragraphs 1.a and 1.b, above, shall be allowed only if the combined total coverage by communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in Section 23.47.012H.4, does not exceed twenty percent (20%) of the total rooftop area, or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.

d. The following rooftop areas shall not be counted towards open space requirements for the building:

(i) The area eight feet (8') from and in front of a directional antenna and the area two feet (2') from and in back of a directional antenna.

(ii) The area within eight feet (8') in any direction from an omnidirectional antenna.

(iii) Such other areas in the vicinity of paging facilities as determined by the Seattle-King County Health Department after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

((~~a. Minor communication utilities, other than transmission towers, and accessory communication devices may not be located within ten feet (10') of any lot line.~~))

((~~b. Minor communication utilities and accessory communication devices may be located on rooftops and may exceed the zone height limit by a maximum of~~

((~~c. Minor communication utilities and accessory communication devices located on rooftops may extend up to fifteen feet (15') above the zone height limit if the combined total of communication utilities and accessory communication devices in addition to the roof area occupied by rooftop features listed in Section 23.47.012G4 does not exceed twenty percent (20%) of the total rooftop area or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.~~))

((~~d.~~)((~~Minor communication utilities and accessory communication devices shall be prohibited on the outside, except for rooftops, of a building containing residential units.~~))

2. Access and Signage. Access to minor communication utilities and transmitting accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. ((~~Size~~)) Height of Amateur Radio Tower. The maximum height of an amateur radio tower shall be no more than fifty feet (50') above grade in zones where the maximum height limit ((~~does not exceed~~)) is fifty feet (50') or less. Cages and antennas may extend to a maximum additional fifteen feet (15'). In zones with a maximum permitted height over fifty feet (50'), the height above grade of the amateur radio tower shall not exceed the maximum height limit of the zone.

4. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. The screen for a freestanding antenna shall be six feet (6') high, and may be a view-obscuring fence, wall or hedge maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height of the antenna.~~

~~c. Exceptions. No screening shall be required under the following circumstances:~~

~~(i) As provided by subsection C5;~~

~~(ii) If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii) For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv) If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

5. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a~~

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~~Special Exception may be permitted~~)) the Director may grant a waiver from the development standards of ((~~subsection C4~~)) this Section and Section 23.57.016, subject to the following criteria:

a. The applicant shall demonstrate that obstruction of the reception window is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to reception window obstruction.

b. The applicant shall use material, shape and color to minimize visual impact.

Section 34. Subsections B and C of Section 23.57.013, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.013 Downtown zones.

* * *

B. Development Standards.

1. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

2. ((~~The height limit of the zone shall not apply.~~)) Height.

a. Except for special review, historic and landmark districts (see Section 23.57.014), minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, as follows:

i. These utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen feet (15') above the height of the building existing as of the date of this ordinance;

ii These utilities and devices located on a rooftop may extend up to fifteen feet (15') above the zone height limit or above the highest portion of a building, whichever is less.

The additional height permitted in a (i) and (ii) above is permitted if the combined total of communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in Section 23.49.008 C2, does not exceed twenty percent (20%) of the total rooftop area or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.

b. The height of minor communications utilities and accompanying screening may be further increased through the design review process, not to exceed ten (10) percent of the maximum height of the zone in which the structure is located. For new buildings this increase in height may be granted through the design review process provided for in Section 23.41.014. For minor communication utilities on existing buildings this

increase in height may be granted through administrative design review provided for in Section 23.41.016.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. The screen for a freestanding antenna shall be six feet (6') tall, and may be a view-obscuring fence, wall or hedge maintained in good condition.~~

~~b. For antennas located on rooftops screening shall be provided to a height equal to two-thirds (2/3) of the height of the antenna.~~

~~c. Exception. No screening shall be required under the following circumstances:~~

~~(i) As provided by subsection C;~~

~~(ii) For amateur radio towers, whip antennas, antennas attached to sides of structures and any antennas attached to freestanding transmission towers.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4 ((~~d~~)). Antennas ((~~shall be prohibited on the outside, except for rooftops,~~)) may be located on rooftops of ((~~a building containing residential units.~~)) buildings, including sides of parapets above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') away from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Department of Public Health may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

C. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76, may be permitted from~~)) the Director may grant a waiver from the development standards of ((~~subsection B3~~)) this Section and Section 23.57.016, subject to the following criteria:

1. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

2. The applicant shall use material, shape and color to minimize visual impact.

Section 35. Section 23.57.014 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.014 Special review, historic and landmark districts.
((~~In the Pioneer Square Mixed, International District Mixed, International District Residential, and Pike Market Mixed zones, new minor communication utilities are prohibited.~~)).
Communication utilities and accessory communication devices for which a Certificate of Approval may be required in IDR, PSM, IDM, PMM (see SMC 25.24) zones, the International Special Review District, the Pioneer Square Preservation District, and the Ballard Avenue (SMC 25.16), Columbia City (SMC 25.20) and Harvard-Belmont (SMC 25.22) Landmark Districts shall be sited in a manner that minimizes visibility from public streets and parks and may be permitted as follows:

A. Minor communication utilities and accessory communication devices may be permitted subject to the use provisions and development standards of the underlying zone and this Chapter, with the following additional height allowance: communication utilities and devices may extend up to four feet (4') above a roof of the structure, regardless of zone height limit.

B. An Administrative Conditional Use approval shall be required for communication utilities and accessory devices regulated per Section 23.57.002, and which do not meet the requirements of subsection A above. Any action under this Section shall be subject to the Pioneer Square Preservation District and the International Special Review District review and approval and the Department of Neighborhoods Director; in the Ballard Avenue Landmark District by the Ballard Avenue Landmark District Board and the Department of Neighborhoods Director; in the Pike Place Market Historical District by the Pike Place Market Historical Commission, and in the Columbia City Landmark District and the Harvard-Belmont Landmark District by the Landmarks Preservation Board, according to the following criteria:

1. Location on rooftops is preferred, set back toward the center of the roof as far as possible. If a rooftop location is not feasible, communication utilities and accessory communication devices may be mounted on secondary building facades. Siting on primary building facades may be permitted only if the applicant shows it is impossible to site the devices on the roof or secondary facade. Determination of primary and secondary building facades will be made by the appropriate board or commission.

2. Communication utilities and accessory communication devices shall be installed in a manner that does not hide, damage or obscure architectural elements of the building or structure.

3. Visibility shall be further minimized by painting, screening, or other appropriate means, whichever is less obtrusive. Creation of false architectural features to obscure the device is discouraged.

Section 36. Section 23.57.015 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.015 Industrial zones.

A. Permitted Uses. Minor communication utilities and accessory communication devices shall be permitted outright when meeting the standards of the zone in which the site is located, except for height limits, and subsection B of this section.

B. Development Standards.

1. Height limits of the zone shall not apply to antennas or their support structures.

2. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. Visual Impacts. ((~~Antennas four (4) feet or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~1. The screen for a freestanding antenna shall be six (6) feet tall, may be a view-obscuring fence, wall or hedge, and shall be maintained in good condition.~~

~~2. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height of the antenna.~~

~~3. Exceptions. No screening shall be required under the following circumstances:~~

~~a. As provided by subsection C of this section;~~

~~b. For amateur radio towers, whip antennas, antennas attached to sides of structures and any antennas attached to freestanding transmission towers;~~

~~c. If the antenna is set back a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park.~~)) All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

C. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception-window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76, may be permitted from Subsection B of this section,~~)) the Director may grant a waiver from the development standards of this Section and Section 23.57.016, subject to the following criteria:

1. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

2. The applicant shall use material, shape and color to minimize visual impact.

Section 37. A new Section, 23.57.016, is hereby added to the Seattle Municipal Code (SMC) to read as follows:

23.57.016 Visual Impacts and Design Standards

A. Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.

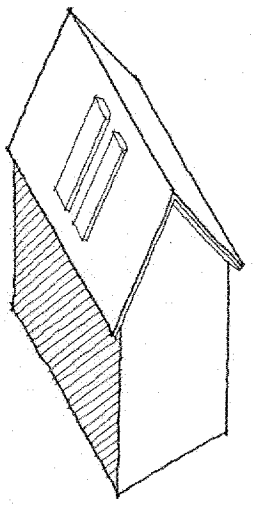
B. If mounted on a pitched roof, facilities shall be screened by materials that maintain the pitch of the roof, matching color and texture as closely as possible, or integrated with and enclosed within structures such as dormers or gables compatible with the roof design. See exhibit 23.57.016B.

C. If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Screening for satellite dishes is addressed in subsection E, below. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures and shall be no taller than such structures.

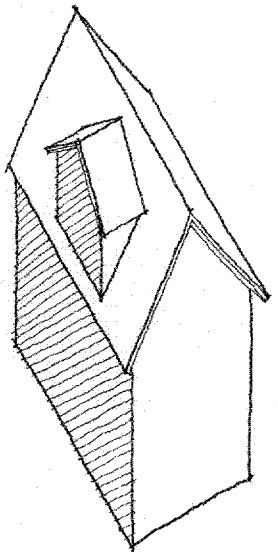
D. Facilities that are side-mounted on buildings shall be integrated with architectural elements such as window design or building decorative features, or screened by siding or other materials matching the building exterior, or otherwise be integrated with design, material, shape, and color so as to not be visibly distinctive. In general, antennas shall be as unobtrusive as practicable, including the use of non-reflective materials. Installations on the primary building façade shall be allowed only if roof, ground-mounted, or secondary façade mounted installation is technically unfeasible.

Exhibit 23.57.016B
Integration of Telecommunication Facilities

Screened by materials that maintain the pitch of the roof.



Enclosed within structures such as dormers or gables compatible with the roof design.



E. Satellite dishes that are not located on freestanding transmission towers shall be screened to the top of the dish on at last three (3) sides and shall be enclosed in the direction of the signal to the elevation allowed by the azimuth of the antenna. If screening on the remaining side is not to the top of the antenna, the antenna and the inside and outside of the screen shall be painted the same color to minimize visibility and mask the contrasting shape of the dish with building or landscape elements.

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

G. Antennas mounted on a permitted accessory structure, such as a free standing sign, shall be integrated with design, material, shape and color and shall not be visibly distinctive from the structure.

H. A screen for a ground-mounted dish antenna shall be a minimum six feet (6') tall and shall extend to the top of the dish. The screen may be in the form of a view-obscuring fence, wall or hedge that shall be maintained in good condition. Chain link, plastic or vinyl fencing/screening is prohibited.

I. Antennas attached to a public facility, such as a water tank, shall be integrated with the design, material, shape and color of, and shall not be visibly distinctive from, the public facility. Antennas attached to City-owned poles shall follow the terms and conditions contained in Section 15.32.300.

J. Freestanding transmission towers shall minimize external projections from the support structure to reduce visual impacts and to the extent feasible shall integrate antennas in a screening structure with the same dimensions as external dimensions of the support structure, or shall mount antennas with as little projection from the structure as feasible. External conduits, climbing structures, fittings, and other projections from the external face of the support structure shall be minimized to the extent feasible.

K. The standards set forth in this Section 23.57.016 may be varied as follows:

1. For new buildings these standards may be varied through the design review process provided for in Section 23.41.014.

2. For existing buildings that have previously gone through the design review process these standards may be varied by the Director if the Director determines that the new minor communication facilities would be consistent with the Director's design review decision on the original building; otherwise, these standards may be varied through the administrative design review process provided for in Section 23.41.016.

3. For existing buildings that have not previously gone through the design review process these standards may be varied through the administrative design review process provided for in Section 23.41.016.

Section 38. Subsection A of Section 23.66.122 of the SMC, which Section was last amended by Ordinance 119484, is amended as follows:

23.66.122 Prohibited uses.

A. The following uses are prohibited in the entire Pioneer Square Preservation District as both principal and accessory uses:

Retail ice dispensaries;
Plant nurseries;
Frozen food lockers;
Animal services;
Automotive retail sales and service, except gas stations located in parking garages;
Marine retail sales and service;
Heavy commercial services;
Fuel sales;
Sales, service and rental of commercial equipment and construction materials;
Adult motion picture theaters;
Adult panorams;
Bowling alleys;
Skating rinks;
Major ((~~C~~))communication utilities;
Advertising signs and off-premises directional signs;
Transportation facilities, except passenger terminals;
Outdoor storage;
Jails;
Work-release centers;
General and heavy manufacturing uses;
Salvage and Recycling uses, except recycling collection stations; and
High impact uses.

* * *

Section 39. Subsection C of Section 23.66.140 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.66.140 Height.

* * *

C. Rooftop Features. The height limits established for the rooftop features described in this subsection may be increased by the average height of the existing street parapet or a historically substantiated reconstructed parapet on the building on which the rooftop feature

is proposed. The setbacks required for rooftop features may be modified by the Department of Neighborhoods Director, after a sight line review by the Preservation Board to ensure that the features are minimally visible from public streets and parks within three hundred (300) feet of the structure.

1. ((~~Radio and television receiving antennas excluding dishes, r~~)) Religious symbols for religious institutions, smokestacks and flagpoles may extend up to fifty (50) feet above the roof of the structure or the maximum height limit, whichever is less, except as regulated in Chapter 23.64 of this Land Use Code, provided that they are a minimum of ten (10) feet from all lot lines.

2. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls may extend up to four (4) feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage.

3. Solar collectors, excluding greenhouses, may extend up to seven (7) feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage, provided they are a minimum of ten (10) feet from all lot lines.

4. The following rooftop features may extend up to eight (8) feet above the roof or maximum height limit, whichever is less, when they are set back a minimum of fifteen (15) feet from the street and three (3) feet from an alley. They may extend up to twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street. A setback may not be required at common wall lines subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The combined coverage of the following listed rooftop features shall not exceed fifteen (15) percent of the roof area:

a. Solar collectors, excluding greenhouses;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of these rooftop features, not to exceed twenty-five (25) percent of the roof area, may be permitted subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

5. Structures existing prior to June 1, 1989 may add new or replace existing mechanical equipment up to eight (8) feet above the existing roof elevation when they are set back a minimum of fifteen (15) feet from the street and three (3) feet from an alley; or may extend up to twelve (12) feet above the existing roof elevation when they are set back a minimum of thirty (30) feet from the street, subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

6. Residential and Office Penthouses.

a. Residential penthouses may cover a maximum of fifty (50) percent of the total roof surface and may extend up to eight (8) feet above the roof when set back a minimum of fifteen (15) feet from the street property line, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. Office penthouses shall be permitted only when the footprint of the existing structure is greater than ten thousand (10,000) square feet and the structure is at

least sixty (60) feet in height. When permitted, office penthouses shall be set back a minimum of fifteen (15) feet from all property lines and may cover a maximum of fifty (50) percent of the total roof surface. Office penthouses may extend up to twelve (12) feet above the roof of the structure and shall be functionally integrated into the existing structure.

c. The combined height of the structure and a residential penthouse or office penthouse, where permitted, shall not exceed the maximum height limit for that area of the District in which the structure is located.

7. Screening of Rooftop Features. Measures may be taken to screen rooftop features from public view subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The amount of rooftop area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection C4 above. In no circumstances shall the height of the rooftop screening exceed fifteen (15) feet above the maximum height limit.

8. See Section 23.57.014 for regulation of communication utilities and accessory devices.

* * *

Section 40. Subsection A of Section 23.66.322 of the SMC, which Section was last amended by Ordinance 114623, is amended as follows:

23.66.322 Prohibited uses.

A. The following uses shall be prohibited as both principal and accessory uses in the entire International Special Review District:

Adult motion picture theaters;
Adult panorams;
All general and heavy manufacturing uses;
All high-impact uses;
All salvage and recycling uses, except recycling collection stations;
Automotive retail sales and service;
Bowling lanes;
Major ((~~C~~))communication utilities;
Sales, service and rental of commercial equipment and construction materials;
Drive-in businesses;
Frozen food lockers;
Heavy commercial services;
Marine retail sales and services;
Medical testing laboratories;
Mortuary services;
Motels;
Outdoor storage;
Plant nurseries;
Retail ice dispensaries;

Shooting galleries;
Skating rinks;
Mobile home parks;
Transportation facilities except passenger terminals;
Animal services;
Jails;
Work-release centers.

* * *

Section 41. Subsection C of Section 23.66.332 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.66.332 Height

* * *

C. Rooftop Features.

1. The Special Review Board and the Department of Neighborhoods Director shall review rooftop features to preserve views from Kobe Terrace Park.

2. ((~~Radio and television receiving aerials excluding dishes, r~~)) Religious symbols for religious institutions, smokestacks and flagpoles are exempt from height controls, except as regulated in Chapter 23.64 of this Land Use Code, provided they are at least ten (10) feet from all lot lines.

3. Open railings, planters, clerestories, skylights, ((~~dish antennae,~~)) play equipment, parapets and firewalls may extend up to four (4) feet above the maximum height limit and may have unlimited rooftop coverage.

4. Solar collectors excluding greenhouses may extend up to seven (7) feet above the maximum height limit and may have unlimited rooftop coverage.

5. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit provided that the combined coverage of all features listed below does not exceed fifteen (15) percent of the roof area:

a. Solar collectors, excluding greenhouses;

b. Stair and elevator penthouses;

c. Mechanical equipment that is set back at least fifteen (15) feet from the roof edge((.));

d. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of these rooftop features, not to exceed twenty-five (25) percent of the roof area, may be permitted subject to review by the Special Review Board and approved by the Department of Neighborhoods Director.

6. Structures existing prior to June 1, 1989 may add new or replace existing mechanical equipment up to fifteen (15) feet above the existing roof elevation of the

structure as long as it is set back at least fifteen (15) feet from the roof edge subject to review by the Special Review Board and approval by the Department of Neighborhoods Director.

7. Screening of Rooftop Features. Measures may be taken to screen rooftop features from public view subject to review by the Special Review Board and approval of the Department of Neighborhoods Director. The amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection C5 above. In no circumstances shall the height of rooftop screening exceed fifteen (15) feet above the maximum height limit.

8. For height exceptions for communication utilities and devices, see Section 23.57.014.

Section 42. Subsection C of Section 23.76.022 of the SMC, which Section was last amended by Ordinance 119096, is amended as follows:

23.76.022 Administrative appeals.

* * *

C. Hearing Examiner Appeal Procedures.

1. Consolidated Appeals. All appeals of Type II Master Use Permit decisions other than shoreline decisions shall be considered together in a consolidated hearing before the Hearing Examiner.

2. Standing. Appeals may be initiated by any person significantly affected by or interested in the permit.

3. Filing of Appeals.

a. Appeals shall be filed with the Hearing Examiner by five (5:00) p.m. of the fourteenth calendar day following publication of notice of the decision; provided, that when a fourteen (14) day DNS comment period is required pursuant to SMC Chapter 25.05, appeals may be filed until five (5:00) p.m. of the twenty-first calendar day following publication of notice of the decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. The appeal shall be in writing and shall clearly identify each component of a Type II Master Use Permit being appealed. The appeal shall be accompanied by payment of the filing fee as set forth in SMC Section 3.02.125, Hearing Examiner filing fees. Specific objections to the Director's decision and the relief sought shall be stated in the written appeal.

b. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

c. The Hearing Examiner shall not accept any request for an interpretation included in the appeal unless it complies with the requirements of Section 23.88.020C3c.

4. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the

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hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.

5. Notice of Hearing. Notice of the hearing on the appeal shall be mailed by the Director at least twenty (20) days prior to the scheduled hearing date to parties of record and those requesting notice. Notice shall also be included in the next general mailed release.

6. Scope of Review. Appeals shall be considered de novo. The Hearing Examiner shall entertain issues cited in the appeal which relate to compliance with the procedures for Type II decisions as required in this chapter, compliance with substantive criteria, determinations of nonsignificance (DNSs), adequacy of an EIS upon which the decision was made, or failure to properly approve, condition or deny a permit based on disclosed adverse environmental impacts and any requests for an interpretation included in the appeal or consolidated appeal pursuant to Section 23.88.020C3.

7. Standard of Review. The Director's decisions made on a Type II Master Use Permit shall be given substantial weight, except for determinations on variances, conditional uses, and special exceptions, which shall be given no deference.

8. The Record. The record shall be established at the hearing before the Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony, written argument or exhibits.

9. Postponement or Continuance of Hearing. The Hearing Examiner shall not grant requests for postponement or continuance of an appeal hearing to allow an applicant to proceed with an alternative development proposal under separate application, unless all parties to the appeal agree in writing to such postponement or continuance.

10. Hearing Examiner's Decision. The Hearing Examiner shall issue a written decision within fifteen (15) days after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made. The Director and all parties of record shall be bound by the terms and conditions of the Hearing Examiner's decision.

11. Notice of Hearing Examiner Decision. The Hearing Examiner's decision shall be mailed by the Hearing Examiner on the day the decision is issued to the parties of record and to all those requesting notice. If environmental issues were raised in the appeal, the decision shall also be filed with the SEPA Public Information Center. The decision shall contain information regarding judicial review. To the extent such information is available to the Hearing Examiner, the decision shall contain the name and address of the owner of the property at issue, of the applicant, and of each person who filed an appeal with the Hearing Examiner, unless such person abandoned the appeal or such person's claims were dismissed before the hearing.

12. Appeal of Hearing Examiner's Decision. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040 ((.)), <u>or if the appeal concerns a decision on personal wireless service, the appeal shall be filed within thirty (30) days of the Hearing Examiner's or Council's final decision.</u>

Section 43. Subsection D of Section 23.76.056 of the SMC, which Section was last amended by Ordinance 118181, is amended as follows:

23.76.056 Council decision on Hearing Examiner recommendation.

* * *

D. Any Type IV decision shall be final and conclusive unless Council retains jurisdiction or the decision is reversed or remanded on judicial appeal or appeal to the Shorelines Hearings Board. Any judicial review of a decision not appealable to the Shorelines Hearings Board must be commenced within twenty-one (21) days of issuance of the Council's decision, as provided by RCW 36.70C.040 ((~~.~~)), except that an appeal of a decision concerning personal wireless service must be commenced within thirty (30) days of issuance of the decision.

* * *

Section 44. Section 23.84.006 of the SMC, which was last amended by Ordinance 120443, is amended as follows:

23.84.006 "C."

* * *

Communication Devices and Utilities (and Related Terms).

1. "Candelabra mounting" means a single spreader that supports more than two (2) antennas.

((~~1~~))2. "Communication device, accessory" means a device by which radiofrequency communication signals are transmitted and/or received, such as but not limited to whip, horn and dish antennas, and which is accessory to the principal use on the site. ((~~Receive-only television and radio antennas and amateur radio towers are not included in this definition. Communication equipment such as Citizen Band radios, telephones which depend upon wires and cables or hand-held telephones are exempt from the Land Use Code regulations.~~))

((~~2~~))3. "Communication utility, major" means a ((~~business~~)) use in which the means for radiofrequency transfer of information are provided by facilities with significant impacts beyond their immediate area. These utilities include, but are not limited to FM and AM radio((~~,~~)) and UHF and VHF television transmission towers((~~, and earth stations~~)). A major communication utility use does not include communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

((~~3~~))4. "Communication utility, minor" means a ((~~business~~)) use in which the means for radiofrequency transfer of information are provided but which generally does not have significant impacts beyond the immediate area. These ((~~facilities~~)) utilities are smaller in size than major communication utilities and include two (2) way, land-mobile, personal wireless services and cellular communications facilities; cable TV facilities; point-to-point microwave antennas; FM translators; and FM boosters with under ten (10) watts transmitting power. A minor communication utility does not include wire, cables, or communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

((4))5. "Dish antenna" means a round parabolic device for the reception and/or transmission of radiofrequency communication signals. Dish antenna may serve either as a major or minor communication utility or may be an accessory communication device. Dish antenna may be either a) a satellite earth station antenna, which receives signals from and/or transmits signals to satellites, or b) a point-to-point, point-to-multipoint, or point-to-consecutive-point antenna, which receive signals from terrestrial sources.

((~~5. "Earth station" means a major communication utility which transmits and receives signals to and from an orbiting satellite and is twenty-five (25) feet in diameter or larger.~~))

6. "Fixed wireless service" means the transmission of commercial non-broadcast communication signals via wireless technology to and/or from a fixed customer location. Fixed wireless service does not include AM radio, FM radio, amateur ("HAM") radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.

7. "Personal wireless service" means a commercial use offering cellular mobile services, unlicensed wireless services and common carrier wireless exchange access services.

((~~6~~))8. "Physical expansion of major or minor communication utilities" means any increase in footprint and/or envelope of transmission towers. Physical expansion does not include an increase in height of the tower resulting from repair, reconstruction, replacement or modification to the antenna ((~~, accessory telecommunication devices, transmission tower or accessory building~~)) that would result in lower radiofrequency radiation exposure readings at ground level or in greater public safety, as long as the height above mean sea level does not increase by more than ten (10) percent and in any event does not exceed one thousand one hundred (1,100) feet above mean sea level. Replacement of existing antennas or addition of new antennas is not considered physical expansion, unless such replacement or addition increases the envelope of the transmission tower by such means as utilizing a candelabra mounting. Replacement or expansion of an equipment building is not considered physical expansion.

((~~7~~))9. "Receive-only communication device((~~s~~))" means a radiofrequency device with the ability to receive signals, but not to transmit them.

((~~8~~))10. "Reception window obstruction" means a physical barrier which would block the signal between an orbiting satellite an a land-based antenna.

11. "Satellite dish antenna." See "Dish antenna."

((~~9~~))12. "Shared-use facility" means a telecommunication facility used by two (2) or more television stations or five (5) or more FM stations.

((~~10~~))13. "Single-occupant facility" means a telecommunication facility used by only one (1) television station or by one (1) television station and one (1) to four (4) FM stations.

((~~11~~))14. "Transmission tower" means a tower or monopole on which communication devices are placed. Transmission towers may serve either as a major or minor communication facility.

((~~12. "Candelabra mounting" means a single spreader which supports more than two (2) antennas.~~))

15. "Whip antenna" means an omnidirectional antenna, cylindrical in shape, four inches (4") or less in diameter and twelve feet (12') or less in length.

* * *

Section 45. Subsection F of Section 25.05.675 of the SMC, which Section was last amended by Ordinance 120692, is amended as follows:

25.05.675 Specific environmental policies.

* * *

F. Environmental Health.

1. Policy Background.

a. The use, discharge, disposal, emission or application of toxic or hazardous materials may pose hazards to human health and to plants, animals and ecological systems. Hazardous materials include such things as pesticides, herbicides, and electromagnetic transmissions.

b. Federal, state and regional regulations are the primary means of mitigating risks associated with hazardous and toxic materials. ((~~c. Federal, state and regional regulations cannot always~~)) However, such regulations cannot always be developed and implemented to anticipate or eliminate adverse impacts from hazardous materials and transmissions. Public knowledge regarding such hazardous materials and transmissions may develop more quickly than the regulations ((~~can react and be implemented~~)).

c. To the extent that personal wireless and fixed wireless facilities comply with the Federal Communications Commission regulations concerning radiofrequency emissions, the City may not regulate placement, construction, and modification of such facilities on the basis of the environmental effects of such emissions, according to the Federal Telecommunications Act of 1996.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts resulting from toxic or hazardous materials and transmissions, to the extent permitted by federal and state law.

b. For all proposed projects involving the use, treatment, transport, storage, disposal, emission, or application of toxic or hazardous chemicals, materials, wastes or transmissions, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the extent of potential adverse impacts and the need for mitigation, where permitted by federal and state law.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, if the decisionmaker makes a written finding that applicable federal, state and regional laws and regulations did not anticipate or do not adequately address the adverse impacts of a proposed project, the project may be conditioned or denied to mitigate its adverse impacts. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;
ii. Reduction in the size or scope of a project or operation;
iii. Limits on the time and/or duration of operation; and
iv. Alternative routes of transportation.

* * *

Section 46. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 47. 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 the Municipal Code Section 1.04.020.

Passed by the City Council the 23rd day of September, 2002, and signed by me in open session in authentication of its passage this 23rd day of September, 2002

President of the City Council

Approved by me this 2 day of October, 2002

Mayor

Filed by me this 3rd day of October, 2002

City Clerk

(Seal)

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

May 20, 2002

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

Dear Council President Steinbrueck:

I am transmitting the attached ordinance for Council consideration.

This legislation would amend Land Use Code regulations governing telecommunication facilities and devices. I have reviewed this legislation, prepared by the Department of Design, Construction and Land Use, and concur with their recommendations. The overall approach of the proposed amendments to the Land Use Code, as well as the original legislation that adopted the existing telecommunication regulations, is to ensure that negative impacts associated with these facilities are avoided or minimized. The legislation consists of two ordinances, one to amend the Shoreline portion of the Land Use Code, and one to amend other portions of the Land Use Code as well as the SEPA Environmental Health policy in Title 25 of the Municipal Code. The enclosed ordinance deals with the non-shoreline portion of the Land Use Code. Details of the ordinance are discussed in the Director's Report.

DCLU completed environmental review on the two proposed ordinances and issued a Determination of Non-Significance (no environmental impact statement required) on August 20, 2001. The DNS was not appealed. Implementation costs associated with this legislation will be minor, and can be accommodated within existing resources and will be borne by the applicant as part of fees charged for project review.

A public hearing on this legislation will be required under SMC 23.76 and will be scheduled before the City Council's Land Use Committee.

Thank you for your consideration of this legislation. Should you have any questions please contact Cliff Marks of DCLU at 684-8372.

Sincerely,

GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873
Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@ci.seattle.wa.us
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City of Seattle
Department of Design,
Construction and Land Use

DIRECTOR'S REPORT AND RECOMMENDATION

Proposed Land Use Code Amendments To Regulations Dealing with Telecommunication Utilities

May 13, 2002

INTRODUCTION AND BACKGROUND

The Department of Design, Construction and Land Use is proposing legislation to amend the Land Use Code to modify regulations governing telecommunication facilities and devices. There are two types of communication utilities, Major and Minor. Major communication utilities are TV and radio towers such as those located on Queen Anne and Capitol Hills. Minor communication utilities provide several types of service but the most common are wireless facilities serving cellular telephone users. The majority of this proposed legislation addresses Minor Communication Utilities.

The proposed Land Use Code amendments address location and placement of devices, review processes based on type of devices and corresponding zones, height limits, mitigation of visual impacts, and regulations due to proximity to landmarks and/or historical structures. The legislation consists of two ordinances, one to amend the Shoreline portion of the Land Use Code, and one to amend other portions of the Land Use Code as well as the SEPA Environmental Health policy in Title 25 of the Municipal Code.

Earlier versions of these ordinances were submitted to the City Council and a public hearing was held in February 2000. After the February 2000 public hearing, and in response to issues raised at the hearing, the City Council directed DCLU to make changes to the proposal, mainly with respect to improving the way visual impacts are addressed and the criteria that deal with establishing the "need" to locate in specific zones. A new draft was prepared in November 2000 and submitted for public comment. Upon further consideration of public comment and industry input, a final recommendation has now been prepared for the Council's consideration.

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Goals and Objectives of the Proposed Legislation

The original purpose of these proposed amendments was to bring the Municipal Code into compliance with federal and state laws (Federal Telecommunications Act, Federal Communications Commission Rules, Washington State legislation - RCW 43.21C.0384). These laws, adopted in 1996 and 1997, removed or diminished local jurisdictions' authority over various types of telecommunication facilities. The Federal Telecommunications Act of 1996 was approved to spur competition in all communication services. The Washington State legislature subsequently adopted a bill that exempts certain personal wireless services facilities from local regulatory review. Later, the Federal Communication Commission (FCC) adopted rules that preempt local zoning regulations of certain small satellite earth station antennas and certain direct-to-home video services. As a result of these laws, especially with regard to encouraging competition among providers of cellular telephones and other personal communication services, Seattle (along with much of the rest of the country) experienced a significant number of new antennas being installed on rooftops, on buildings, and a few on monopoles.

In addition to the changes mandated by federal and state law, most of the recommended changes are based on concerns that have been raised by applicants, community members, and staff, concerning ways that the code could be improved in terms of greater consistency and clarity, and in effectiveness in dealing with the impacts of telecommunication facilities, especially visual impacts. The proposed amendments would change development standards concerning major institutions, general screening requirements, landmarks and special review districts, rooftop coverage, among others, to meet local objectives and to respond to evolving technology involved with provision of wireless and other services.

The proposed amendments are also designed to meet the objectives of Seattle's existing telecommunication regulations and Seattle Comprehensive Plan goals on telecommunications. Seattle Comprehensive Plan goal L357 states: "recognize the public benefit provided but only allow these utilities in locations where impacts can be mitigated...." Also, Goal L362 states that "Minor communication utilities shall be developed in such a manner as to minimize impacts on nearby areas. Consideration shall be given to the following criteria: visual impacts, proximity to schools, neighborhood compatibility, land use and other impacts."

The overall approach of the proposed amendments to the Land Use Code, as well as the original legislation that adopted the existing telecommunication regulations, is to ensure that these impacts are avoided or minimized. And the standards and approval criteria are based on the underlying zone. The regulations are much more restrictive with respect to the type of approval required (Council Conditional Use, Administrative Conditional Use, or permitted outright), and development standards applied (such as screening requirements), in residential (especially Single Family) zones, less restrictive in commercial zones, and even less so in downtown and industrial zones.

EVALUATION OF ALTERNATIVES AND RECOMMENDATIONS

Following is a discussion of some of the major aspects of the proposal, the issues involved, the alternatives considered, and the recommendations contained in the proposed legislation. A more complete list of the proposed changes is contained in Attachment A.

Visual Impacts of Minor Communication Utilities

A main focus of these proposed changes is to improve the way the City addresses the visual impacts of telecommunication facilities. These proposed amendments promote the incorporation of new minor communication utilities into the architecture of existing buildings; the standards could be varied through a design review process. This is the approach of many jurisdictions; other jurisdictions' standards are often more stringent than Seattle's current ones. In addition, the current code requires measures, such as screening, to mitigate visual impacts only in cases where telecommunication facilities are to be located adjacent to or across a street from a public park or residentially zoned lot. The proposed regulations would require that visual impacts be addressed in and throughout all zones. The somewhat "discretionary" nature of the new visual impact standards may present challenges in implementation; however, this is an appropriate approach since it is preferable to overly specific standards (such as the current "Two-thirds of the height of the antenna shall be screened"); flexibility is often required to effectively address specific locational circumstances.

Type of Approval Required for Minor Communication Utilities

A summary chart of the types of approval required, by zone, both by the existing Land Use Code and under the proposed changes is contained in Attachment B.

Single Family Zones Since the number of cell sites is expanding rapidly, and the need for serving residential areas is growing, there have been a number of recent proposals for wireless facilities to locate on non-residential structures, such as churches, in single family zones. It is likely that these proposals will continue to increase. Council Conditional Use (CCU) approval in these cases is not practical or advisable especially given the number of likely new proposals, the advent of new visual impact standards, and the tougher criteria for approving freestanding transmission towers. Therefore, the proposed amendments would limit instances where a CCU is required -- only an Administrative Conditional Use (ACU) approval would be required when a utility is to be located on a nonresidential structure such as a church or non-conforming commercial building. The proposal is based on the belief that only very large and intrusive projects should require Council approval. (Note: a CCU would still be required to locate a minor communication utility on vacant land or on an existing single family structure; and a more restrictive criterion must be met: the applicant must prove that the utility is needed in that specific location to fill a "significant gap" in service.)

The proposed amendments would permit outright new minor communication utilities locating on existing towers. According to the current regulations an ACU approval for

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such co-location is required in the following circumstances: always in residential zones and when the new facility would be located above the height limit in commercial zones. The proposed change would promote co-location, which has always been a goal of the telecommunication regulations; this change would reduce the need for new freestanding towers or location of new utilities on existing buildings. In addition, the proposal contains visual impact standards for locating facilities on existing towers. Therefore, the proposal would deal with the main concerns that are typically raised with ACU approvals: visual impacts and commercial intrusion into residential zones.

It is also proposed that mechanical equipment associated with off-site antennas (in the right-of-way or on another lot) be allowed outright as long as the equipment is enclosed within a structure, no radiofrequency radiation is emitted (e.g., is not an antenna), and all the development standards of the zone are met. Conditional use approval is not justified given that all development standards of the underlying zone would be met even if a new structure were built to accommodate the equipment. "Commercial intrusion" (an existing conditional use criterion) is not an issue because the equipment would not be visible and no dwelling units could be eliminated in residential zones.

Industrial Zones The proposal would continue to permit all facilities outright in these zones. An issue has been raised as to whether freestanding towers should require Administrative Conditional Use approval in some industrially zoned areas (such as surrounding Lake Union and the Ship Canal, along Elliott Bay west of Queen Anne Hill, and along Harbor Avenue in West Seattle) as is proposed for all new towers in commercial zones. It has been argued that by allowing freestanding transmission towers outright in industrial zones, there could be a whole series of towers located where there are narrow bands of industrial zoning near residential areas. However, the approach historically has been to encourage communication utilities to locate in industrial areas, and we continue to believe this is the appropriate.

Criteria for Approval of Minor Communication Utilities

Existing Land Use Code criteria have historically been insufficient in addressing concerns related to the siting of minor communication utilities, especially the criterion that required applicants to show a "need" to locate in residential zones. Also, similar concerns have been treated differently in different zones. The proposed amendments would simplify the review criteria and provide consistency between zones. For example, the criteria for a new transmission tower would be the same in all residential and commercial zones. A listing of the proposed new criteria, by zone, is presented in Appendix C.

For any facility in residential zones: In general, for the basic type of approval in residential zones, rather than demonstrating a "need" to be located in the residential zones, the focus would be on addressing the impacts of the new facilities, especially visual impacts, of locating in the zone. A criterion has also been added that states that the facility and location shall be the least intrusive facility at the least intrusive location. In

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addition, if height limits are to be exceeded, and especially if a new freestanding tower is proposed, additional tougher criteria would need to be met.

A proposal to establish a quantifiable standard (relating to the quality of reception or relating to the percentage of calls that cannot be handled by the existing cell phone network) for approval was considered, rather than the more subjective existing criterion that requires the applicant to show the "need" to be located in a residential zone or to exceed the height limit. However, a quantifiable standard would be somewhat arbitrary and, with the proliferation of these facilities, such a standard could be difficult to implement. As noted, the criteria that is proposed for facility approval in residential zones is based on the impacts that may be anticipated from the new facility and are designed to ensure that these impacts are minimized. And, as also noted, when the height limit would be exceeded, or if the proposal is for a new freestanding tower, then additional criteria would need to be met (see below). We determined that these standards address the most important issues.

To exceed height limit in single family, multifamily, or commercial zones: The proposed amendments would require that the applicant show that the requested height is the minimum necessary for the effective functioning of the minor communication utility. An earlier version of the proposed amendments also contained a criterion that would require the applicant to show that an alternative of several smaller facilities on other sites is not "technically feasible" if they want to exceed the height limit. The "technically feasible" criterion may be difficult to meet. The industry believes that what is technically feasible may be prohibitively expensive. We are getting many applications for antennas to be located on the rooftops of existing structures, sometimes exceeding the height limit by only a few feet. Requiring this difficult criterion to be met for all these cases might be problematic. Also, requiring several alternative sites, with their accompanying impacts, may not be justified as an alternative to a rooftop antenna that would barely exceed the height limit. The overall impacts of these several alternative sites would outweigh the impacts of the one rooftop antenna that exceeded the height limit. Therefore, the final proposal does not contain this criterion. However, this criterion is appropriate with respect to the establishment of new freestanding towers (see below).

For freestanding towers: As noted, the proposal promotes a greater number of smaller sites as an alternative to new freestanding towers. An issue is whether this is, in fact, better than one large tower. Some might argue that more sites would create greater visual impacts, and one citizen has called for fewer, larger towers that look like pine trees. However, we believe, on balance, that several small sites would be less obtrusive than a large freestanding tower. Also, even though the "technically feasible" criterion may be difficult to meet, it is justified since the intent is to strongly discourage the construction of new freestanding towers.

Nonconforming Facilities

A citizen has raised the question as to whether existing minor communication utilities that become nonconforming as to the new visual impact provisions should be required to

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be brought into conformity with the new code when new facilities are added, or over a certain specified period. We have chosen to propose such a requirement only when a third minor communication utility would locate on the same site in a Single Family zone in order to prevent the appearance of "antenna farms" in these sensitive residential areas. Otherwise, we believe that such retrofitting is not needed, given the fact that the new visual impact requirements will greatly increase the number of new utilities that have to meet new, tougher design standards. It is proposed that this issue be taken up at a later date after monitoring the results of the new regulations with respect to visual impacts.

CONCLUSION

A list of the major proposed changes to the existing code are contained in Attachment A that follows. In some instances it will be easier for minor communication utilities to locate in certain areas, such as on existing towers or on minor institutions in single family zones. But in other cases it will be more difficult to locate certain minor communication utilities, such as freestanding towers. Also, much more effective visual impact standards are proposed. The changes will also bring the City into conformity with federal and state regulations dealing with telecommunication facilities. In general, these amendments will improve how the City regulates these uses.

Attachment A
List of Major Proposed Changes to Existing Code

Following are the main proposed changes to the Land Use Code:

General Provisions

- Require removal of unused telecommunication equipment (poles, antennas, etc.).
- Allow co-location of minor communication utilities on existing major communication utilities to reduce the potential for more monopoles. In addition, new minor communication utilities would also be permitted outright on existing minor communication utility freestanding towers.
- Permit outright in all zones, except in single family structures in Single Family zones, minor communication utilities that are contained wholly within a structure as long as it does not result in loss of a dwelling unit in residential zones.
- Permit outright in all zones mechanical equipment associated with minor communication antennas located on another site or in the right-of-way, as long as the equipment is enclosed within a structure that conforms to the development standards of the zone.

Development Standards

- Eliminate the 10 foot from property line setback requirement in Single Family and Commercial zones. The current code has resulted in the need for taller facilities when they are required to locate back from the edge of the building. The proposed visual impact standards (see below) encourage incorporation into the architecture of the building. This is often more feasible if the facility can be incorporated into the parapet at the building's edge.
- Incorporate rooftop open space provisions (which are already in Lowrise zones) into Midrise, Highrise and Downtown zones; these provisions require specified separation between transmitting antennas and required open space located on rooftops.
- Limit minor communication utilities/accessory devices in Commercial zones to 15 feet above the height of the building or 15 feet above the height limit, whichever is less; the current code permits facilities to go 15 feet above the height limit; the proposed regulations are designed to prevent "monopoles" on top of short buildings.
- Also limit minor communication utilities/accessory devices Downtown to 15 feet above the height of the building or 15 feet above the height limit, whichever is less. However, such facilities and accompanying screening could be permitted through design review as long as the height of the utility does not exceed ten percent of the maximum height of the zone.

Visual Impacts

- A new code section is devoted entirely to addressing and mitigating visual impacts and establishing design standards for telecommunication devices and infrastructure as noted in the body of this report. See proposed Section 23.57.016.

- When a third minor communication utility would locate on the same site in a Single Family zone, all existing utilities must also be screened or otherwise brought into conformity with this new code section.

Type of Approval Required and Approval Criteria for Minor Communication Utilities, By Zone

A summary of the proposed changes for types of approval required, by zone, are contained in Attachment B. Attachment C lists the criteria that would apply for conditional use approval in single family, multifamily, and commercial zones.

Single Family Zones Facilities to be located on single family houses or vacant lots would continue to require a Council Conditional Use (CCU) approval. The proposed regulations require that such a use would only be permitted if it can be demonstrated that the location on the specific site is required to fill a "significant gap" in wireless services; see proposed Section 23.57.009A. Facilities to be located on all other locations (institutions, non-conforming commercial, etc.) would only need Administrative Conditional Use (ACU) approval. The current code requires CCU approval for all locations except on an existing utility or public facility, in which case an ACU is required.

Lowrise, Midrise and Highrise Zones Proposed revised criteria for ACU approval in these zones is included in Attachment C.

Commercial Zones It is proposed than an ACU be required anywhere in Neighborhood Commercial (NC), Commercial (C), and Seattle Cascade Mixed (SCM) zones for minor communication utilities that would exceed the height limit of the zone and for new free standing transmission towers. The existing code only requires an ACU if the facility would exceed the height limit in two instances: a) anywhere in NC zones, and b) on lots adjacent to single family zones in C zones.

Pike Market Mixed, Pioneer Square Mixed, and International District zones Continue to prohibit major communication utilities, while permitting minor communication utilities; up to 4 feet additional height above the roof is permitted outright, while greater height would require an ACU approval. Current requirements for a Department of Neighborhoods Certificate of Approval are unchanged.

Major Institutions Allow an ACU for major institutions with underlying residential zoning even if telecommunication facilities are larger than that permitted in the residential zone; the antenna must be at least 100 feet inside the Major Institution Overlay boundary and be substantially screened from the surrounding neighborhood's view. An ACU would not be required if a Major Institution Master Plan has been adopted that addresses telecommunication facilities.

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Definitions and Exemptions

- Expanded or modified definitions, development standards and review criteria are included for Personal Wireless Facilities, Fixed Wireless Service, Amateur Radio Towers, Dish Antennas, Minor Communication Utilities, Accessory Communication Devices, Freestanding Transmission Towers, Utility Service Use, and all other telecommunication devices and infrastructure regulated under the SMC. In general, federal definitions are used where appropriate.
- Exemptions from the regulations reflect federal preemptions on the type and size of antennas or services that local governments are permitted to regulate.

Other

- Amend the SEPA "Environmental Health" policy to incorporate the FCC preemption over radiofrequency emissions for personal wireless facilities.

Shorelines

- Regulations would distinguish between major and minor communication utilities and accessory communication devices throughout the shoreline ordinance.
- Major communication utilities would continue to be prohibited in the shoreline.
- Minor communication utilities and accessory communication devices (except free standing transmission towers) would be permitted only in shoreline environments where non-water dependent commercial uses are already permitted (Urban Stable, Urban Harborfront, Urban Maritime, Urban General, Urban Industrial).
- Urban Harborfront provisions are modified to reflect height limits downtown. (Minor communication utilities/accessory devices limited to 15 feet above the height of the building or 15 feet above the height limit, whichever is less.)

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Attachment B:
Summary of Changes From Existing Code Regarding Type of Approval and Criteria for Approval of Minor Communication Utilities, By Zone

Zone(s)	Existing Code	Proposed Changes
RSL, SF	• Council Conditional Use (CCU) except if on existing utility or public facility. • Administrative Conditional Use (ACU) required for locating on existing public facility or utility.	• Permitted outright if locating on existing tower; must meet visual impact standards. • Only ACU required if on non-residential structure. • Approval criteria rewritten and additional criteria if proposal exceeds height limit or is a new free standing tower.
Multifamily	ACU in all cases	• Permitted outright if locating on existing tower; must meet visual impact standards. • Approval criteria rewritten and additional criteria if proposal exceeds height limit or is a new free standing tower.
Commercial	• In Neighborhood Commercial (NC) zones ACU required only if height would be exceeded • In Commercial (C) zones ACU is required only if height limit would be exceed on lots next to a single family zone	• Permitted outright if locating on existing tower; must meet visual impact standards. • ACU required throughout zone if would exceed height limit, or existing building height, by more than 15', whichever is less. • Approval criteria rewritten and additional criteria if proposal exceeds height limit or is a new free standing tower.
Downtown	Allowed outright	Add restriction as to height: cannot exceed height limit, or existing building height, by more than 15', whichever is less. Additional height may be obtained through the design review process.
Industrial	Allowed outright	No change

Attachment C
Proposed Minor Communication Utilities Conditional Use Criteria

Single Family Zone -- on lot with single family house or vacant lot – Requires Council Conditional Use (CCU)	
Basic criteria	• Prohibited except if a personal wireless facility meets the criteria contained in section 23.57.009A (is needed to fill "significant gap" in wireless service) • In addition, if located on a lot developed with a single family dwelling, the proposed minor communication utility must be clearly incidental to the use of the property as a dwelling
Additional criteria if proposal would exceed height limit	• The requested height is the minimum necessary for the effective functioning of the minor communication utility
Additional criteria if proposal is a transmission tower	• That it is not technically feasible for the utility to be employed at an alternative location on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a utility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered

Single Family Zone - On same lot but not accessory to institutions, public facilities, major institutions, or existing non-conforming commercial use-- Requires Administrative Conditional Use (ACU)	
Basic criteria	• The minor utility shall not be significantly detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units • The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable • Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when: a.) the antenna is at least one hundred feet (100') from a MIO boundary, and b.) the antenna is substantially screened from the surrounding neighborhood's view
Additional criteria if proposal would exceed height limit	• The requested height is the minimum necessary for the effective functioning of the minor communication utility
Additional criteria if proposal is a transmission tower	• That it is not technically feasible for the utility to be employed at an alternative location on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a utility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered

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Lowrise, Midrise, Highrise Zone – all projects require ACU	
Basic criteria	• The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units • The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable • Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when: a.) the antenna is at least one hundred feet (100') from a MIO boundary, and b.) the antenna is substantially screened from the surrounding neighborhood's view
Additional criteria if proposal would exceed height limit	• The requested height is the minimum necessary for the effective functioning of the minor communication utility
Additional criteria if proposal is a transmission tower	• That it is not technically feasible for the utility to be employed at an alternative location on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a utility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered

Commercial (NC and C) Zones – project requires an ACU only if it is a transmission tower or would exceed the height limit; other facilities are permitted outright	
Basic criteria	• The proposal shall not result in a significant change in the pedestrian or retail character of the commercial area
Additional criteria if proposal would exceed height limit	• The requested height is the minimum necessary for the effective functioning of the minor communication utility
Additional criteria if proposal is a transmission tower	• That it is not technically feasible for the utility to be employed at an alternative location on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a utility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

ORDINANCE_____

AN ORDINANCE relating to land use and zoning, amending Chapter 23.57 and Sections 23.41.004, 23.41.012, 23.44.002, 23.44.012, 23.45.002, 23.45.009, 23.45.016, 23.45.050, 23.45.058, 23.45.066, 23.45.074, 23.47.002, 23.47.012, 23.47.024, 23.48.002, 23.48.010, 23.49.002, 23.49.008, 23.49.009, 23.49.208, 23.49.338, 23.50.002, 23.50.020, 23.66.122, 23.66.140, 23.66.322, 23.66.332, 23.76.022, 23.76.056, 23.84.006, and 25.05.675 of the Seattle Municipal Code to clarify regulations, to add additional regulations and to comply with new federal and state telecommunication laws.

WHEREAS, the City's Comprehensive Plan calls for universal access to state-of-the-art telecommunication services (Utilities G6) and for encouraging the development of telecommunications infrastructure citywide (Economic Development E24); and

WHEREAS, the Federal Telecommunications Act of 1996 encourages the growth of the telecommunications industry through deregulation, and places certain limits on local governmental authority to condition or deny applications for personal wireless service facilities; and

WHEREAS, the Federal Communications Commission has preempted local government control over certain small receive-only antennas; and

WHEREAS, the State of Washington amended the State Environmental Policy Act (SEPA) in 1996 to exclude certain telecommunications facilities from environmental review; and

WHEREAS, the City of Seattle recognizes the health, safety and public welfare aspects of telecommunication facilities; and

WHEREAS, the City of Seattle will encourage creative approaches in siting telecommunication facilities to minimize the unsightly characteristics that may be associated with these facilities, while providing for a wide range of locations and options for providers:

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection B of Section 23.41.004 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

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SMC 23.41.004 Applicability.

***

B. Design Review -- Optional.

1. Design review is optional to any applicant for new multifamily, commercial or Major Institution structures not otherwise subject to this chapter, in the Stadium Transition Area Overlay District and in all multifamily, commercial or downtown zones.

2. An administrative design review process is an option to an applicant for new multifamily, or commercial structures, if the structure would not exceed SEPA thresholds or as provided in subsection B3 below, in the Stadium Transition Area Overlay District and in multifamily, commercial or downtown zones, according to the process described in Section 23.41.016.

3. Administrative Design Review to Protect Trees. As provided in Sections 25.11.070 and 25.11.080, an administrative design review process (Section 23.41.016) is an option to an applicant for new multifamily and commercial structures in Lowrise, Midrise, and commercial zones to protect a tree over two (2) feet in diameter measured four and one-half (4 ½) feet above the ground, even when the project exceeds SEPA thresholds but design review would not otherwise be required by Subsection A, above.

4. An administrative design review process is an option to an applicant for installation of telecommunication devices on new or existing structures according to the process described in Section 23.41.016 in order to vary minor communication utility height limits in downtown zones set forth in SMC 23.57.013B, and telecommunication facilities development standards set forth in Section 23.57.016.

***

Section 2. Subsection B of Section 23.41.012 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

23.41.012 Development standard departures.

* * *

B. Departures may be granted from the following requirements:

1. Structure width and depth limits;
2. Setback requirements;
3. Modulation requirements;
4. SCM zone facade requirements, including transparency and blank facade provisions;
5. Design, location on the lot and access to parking requirements;
6. Open space or common recreation area requirements;
7. Lot coverage limits;
8. Screening and landscaping requirements;

9. Standards for the location and design of nonresidential uses in mixed use buildings;

10. Within Urban Centers, in L3 zones only, the pitched roof of a structure, as provided in Section 23.45.009 C, may incorporate additional height of up to twenty (20) percent of the maximum height permitted, as provided in Section 23.45.009 A, subject to the following limitations:

a. A pitched roof may not incorporate the additional height if the structure is on a lot abutting or across a street or alley from a single-family residential zone,

b. The proposed structure must be compatible with the general development potential anticipated within the zone,

c. The additional height must not substantially interfere with views from up-slope properties, and

d. No more than one (1) project on one (1) site within each Urban Center may incorporate additional height in the pitched roofs of its structures pursuant to this subsection unless development regulations enacted pursuant to a neighborhood planning process allow other projects to incorporate such additional height;

11. Building height within the Roosevelt Commercial Core, up to an additional three (3) feet, for properties zoned NC3-65', (Exhibit 23.41.012A, Roosevelt Commercial Core);

12. Building height within the Ballard Municipal Center master plan area, for properties zoned NC3-65', (Exhibit 23.41.012B, Ballard Municipal Center Master Plan area). The additional height may not exceed nine (9) feet, and may be granted only for townhouses that front a mid-block pedestrian connection or a park identified in the Ballard Municipal Center Master Plan;

13. Reduction in required parking for ground level retail uses that abut established mid-block pedestrian connections through private property as identified in the "Ballard Municipal Center Master Plan Design Guidelines, 2000." The parking requirement must be no less that the required parking for Pedestrian 1 designated areas shown in Section 23.47.044 Chart E;

14. Downtown or Stadium Transition Overlay District street facade requirements;

15. Downtown upper-level development standards;

16. Downtown coverage and floor size limits;

17. Downtown maximum wall dimensions;

18. Downtown street level use requirements;

19. Combined coverage of all rooftop features in downtown zones subject to the limitations in Section 23.49.008 C2;

20. Certain conditions to allowance of additional height in DOC 1 and DOC 2 zones pursuant to subsection 23.49.008A 2, as follows:

a. Limits on gross floor area of stories under subsection 23.49.008 A2a(2); and

b. Percentages of lot area that must be occupied by open space or by structures no greater than thirty-five (35) or sixty-five (65) feet in height, under subsection 23.49.008 A2b(1);

21. Building height in Lowrise zones, and parking standards of Section 23.54.015 in Midrise and Commercial zones, in order to protect existing trees as provided in Chapter 25.11; ((~~and~~))

22. Downtown view corridor and Downtown Green Street requirements to allow open railings on upper level roof decks or rooftop open space to project into the required view corridor or Green Street setback, provided such railings are determined to have a minimal impact on views and meet the requirements of the Building Code((.)); and

23. Minor communication utility height limits in downtown zones set forth in SMC 23.57.013B, and telecommunication facilities development standards set forth in Section 23.57.016.

Section 3. Section 23.44.002 of the SMC, which Section was last amended by Ordinance 116295, is amended as follows:

23.44.002 Applicability of provisions.

This chapter details those authorized uses and their development standards which are or may be permitted in the three (3) single-family residential zones: SF 9600, SF 7200 and SF 5000. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 4. Subsection C of Section 23.44.012 of the SMC, which Section was last amended by Ordinance 120609, is amended as follows:

23.44.012 Height limits.

* * *

C. Height Limit Exceptions.

1. ((~~Radio and Television Antennas and~~)) Flagpoles. Except in the Airport Height Overlay District, Chapter 23.64, ((~~receive-only radio and television antennas, except for dishes, and~~)) flagpoles are exempt from height limits, provided that they are no closer to any adjoining lot line than fifty (50) percent of their height above existing grade, or, if attached only to a roof, no closer than fifty (50) percent of their height above the roof portion where attached.

2. Other Features. Open rails, planters, skylights, and clerestories may extend no higher than the ridge of a pitched roof or four (4) feet above a flat roof. Chimneys may extend four (4) feet above the ridge of a pitched roof or above a flat roof.

3. Solar Collectors. For height exceptions for solar collectors, not including solar greenhouses, see Section 23.44.046.

4. For non-residential principal uses, the following rooftop features may extend up to ten (10) feet above the maximum height limit, as long as the combined total

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coverage of all features does not exceed fifteen (15) percent of the roof area, or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses; and

b. Mechanical equipment.

5. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.010.

Section 5. Subsection B of Section 23.45.002 of the SMC, which Section was last amended by Ordinance 118414, is amended as follows:

23.45.002 Scope of provisions.

***

B. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

***

Section 6. Subsection D of Section 23.45.009 of the SMC, which Section was last amended by Ordinance 120609, is amended as follows:

23.45.009 Structure height—Lowise zones.

* * *

D. Rooftop Features.

1. ((~~Radio and television receive-only antennas, except for dish antennas, f~~))Flagpoles((~~,~~)) and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend no higher than the ridge of a pitched roof permitted under subsection C above or four (4) feet above the maximum height limit set in subsection A of this section. For cottage housing developments, these rooftop features may extend four (4) feet above the eighteen (18) foot height limit.

3. For cottage housing developments, chimneys may exceed the height limit by four (4) feet or may extend four (4) feet above the ridge of a pitched roof.

4. Except in cottage housing developments, the following rooftop features may extend ten (10) feet above the maximum height limit established in subsection A so long as the combined total coverage of all features does not exceed fifteen (15) percent of

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~~the roof area or twenty (20)~~ percent of the roof area if the total includes ~~screened mechanical~~ equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys((~~.~~));

e. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

5. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

6. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection D6 at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to the maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted ((~~on rooftops by special exception~~)) according to the provisions of Chapter 23.57.011;

f. Nonfirewall parapets;

g. Play equipment.

7. For height limits and exceptions for communication utilities and devices, Section 23.57.011.

* * *

Section 7. Subsection B of Section 23.45.016 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.016 Open space requirements -- Lowrise zones.

* * *

B. Development Standards.

1. Lowrise Duplex/Triplex Zones and Ground-related Housing in Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones.

a. Lowrise Duplex/Triplex Zones -- Private Usable Open Space.

(1) Private usable open space shall be provided at ground level in one (1) contiguous parcel with a minimum area of four hundred (400) square feet.

~~except that in cottage housing developments, the quantity per unit shall be a minimum of~~ two hundred (200) square feet. No horizontal dimension of the open space shall be less than ten (10) feet.

(2) Private usable open space shall be located a maximum of four (4) feet above or below a private entry to the unit it serves. The floor of the unit accessed by this entry shall have a minimum area of three hundred (300) square feet. This minimum area may include a private garage if habitable floor area of the same unit is located directly above.

b. Lowrise Duplex/Triplex Zones -- Common Open Space. Required common open space shall be provided at ground level in one (1) contiguous parcel with a minimum area of six hundred (600) square feet, except that in cottage housing developments, the quantity per unit shall be a minimum of one hundred fifty (150) square feet. In cottage housing developments, each cottage shall abut the common open space. No horizontal dimension of the open space shall be less than ten (10) feet.

c. Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones -- Ground-related Housing.

(1) In Lowrise 1 zones the required open space shall be provided in one (1) contiguous parcel, except that in cottage housing developments, the open space shall be allotted as described in subsections A2c above and B1c(5) below. In Lowrise 2, Lowrise 3 and Lowrise 4 zones, the required open space for each ground-related dwelling unit is not required to be in one (1) contiguous area, but no open space area shall be less than one hundred twenty (120) square feet. No horizontal dimension of the open space shall be less than ten (10) feet.

(2) Required open space may be located a maximum of ten (10) feet above or below the unit it serves, except as permitted in subsection B1c(4), provided that the access to such open space does not go through or over common circulation areas, common or public open spaces, or the open space serving another unit.

(3) At least fifty (50) percent of the required open space for a unit shall be level, provided that:

i. The open space may be terraced; and

ii. Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two (2) feet.

(4) For additional dwelling units proposed within a structure existing on August 11, 1982, the vertical distance between the unit and the private, landscaped open space may exceed ten (10) feet where the following criteria are met:

i. Where the structure was constructed with floor-to-floor heights in excess of ten (10) feet, the open space may be located a maximum of ten (10) feet plus the height between floors in excess of ten (10) feet, above or below the unit it serves; or

ii. Where the structure was constructed with the first floor in excess of two (2) feet above grade, the open space may be located a maximum of ten (10) feet plus the additional height of the first floor in excess of two (2) feet above grade, ~~above or below the unit it serves.~~

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(5) Lowrise 1 Zone -- Cottage Housing Developments.

i. At least fifty (50) percent of the required total open space per unit shall be provided as private usable open space in one (1) contiguous parcel. No horizontal dimension of the open space shall be less than ten (10) feet.

ii. Common open space shall be provided at ground level in one (1) contiguous parcel with a minimum area per unit of one hundred fifty (150) square feet. No horizontal dimension of the open space shall be less than ten (10) feet. Each cottage shall abut the common open space.

d. Required open space may be located in the front, sides or rear of the structure.

e. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit, or common areas which directly face the open space of a different unit, are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls or wingwalls.

f. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

g. Required private usable open space shall be landscaped according to standards promulgated by the Director for ground-related dwelling units.

2. Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones -- Apartments.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

d. In order to qualify as above-ground level open space, balconies, decks, and in L3 and L4 zones, individual unit decks on roofs, shall all have a minimum horizontal dimension of six (6) feet, and a total area of at least sixty (60) square feet, while common roof gardens in L3 and L4 zones shall have a minimum area of two hundred fifty (250) square feet. Common roof garden open space shall be landscaped according to the rules promulgated by the Director.

e. For cluster development, at least twenty (20) percent of the required open space shall be provided in one (1) contiguous area.

f. Terraced Housing on a Slope of Twenty-five (25) Percent or More.

(1) No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

(2) Required open space is permitted in the front, sides or rear of the structure.

(3) Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

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(4) In order to qualify as above-ground-level open space, rooftop areas shall have a minimum horizontal dimension of at least ten (10) feet and a total area of at least one hundred twenty (120) square feet.

g. ((~~Rooftop space within the following parameters shall not count toward meeting open space requirements, the area eight (8) feet from and in front of a directional antenna and at least two (2) feet from the back of a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.~~)). When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

3. Open Space Exception. When all parking and access to parking is uncovered and is surfaced in permeable material, except gravel, the quantity of required ground-level open space shall be reduced by five (5) percent of the total lot area.

* * *

Section 8. Subsection D of Section 23.45.050 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.050 Midrise—Structure height.

* * *

D. Rooftop Features.

1. ((~~Radio and television receive-only antennas, except dish antennas, f~~))Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the maximum height limit set in subsections A and B of this ((s))Section.

3. The following rooftop features may extend ten (10) feet above the maximum height limit set in subsections A and B of this section, so long as the combined total coverage of all features does not exceed fifteen (15) percent of the roof area or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys;

e. Sun and wind screens;

f. Penthouse pavilions for the common use of residents;

g. Greenhouses which meet minimum energy standards administered by the Director((.)) ;

h. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

4. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;
b. Planters;
c. Clerestories;
d. Greenhouses;
e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.011;
f. Nonfirewall parapets;
g. Play equipment;
h. Sun and wind screens;
i. Penthouse pavilions for the common use of residents.

6. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

Section 9. Subsection B of Section 23.45.058 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.058 Midrise—Open space requirements.

* * *

B. Development Standards.

1. Required open space shall be landscaped according to standards promulgated by the Director.

2. Ground-related Housing.

a. The required open space for each unit is not required to be in one (1) contiguous area, but no open space area shall be less than one hundred twenty (120) square feet, and no horizontal dimension shall be less than ten (10) feet.

b. Required open space may be located in the front, sides or rear of the structure.

c. Required open space may be located a maximum of ten (10) feet above or below the unit it serves, provided that the access to such open space does not go through or over common circulation areas, common or public open space, or the open space serving another unit, except as permitted in subsection B2g.

d. The grade of the open space can either be the existing grade or within eighteen (18) inches of existing grade. The portion of the open space which is within ten (10) feet of the unit shall include the point where the access to the open space from the unit occurs.

e. Direct access to the open space shall be from at least one (1) habitable room of at least eighty (80) square feet of the principal living areas of the unit. Principal living areas shall not include foyers, entrance areas, closets or storage rooms, hallways, bathrooms or similar rooms alone or in combination.

f. At least fifty (50) percent of the required open space for a unit shall be level, provided that:

(1) The open space may be terraced; and

(2) Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two (2) feet.

g. For additional dwelling units proposed within a structure existing on August 11, 1982, the vertical distance between the unit and the private, landscaped open space may exceed ten (10) feet where the following criteria are met:

(1) Where the structure was constructed with floor-to-floor heights in excess of ten (10) feet, the open space may be located a maximum of ten (10) feet plus the height between floors in excess of ten (10) feet, above or below the unit it serves; or

(2) Where the structure was constructed with the first floor in excess of two (2) feet above grade, the open space may be located a maximum of ten (10) feet plus the additional height of the first floor in excess of two (2) feet above grade, above or below the unit it serves.

h. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit or common area which directly faces the open space of a different unit are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls, or wingwalls. Fences, freestanding walls, or wingwalls located in setbacks shall be no more than six (6) feet in height in accordance with Section 23.45.014G.

i. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

3. Apartments.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

d. In order to qualify as aboveground open space, balconies and decks shall have a minimum horizontal dimension of at least six (6) feet, and the minimum area shall be sixty (60) feet.

e. For cluster development, at least twenty (20) percent of the required open space shall be provided in one (1) contiguous area.

f. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

4. Terraced Housing on a Slope of Twenty-five (25) Percent or More.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

d. In order to qualify as aboveground open space, rooftop areas, balconies ((~~or~~)) and decks shall have a minimum horizontal dimension of at least ten (10) feet, and a total area of at least one hundred twenty (120) feet.

* * *

Section 10. Subsection C of Section 23.45.066 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.066 Highrise—Structure height.

* * *

C. Height Exceptions.

1. ((~~Radio and television receive-only antennas, except dish antennas, f~~))Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets, and firewalls may extend four (4) feet above the maximum height limit set in subsections A and B of this ((s))Section.

3. The following rooftop features may extend up to ten (10) feet above the maximum height limit, so long as the combined total coverage of all features does not

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~~exceed fifteen (15) percent of the roof area, or twenty (20) percent of the roof area if the~~ total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys;

e. Sun and wind screens;

f. Penthouse pavilions for the common use of residents((.)) ;

g. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

4. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed below at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.011;

f. Nonfirewall parapets;

g. Play equipment;

h. Sun and wind screens;

i. Penthouse pavilions for the common use of residents.

6. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

Section 11. Subsection B of Section 23.45.074 of the SMC, which Section was adopted by Ordinance 110570, is amended as follows:

23.45.074 Highrise--Open space requirements.

* * *

B. Development Standards.

1. No horizontal dimension for required open space at ground level or on the roof of the base structure shall be less than fifteen (15) feet, nor shall any open space area be less than two hundred twenty-five (225) square feet.

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2. In order to qualify as above-ground-level open space, balconies, decks, or open space on the roof of a base structure shall be thirty-seven (37) feet or less above existing grade.

3. Required open space is permitted in the front, side or rear of the structure.

4. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State ((~~Rules and Regulations for Barrier-Free Design~~)) Building Code, Chapter 11, shall not be counted as open space.

5. In order to qualify as aboveground open space, no horizontal dimension for balconies and decks shall be less than six (6) feet, and the minimum area for balconies and decks shall be sixty (60) feet.

6. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

Section 12. Subsection E of Section 23.47.002 of the SMC, which Section was last amended by Ordinance 117430, is amended as follows:

23.47.002 Scope of provisions.

***

E. Requirements for streets, alleys and easements are provided in Chapter 23.53. Standards for parking quantity, access and design are provided in Chapter 23.54. Signs shall be regulated by Chapter 23.55. Methods for measurements are provided in Chapter 23.86. ((~~Requirements for c~~)) Communication utilities and accessory communication devices ((~~are contained~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

***

Section 13. Subsections H, J, and K of Section 23.47.012 of the SMC, which Section was last amended by Ordinance 120609, are amended as follows:

23.47.012 Structure height and floor area ratio.

* * *

H. Rooftop Features.

1. ((~~Radio and television receiving antennas, excluding dish antennas; ham radio towers; s~~)) Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend no higher than the ridge of a pitched roof as permitted by Section 23.47.012F or up to four (4) feet above the maximum height limit with unlimited rooftop coverage.

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~~3. Solar Collectors:~~

a. In zones with height limits of thirty (30) feet or forty (40) feet, solar collectors may extend up to four (4) feet above the maximum height limit, with unlimited rooftop coverage.

b. In zones with height limits of sixty-five (65) feet or more, solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection does not exceed twenty (20) percent of the roof area or twenty-five (25) percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least fifteen (15) feet from the roof edge; and

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.012.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

6. Structures existing prior to May 10, 1986 may add new or replace existing mechanical equipment up to fifteen (15) feet above the roof elevation of the structure and shall comply with the noise standards of Section 23.47.018.

7. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

* * *

((~~J. Television Receiving Antennas. The maximum height of television receiving antennas, except for dish antennas, shall be no more than fifty (50) feet in zones where the maximum height limit does not exceed fifty (50) feet. In zones with a maximum height limit~~

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~~which exceeds fifty (50) feet the maximum height of the antenna shall not exceed the maximum height allowed for all structures.~~

~~K.~~)) J. Height Exceptions for Public Schools.

1. For new public school construction on new public school sites, the maximum permitted height shall be the maximum height permitted in the zone.

2. For new public school construction on existing public school sites, the maximum permitted height shall be the maximum height permitted in the zone or thirty-five (35) feet plus fifteen (15) feet for a pitched roof, whichever is greater.

3. For additions to existing public schools on existing public school sites, the maximum height permitted shall be the maximum height permitted in the zone, the height of the existing school, or thirty-five (35) feet plus fifteen (15) feet for a pitched roof, whichever is greater.

4. Development standard departure for structure height may be granted or required pursuant to the procedures and criteria set forth in Chapter 23.79. For construction of new structures on new and existing public school sites to the extent not otherwise permitted outright, maximum height which may be granted as a development standard departure in zones with height limits of thirty (30) or forty (40) feet shall be thirty-five (35) feet plus fifteen (15) feet for a pitched roof for elementary schools and sixty (60) feet plus fifteen (15) feet for a pitched roof for secondary schools. All height maximums may be waived by the Director when waiver would contribute to reduced demolition of residential structures.

5. To qualify for the pitched roof exception, all parts of the roof above the height limit must be pitched at a rate of not less than three to twelve (3:12). No portion of a shed roof shall extend above the height limit under this provision.

Section 14. Subsection B of Section 23.47.024 of the SMC, which Section was last amended by Ordinance 118794, is amended as follows:

23.47.024 Open space standards.

* * *

B. Open Space Development Standards.

1. When permitted, required usable open space may be provided at ground level or may be provided above the ground in the form of balconies, decks, solaria, greenhouses, or roof gardens or decks.

2. Balconies and decks provided above the ground as open space shall have a minimum area of sixty (60) square feet and no horizontal dimension shall be less than six (6) feet.

3. Usable open space at ground level, and roof gardens, solaria, and greenhouses provided above ground as open space shall have a minimum area of two hundred fifty (250) square feet. No horizontal dimension shall be less than ten (10) feet.

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4. ~~Required usable~~ open space is permitted at the front, sides, or rear of the structure.

5. Parking areas, driveways, and pedestrian access to the nonresidential or residential entrances, except for pedestrian access meeting the Washington State Building Code, Chapter 11 -- Accessibility, shall not be counted as open space.

6. Required open space shall be landscaped according to standards promulgated by the Director.

7. ((~~Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight (8) feet from and in front of a directional antenna and at least two (2) feet from the back of a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.~~)) When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.012.

Section 15. Subsection B of Section 23.48.002 of the SMC, which Section was last amended by Ordinance 119239, is amended as follows:

23.48.002 Scope of provisions.

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B. Other regulations, such as requirements for streets, alleys and easements (Chapter 23.53); standards for parking quantity, access and design (Chapter 23.54); signs (Chapter 23.55); and methods for measurements (Chapter 23.86) ((~~and requirements for communication utilities and accessory communication devices (Chapter 23.57)~~))may apply to development proposals. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 16. Subsection C of Section 23.48.010 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.48.010 General structure height.

***

C. Rooftop Features.

1. ((~~Radio and television receiving antennas excluding dish antennas; ham radio towers; s~~)) Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport

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Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend up to four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection D4 does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. Atriums, greenhouses, and solariums;

e. Play equipment and open mesh fencing which encloses it, as long as the fencing is at least fifteen (15) feet from the roof edge; and

f. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.012.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection D5 at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Atriums, greenhouses and solariums;

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices according to the provisions of ((~~Chapter~~)) Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

6. Screening. Rooftop mechanical equipment and elevator penthouses shall be screened with fencing, wall enclosures, or other structures.

7. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

Section 17. Subsection E of Section 23.49.002 of the SMC, which Section was last amended by Ordinance 116295, is amended as follows:

~~**23.49.002 Scope of provisions.**~~

***

E. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 18. Subsection C of Section 23.49.008 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

((~~(1) Major or minor communication utilities,~~))
((~~(2)~~)) (1) Religious symbols for religious institutions,
((~~(3)~~)) (2) Smokestacks, and
((~~(4)~~)) (3) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features, not to exceed thirty-five (35) percent of the roof area, may be permitted through the Design Review process for Development Standard Departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;
(2) Stair penthouses;

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(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone.

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 of this section.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

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((~~d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.~~))

((e))d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection C5b of this section:

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection C5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection C5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection C5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

Section 19. Subsection E of Section 23.49.009 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.009 Open space.

* * *

E. Limitations. Open space satisfying the requirement of this section for any project shall not be used to satisfy the open space requirement for any other project, nor shall any bonus be granted to any project for open space meeting the requirement of this section for any other project. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.013. Open space on the site of any building for which a Master Use Permit decision was issued or a complete building permit application was filed prior to the effective date of the ordinance codified in this section, that is not required under the Land Use Code in effect when such permit decision was issued or such application filed but that would have been required for the same building by this section, shall not be used to satisfy the open space requirement or to gain an FAR bonus for any other project.

* * *

Section 20. Section 23.49.208 of the SMC, which Section was last amended by Ordinance 113279, is amended as follows:

23.49.208 International District Mixed, structure height.

* * *

B. Rooftop features may be permitted according to the provisions of Section 23.66.332.

((~~B~~))C. In the seventy-five (75) to eighty-five (85) foot height district, structures in excess of seventy-five (75) feet, to a maximum of eighty-five (85) feet, shall be permitted only if fifty (50) percent of the gross floor area, excluding parking, is in residential use.

((~~C~~))D. In the one hundred (100) to one hundred twenty (120) foot height district, structures in excess of one hundred (100) feet, to a maximum of one hundred twenty (120) feet shall be permitted if seventy-five (75) percent or more of the gross floor area, excluding parking, is in residential use, or may be permitted as part of a planned community development, pursuant to Section 23.49.036, Planned community development.

((~~D~~))E. In the sixty-five (65) to one hundred twenty (120) foot height district, structures in excess of sixty-five (65) feet, to a maximum of one hundred twenty (120) feet, may be permitted only as a part of a planned community development, pursuant to Section 23.49.036, Planned community development.

Section 21. Subsection A of Section 23.49.338 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.338 Pike Market Mixed, prohibited uses.

A. The following uses are prohibited as both principal and accessory uses in areas outside of the Pike Place Market Historical District, Map 1L:

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1. Drive-in businesses, except gas stations located in parking garages;
2. Outdoor storage;
3. Adult motion picture theaters and adult panorams;
4. Transportation facilities;
5. Major ((~~C~~))communication utilities;
6. All general manufacturing uses;
7. All salvage and recycling uses, except recycling collection stations;
8. All industrial uses;
9. Jails; and
10. Work-release centers.

* * *

Section 22. Subsection C of Section 23.50.002 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

23.50.002 Scope of provisions.

***

C. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57. Requirements for streets, alleys and easements are provided in Chapter 23.53. Standards for parking access and design are provided in Chapter 23.54. Signs are regulated by Chapter 23.55. Methods for measurements are provided in Chapter 23.86. Definitions are in Chapter 23.84.

***

Section 23. Subsection A of Section 23.50.020, which Section was last amended by Ordinance 120117, is amended as follows:

23.50.020 All Industrial zones—Structure height exceptions and additional restrictions.

A. Rooftop Features. Where height limits are otherwise applicable to a structure, and except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the following conditions shall apply to rooftop features:

1. ((~~Radio and television receiving antennas, excluding dish antennas; amateur radio towers; s~~)) Smokestacks; chimneys and flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the maximum height limit with unlimited rooftop coverage.

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3. Solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, as long as the combined total coverage of all features listed in this subsection does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment; and

d. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.015.

* * *

Subchapter I General Provisions

Section 24. Section 23.57.001 of the SMC, which Section was last amended by Ordinance 118414, is amended as follows:

23.57.001 Intent and Objectives.

((~~The intent of this chapter is to provide~~)) This Chapter provides regulations and development standards for major and minor communication utilities and accessory communication devices. The regulations and development standards contained in this chapter are imposed to minimize the health, safety and visual impact of telecommunication utilities on nearby areas. Development of communication utilities and accessory devices may also be subject to other regulations, including but not limited to ((~~Title 25 of the Municipal Code (~~))Chapter 25.05, SEPA Policies and Procedures and ((~~; Chapter 25.09, Regulations for Environmentally Critical Areas;~~)) Chapter 25.10, Radiofrequency Radiation ((~~)~~)), in addition to the Land Use Code.

Section 25. Section 23.57.002 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.002 Scope ((~~of provisions~~)) and applicability of provisions.

A. The provisions of this chapter shall apply to communication utilities and accessory communication devices in all zones where permitted.

1. Direct broadcast satellite service, video programming service, or fixed wireless service antennas, as defined in applicable federal regulations, that measure one (1) meter (3.28 feet) or less in diameter or diagonal measurement are exempt from the provisions of this chapter, except in special review, historic and landmark districts and on buildings designated by the Seattle Landmarks Preservation Board.

2. Special rule for satellite dish antennas. Satellite dish antennas are exempt from the provisions of this chapter when:

a. the antenna measures one (1) meter (3.28 feet) or less in diameter in the RSL, SF, LR, MR, HR, and RC zones; or

b. the antenna measures two (2) meters (6.56 feet) or less in diameter in the NC, C, SCM, DOC, DRC, DMC, DH, IG, IC, IB, PSM, PMM, and IDM zones.

B. The provisions of this Chapter do not apply to Citizen Band radios, equipment designed and marketed as consumer products such as computers (including internet linkage), telephones, microwave ovens and remote control toys, and to television broadcast and radio receive-only antennas except satellite dishes not exempted in subsection A.

((~~B~~))C. Lots located in the Shoreline District shall meet the requirements of the Seattle Shoreline Master Program in addition to the provisions of this chapter. In the event there is a conflict between the regulations of the Shoreline Master Program and this chapter, the provisions of the Shoreline Master Program shall apply.

D. Communication Utilities and Accessory Communication Devices Located in Major Institutional Overlay Districts. Communication Utilities located in Major Institutional Overlay Districts (Chapter 23.69) shall be subject to the use provisions and development standards of Chapter 23.57. Communication devices accessory to major institution uses located in a Major Institutional Overlay District shall be subject to the use provisions and development standards of Chapter 23.57 unless such devices are addressed in a Master Plan adopted pursuant to Subchapter VI of Chapter 23.69. Accessory Communication Devices associated with the University of Washington are subject to Subsection 23.69.006.A.

Section 26. Subsection B of Section 23.57.003 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.003 Nonconforming uses and structures.

* * *

B. The following activities shall be permitted outright for existing major and minor communication utilities and accessory communication devices which are nonconforming structures: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation or repair. The addition of new telecommunication devices to an existing major communication utility transmission tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four (4) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four (4) feet in any dimension, plus any proposed additional such horn or dish antenna, are accessory to the communication utility. Physical expansion shall be prohibited, except as may be permitted by ((~~Council Conditional Use~~)) the provisions in each zone.

Section 27. A new Section 23.57.004 is hereby added to Chapter 23.57 to read as follows:

23.57.004 Removal of Unused Facilities

Any major or minor communication utility or accessory communication device that is regulated by this Chapter and that is not operated for a period of six (6) months shall be considered abandoned, and all equipment, including but not limited to antennas, poles, towers, and equipment shelters associated with the utility or accessory communication device shall be removed within six (6) months of the cessation of operation. Irrespective of any agreement among them to the contrary, the owner or operator of such unused facility, or the owner of a building or land upon which the utility is located, shall be jointly and severally responsible for the removal of abandoned utilities or devices.

Subchapter II Major Communication Utilities

Section 28. Section 23.57.005, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.005 Permitted and prohibited locations.

A. Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial 1, 2 and 3, and the Seattle Cascade Mixed Zones.

1. New major communication utilities shall be prohibited.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

B. Commercial 1 and 2 Zones.

1. New Major Communication Utilities.

a. Single-occupant major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to the development standards in Section 23.57.008.

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b. Shared-use major communication utilities may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

C. Downtown Zones.

1. In Pioneer Square Mixed, International District Mixed, International District Residential and Pike Market Mixed Zones, new major communication utilities shall be prohibited.

2. In all other downtown zones, establishment or physical expansion of major communication utilities may be permitted, whether single-occupant or shared, by Administrative Conditional Use under the evaluation criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

D. Industrial Zones.

Establishment or physical expansion of major communication utilities, whether single- occupant or shared, may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and the development standards in Section 23.57.008. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication

utilities, to an existing tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

Section 29. Subsections A and H of Section 23.57.008 of the SMC, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.008 Development standards.

A. In Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial, and Seattle Cascade Mixed zones, physical expansion of a major communication utility may be permitted only when:

1. The expanded facility will be a shared-use utility, and another broadcaster has contracted to relocate its transmitter to the expanded facility; and

2. A different existing tower of similar size in the immediate vicinity will be removed within six (6) months of issuance of the certificate of occupancy.

* * *

H. Equipment shelters and other accessory structures shall comply with the development standards of this Section whether or not physical expansion, as defined in Section 23.84.006, is proposed.

Subchapter III Minor Communication Utilities and Accessory Communication Devices

Section 30. Section 23.57.009 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.009 Permitted and prohibited locations for all minor communication utilities, and d((~~D~~))evelopment standards for minor communication utilities with freestanding transmission towers ((~~for minor communication utilities~~)) in all zones.

A. Permitted And Prohibited Locations For All Minor Communication Utilities. New Minor Communication Utilities and Accessory Communication devices shall be regulated as provided in Sections 23.57.010, 23.57.011, 23.57.012, 23.57.013, 23.57.014, and 23.57.015. However, minor communication utilities shall be permitted at any location if the applicant can demonstrate by technical studies that 1) the facility is for commercial mobile service, unlicensed wireless services, fixed wireless service, or common carrier

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wireless exchange access service as defined by applicable federal statutes or regulations; and 2) a facility at the site proposed is necessary to close an existing significant gap or gaps in the availability of wireless communication service and that, absent the proposed facility, remote users of wireless service are unable to connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication; and 3) that the facility and the location proposed is the least intrusive facility at the least intrusive location consistent with effectively closing the service gap. In considering the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic and the displacement of residential dwelling units in a residential zone.

B. Interior Locations. Minor communication utilities located entirely within the interior of a structure shall be permitted outright on lots developed with non-single family principal uses in single family zones, and on all lots in all other zones. The installation of the utility shall not result in the removal of a dwelling unit in a residential zone.

C. Minor communication utilities with ((~~F~~))freestanding transmission towers ((~~for minor communication utilities~~)) shall be subject to the access, setback, screening and landscaping requirements for major communication utilities in subsections B, C, ((~~and~~)) E and H of Section 23.57.008 in addition to the standards of each zone as described in this Chapter.

Section 31. Section 23.57.010 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.010 Single Family and Residential Small Lot zones.

A. Uses Permitted Outright.

1. ((~~Amateur Radio Devices.~~)) Amateur radio devices accessory to a residential use ((~~which~~)) that meet the development standards of subsection E are permitted outright.

2. Mechanical equipment associated with minor communication utilities whose antennas are located on another site or in the right-of-way, is permitted outright where the equipment is completely enclosed within a structure that meets the development standards of the zone. The equipment shall not emit radiofrequency radiation, and shall not result in the loss of a dwelling unit. Antennas attached to City-owned poles in the right-of-way shall follow the terms and conditions contained in Section 15.32.300.

3. Minor communication utilities are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Accessory Communication Devices.

1. ((~~Receive-only e~~)) Communication devices, regulated by this Chapter pursuant to Section 23.57.002, that are accessory to residential uses and ((~~which~~)) meet the development standards of subsection E are permitted outright;

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2. Communication devices on the same lot ((~~site~~)) as and accessory to institutions, public facilities, public utilities, major institutions and nonconforming residential uses, which meet the development standards of subsection E are permitted outright.

C. Uses Permitted by Administrative Conditional Use. ((~~When locating on the same lot as an existing utility or public facility, minor communication utilities~~)) The establishment or expansion of a minor communication utility, except on lots zoned Single Family or Residential Small Lot and containing a single family residence or no use, may be permitted by Administrative Conditional Use, pursuant to the following criteria, as applicable:

1. The proposal shall not ((~~result in a commercial intrusion which would~~)) be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

3. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

a.) the antenna is at least one hundred feet (100') from a MIO boundary, and

b.) the antenna is substantially screened from the surrounding neighborhood's view.

((~~2~~)) 4. If the proposed minor communication utility is proposed to exceed the permitted height of the zone ((~~or is a transmission tower~~)), the applicant shall demonstrate the following:

((~~a. The need for the proposed communication utility to be in a Single Family zone and a justification for the proposed height;~~

~~b. That the materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~c. That proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.~~))

a. The requested height is the minimum necessary for the effective functioning of the minor communication utility, and

b. Construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

5. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location

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of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

D. Uses Permitted by Council Conditional Use. The establishment or expansion of a minor communication utility other than as described in subsection C above, may be permitted as a Council Conditional Use, pursuant to the following criteria, as applicable:

((~~1. The minor communication utility shall not result in a commercial intrusion which would be substantially detrimental to the residential character of the surrounding residentially zoned area.~~))

1. The proposal is for a personal wireless facility that meets the criteria contained in subsection 23.57.009A;

2. If located on a lot developed with a single family dwelling, the proposed minor communication utility is clearly incidental to the use of the property as a dwelling;

((~~2~~)) 3. If the proposed minor communication utility is proposed to exceed the permitted height of the zone ((~~or is a transmission tower~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. ((~~the following:~~

~~a. The need for the proposed communication utility to be in a Single Family zone and a justification for the proposed height;~~

~~b. That the materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~c. That proposed communication utility will not be substantially detrimental to the residential character of an area, for example through the demolition of residential dwelling units in a residential zone.~~))

E. Development Standards.

1. Location. Minor communication utilities and accessory communication devices regulated pursuant to Section 23.57.002 and amateur radio towers:

a. ((~~Dish antennas~~)) are prohibited in the required front yard, and amateur radio towers are additionally prohibited in side yards.

((~~b. Dish antennas shall be set back a minimum of ten feet (10') from all lot lines, except as provided in subsection D5.~~))

b. ((~~c. Dish antennas~~)) when ground-mounted, shall be ((~~counted~~)) included in lot coverage and rear yard coverage calculations. For dish antennas, lot ((~~C~~))coverage shall be calculated with the dish in a horizontal position.

c. ((~~d. Dish antennas~~)) may be located on rooftops of non-residential buildings, but shall not be located on rooftops of principal or accessory structures containing residential uses, except as provided in subsection E5.

((~~e. Accessory amateur radio towers may not be located in required front or side yards.~~))

2. Height and Size.

a. The height limit of the ((~~underlying~~)) zone shall apply to ((~~transmission towers~~)) minor communication utilities and accessory communication devices. Exceptions to the height limit may be authorized through the approval of an

Administrative Conditional Use (see subsection C above) ((~~if located on an existing utility or public facility,~~)) or a Council Conditional Use (subsection D above).

((~~b. The maximum height for dish antennas shall be twelve feet (12') above finished grade, except as provided in subsection E5.~~))

((~~e~~)) b. The maximum diameter of dish antennas shall be ((~~twelve feet (12')~~)) six feet (6'), except for major institutions within a Major Institution Overlay District, when regulated as an administrative conditional use in subsection C above.

((~~d~~)) c. The maximum height of an accessory amateur radio tower shall be no more than fifty feet (50') above existing grade. Cages and antennas may extend to a maximum additional fifteen feet (15'). The base of the tower shall be ((~~located at a distance~~)) setback from any lot line a distance at least equivalent to one-half (1/2) the height of the total structure, including tower or other support, cage and antennas.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. A screen for freestanding antennas shall be six feet (6') tall and may be a view-obscuring fence, wall or hedge and shall be maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height above the rooftop of the installed antenna.~~

~~c. Exceptions. No screening shall be required in the following circumstances:~~

~~(i) As provided in subsection E5;~~

~~(ii) If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii) For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv) If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~

~~d. The visibility of a minor communication utility on a rooftop shall be minimized by painting it the same color as the building upon which it is located.~~)) All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016. When a permit is sought for a new minor communication utility and that utility would be the third separate utility on the same lot, the Director shall condition the permit to require that all existing utilities on the lot be screened or otherwise modified to meet the visual impact standards set forth in Section 23.57.016.

4. Access and Signage. Access to transmitting accessory communication devices and to minor communication utilities shall be restricted to authorized personnel by fencing or other means of security. If located on a residential structure or on a public utility, warning signs at every point of access to the transmitting antenna shall be posted with information on the existence of radiofrequency radiation.

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5. ((~~Special Exceptions for Dish Antenna~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to provisions of Chapter 23.76,~~)) the Director may grant a waiver ((~~may be permitted~~)) from development standards of subsections E1b((~~,~~)) and E1d~~, E2b and E3~~ of this ((~~subs~~))Section and the screening requirements of Section 23.57.016. The first waiver to be considered will be ((~~from the requirement for a ten-foot (10') setback; the second,~~)) reduction, then waiver from screening ((~~; and the third from the maximum permitted elevation up to a maximum of eighteen feet (18')~~)). Only if these waived regulations would still result in obstruction shall rooftop location be considered. Approval of a ((~~special exception~~)) waiver shall be subject to the following criteria:

a. The applicant shall demonstrate that the obstruction is a result of factors beyond the property owner's control, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

b. The applicant shall be required to use material, shape and color to minimize visual impact.

c. If a ((~~special exception~~)) waiver is sought per this subsection to permit a rooftop location, the maximum permitted height of the device shall be four (4) feet above the existing roofline or four (4) feet above the zone height limit, whichever is higher.

Section 32. Section 23.57.011 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.011 Lowrise, Midrise and Highrise zones.

A. Uses Permitted Outright.

1. Amateur radio devices accessory to a residential use that meet the development standards of subsection C are permitted outright.

2. ((~~Accessory Communication Devices.~~)) Communication devices accessory to residential, public facility, public utility, major institution or institutional use are permitted outright when they meet the development standards of subsection C.

3. Mechanical equipment, associated with minor communication utilities whose antennas are located on another site or in the right-of-way, is permitted outright where the equipment is completely enclosed within a structure that meets the development standards of the zone. The equipment shall not emit radiofrequency radiation, and shall not result in the loss of a dwelling unit. Antennas attached to City-owned poles in the right-of-way shall follow the terms and conditions contained in Section 15.32.300.

4. Minor communication utilities are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses Permitted by Administrative Conditional Use. ((~~Minor communication utilities~~)) The establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002, may be permitted as an Administrative Conditional Use when they meet the development standards of subsection C and the following criteria, as applicable:

1. ((~~The minor communication utility shall not result in a commercial intrusion which would be substantially detrimental to the residential character of the surrounding residentially zoned area.~~)) The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

3. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

a.) the antenna is at least one hundred feet (100') from a MIO boundary, and

b.) the antenna is substantially screened from the surrounding neighborhood's view.

((~~2~~))4. If the minor communication utility is proposed to exceed the zone height limit ((~~or is a transmission tower~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. ((~~the following:~~

~~(i) The need for the proposed communication utility to be in a residential zone and a justification for the proposed height;~~

~~(ii) That the proposed materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~(iii) That the proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.~~))

5. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

C. Development Standards.

1. Location. Minor communication utilities and accessory communication devices regulated pursuant to Section 23.57.002 and amateur radio towers:

a. ((~~Minor accessory communication devices and amateur radio towers may not be located~~)) are prohibited in a required front or side setback.

b. ((~~Minor communication utilities other than freestanding transmission towers , accessory communication devices and amateur radio towers~~)) may be located in a required rear setback, except for transmission towers.

((~~c. In all Lowrise zones, dish antennas shall not be located on rooftops of principal or accessory structures, except as provided in subsection C5.~~))

((~~d. In Midrise and Highrise zones, minor communication utilities and accessory communication devices may be located on rooftops and may exceed the zone height limit by a maximum of four feet (4').~~))

((~~e~~)) c. In all Lowrise, Midrise and Highrise zones, minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and penthouses above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report. ((~~are prohibited on the outside, except rooftops, of buildings containing the residential units.~~))

2. Height and Size.

a. The height limit of the ((~~underlying~~)) zone shall apply ((~~for transmission towers~~)) to minor communication utilities and accessory communication devices, except as may be permitted in subsection ((~~B~~)) C of this section.

((~~b. The maximum height above finished grade for freestanding dish antennas shall be twelve feet (12'), except as provided in subsection C5.~~))

((~~c~~)) b. The maximum diameter of dish antennas shall be ((~~twelve feet (12')~~)) six feet (6'), except for major institutions within the Major Institution Overlay District, regulated through an administrative conditional use in subsection C above.

((~~d~~)) c. The maximum height of an amateur radio tower shall be no more than fifty feet (50') above existing grade. Cages and antennas may extend to a maximum additional fifteen feet (15'). The base of the tower shall be ((~~located at a distance~~)) setback from any lot line a distance at least equivalent to one-half (1/2) the height of the total structure, including tower or other support, cage and antennas.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. A screen for freestanding antennas shall be six feet (6') tall, may be a view-obscuring fence, wall or hedge, and shall be maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height above the roof of the installed antenna.~~

~~c. Exceptions. No screening shall be required under the following circumstances:~~

~~(i)As provided in subsection C5;~~

~~(ii)If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii)For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv)If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4. Access and Signage. Access to transmitting minor communication utilities and to accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

5. ((~~Special Exceptions for Dish Antenna.~~)) Reception Window Obstruction. ((~~a.~~)) When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76,~~)) the Director may grant a waiver ((~~may be permitted~~)) from the ((~~development standards~~)) screening requirements of ((~~subsections C1c, C2b, and C3~~)) Section 23.57.016. ((~~The first waiver to be considered will be from the requirement of subsection C2b, and the second from C3. Only if these waived regulations still result in obstruction shall rooftop location requirements of subsection C1c be considered.~~)) Approval of a ((~~special exception~~)) waiver shall be subject to the following criteria:

((~~(i)~~)) a. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

((~~(ii)~~)) b. The applicant shall use material, shape and color to minimize visual impact.

((~~b. If a special exception is sought to permit a rooftop location, the maximum permitted height of the device shall be four feet (4') above the roofline or four feet (4') above the zone permitted height, whichever is higher.~~))

((~~c. If a special exception is sought from subsection C2b, the maximum permitted height shall be eighteen feet (18').~~))

Section 33. Section 23.57.012 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.012 Commercial zones.

A. Uses Permitted Outright.

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1. In Neighborhood Commercial, Commercial, and the Seattle Cascade Mixed zones, minor communication utilities (except freestanding transmission towers) and accessory communication devices shall be permitted outright when meeting the height limit of the zone as modified by the development standards of subsection C ((~~and the height limit of the zone~~)).

2. ((~~In Commercial zones, minor communication utilities and accessory communication devices shall be permitted outright when meeting the development standards of subsection C. The height limit of the underlying zone shall not apply unless the lot is adjacent to a Single Family zone.~~)) Minor communication utilities that do not meet the height limit of the zone are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses permitted by Administrative Conditional Use.

1. In Neighborhood Commercial, Commercial, and the Seattle Cascade Mixed zones, an Administrative Conditional Use shall be required for the establishment or expansion of a free standing transmission towers, and for minor communication utilities and accessory communication devices that ((~~, other than whip antennas, to~~)) exceed the height limit of the underlying zone or the development standards of subsection C of this Section ((~~, which includes the rooftop provisions of subsection C1e~~)). Approval shall be pursuant to the following criteria, as applicable: ((~~of subsection B3.~~

~~2. In Commercial zones, an Administrative Conditional Use shall be required for minor communication utilities and accessory communication devices proposed to be located on lots adjacent to Single Family zones to exceed the height limit of the underlying zone. Approval shall be pursuant to the criteria of subsection B3.~~

~~3. Administrative Conditional Use Criteria.~~

~~a. The applicant shall use material, shape and color to minimize adverse visual impacts on the neighboring residential zone.~~))

((~~b~~))a. The proposal shall not result in a significant change in the pedestrian or retail character of the commercial area.

((~~c~~))b. If the minor communication utility is proposed to exceed the zone height limit or the development standards of subsection C of this section, t((~~T~~))he applicant shall demonstrate that ((~~compliance with the height limit is not feasible and that the proposed height will deviate to the least practicable extent from this standard.~~)) the requested height is the minimum necessary for the effective functioning of the minor communication utility.

c. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

C. Development Standards.

1. Location.

((~~a. Minor communication utilities, other than transmission towers, and accessory communication devices may not be located within ten feet (10') of any lot line.~~))

((~~b. Minor communication utilities and accessory communication devices may be located on rooftops and may exceed the zone height limit by a maximum of four feet (4') except as permitted in subsection C1c;whip antennas are exempted from the zone height limit.~~))

((~~c~~)) a. Except for special review, historic and landmark districts (see Section 23.57.014), ((~~M~~))minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, as follows:

i. These utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen feet (15') above the height of the building existing as of the date of this ordinance;

ii. These utilities and devices located on a rooftop may extend up to fifteen feet (15') above the zone height limit or above the highest portion of a building, whichever is less.

The additional height permitted in a (i) and (ii) above is permitted if the combined total of communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in Section 23.47.012 ((~~G~~))H4, does not exceed twenty percent (20%) of the total rooftop area or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.

((~~d~~)) b. ((~~Minor communication utilities and accessory communication devices shall be prohibited on the outside, except for rooftops, of a building containing residential units~~)). Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

2. Access and Signage. Access to minor communication utilities and transmitting accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. ((~~Size~~)) Height of Amateur Radio Tower. The maximum height of an amateur radio tower shall be no more than fifty feet (50') above grade in zones where the maximum height limit ((~~does not exceed~~)) is fifty feet (50') or less. Cages and antennas may
extend to a maximum additional fifteen feet (15'). In zones with a maximum permitted height over fifty feet (50'), the height above grade of the amateur radio tower shall not exceed the maximum height limit of the zone.

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4. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. The screen for a freestanding antenna shall be six feet (6') high, and may be a view-obscuring fence, wall or hedge maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height of the antenna.~~

~~c. Exceptions. No screening shall be required under the following circumstances:~~

~~(i) As provided by subsection C5;~~

~~(ii) If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii) For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv) If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~))
All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

5. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a Special Exception may be permitted~~)) the Director may grant a waiver from the development standards of ((~~subsection C4~~)) this Section and Section 23.57.016, subject to the following criteria:

a. The applicant shall demonstrate that obstruction of the reception window is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to reception window obstruction.

b. The applicant shall use material, shape and color to minimize visual impact.

Section 34. Subsections B and C of Section 23.57.013, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.013 Downtown zones.

* * *

B. Development Standards.

1. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

2. ((~~The height limit of the zone shall not apply.~~)) Height.

a. Except for special review, historic and landmark districts (see Section 23.57.014), minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, as follows:

i. These utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen feet (15') above the height of the building existing as of the date of this ordinance;

ii These utilities and devices located on a rooftop may extend up to fifteen feet (15') above the zone height limit or above the highest portion of a building, whichever is less.

The additional height permitted in a (i) and (ii) above is permitted if the combined total of communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in Section 23.49.008 C2, does not exceed twenty percent (20%) of the total rooftop area or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.

b. The height of minor communications utilities and accompanying screening may be further increased through the design review process, not to exceed ten (10) percent of the maximum height of the zone in which the structure is located. For new buildings this increase in height may be granted through the design review process provided for in Section 23.41.014. For minor communication utilities on existing buildings this increase in height may be granted through administrative design review provided for in Section 23.41.016.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. The screen for a freestanding antenna shall be six feet (6') tall, and may be a view-obscuring fence, wall or hedge maintained in good condition.~~

~~b. For antennas located on rooftops screening shall be provided to a height equal to two-thirds (2/3) of the height of the antenna.~~

~~c. Exception. No screening shall be required under the following circumstances:~~

~~(i) As provided by subsection C;~~

~~(ii) For amateur radio towers, whip antennas, antennas attached to sides of structures and any antennas attached to freestanding transmission towers.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4 ((~~d~~)). Antennas ((~~shall be prohibited on the outside, except for rooftops,~~)) may be located on rooftops of ((~~a building containing residential units.~~)) buildings, including sides of parapets above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') away from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Department of Public Health may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

C. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76, may be permitted from~~)) the Director may grant a waiver from the development standards of ((~~subsection B3~~)) this Section and Section 23.57.016, subject to the following criteria:

1. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

2. The applicant shall use material, shape and color to minimize visual impact.

Section 35. Section 23.57.014 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.014 Special review, historic and landmark districts.
((~~In the Pioneer Square Mixed, International District Mixed, International District Residential, and Pike Market Mixed zones, new minor communication utilities are prohibited.~~)).
Communication utilities and accessory communication devices for which a Certificate of Approval may be required in IDR, PSM, IDM, PMM (see SMC 25.24) zones, the International Special Review District, the Pioneer Square Preservation District, and the Ballard Avenue (SMC 25.16), Columbia City (SMC 25.20) and Harvard-Belmont (SMC 25.22) Landmark Districts shall be sited in a manner that minimizes visibility from public streets and parks and may be permitted as follows:

A. Minor communication utilities and accessory communication devices may be permitted subject to the use provisions and development standards of the underlying zone and this Chapter, with the following additional height allowance: communication utilities and devices may extend up to four feet (4') above a roof of the structure, regardless of zone height limit.

B. An Administrative Conditional Use approval shall be required for communication utilities and accessory devices regulated per Section 23.57.002, and which

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do not meet the requirements of subsection A above. Any action under this Section shall be subject to the Pioneer Square Preservation District and the International Special Review District review and approval and the Department of Neighborhoods Director; in the Ballard Avenue Landmark District by the Ballard Avenue Landmark District Board and the Department of Neighborhoods Director; in the Pike Place Market Historical District by the Pike Place Market Historical Commission, and in the Columbia City Landmark District and the Harvard-Belmont Landmark District by the Landmarks Preservation Board, according to the following criteria:

1. Location on rooftops is preferred, set back toward the center of the roof as far as possible. If a rooftop location is not feasible, communication utilities and accessory communication devices may be mounted on secondary building facades. Siting on primary building facades may be permitted only if the applicant shows it is impossible to site the devices on the roof or secondary facade. Determination of primary and secondary building facades will be made by the appropriate board or commission.

2. Communication utilities and accessory communication devices shall be installed in a manner that does not hide, damage or obscure architectural elements of the building or structure.

3. Visibility shall be further minimized by painting, screening, or other appropriate means, whichever is less obtrusive. Creation of false architectural features to obscure the device is discouraged.

Section 36. Section 23.57.015 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.015 Industrial zones.

A. Permitted Uses. Minor communication utilities and accessory communication devices shall be permitted outright when meeting the standards of the zone in which the site is located, except for height limits, and subsection B of this section.

B. Development Standards.

1. Height limits of the zone shall not apply to antennas or their support structures.

2. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. Visual Impacts. ((~~Antennas four (4) feet or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~1. The screen for a freestanding antenna shall be six (6) feet tall, may be a view-obscuring fence, wall or hedge, and shall be maintained in good condition.~~

~~2. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height of the antenna.~~

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~~3. Exceptions. No screening shall be required under the following circumstances:~~

~~a. As provided by subsection C of this section;~~

~~b. For amateur radio towers, whip antennas, antennas attached to sides of structures and any antennas attached to freestanding transmission towers;~~

~~c. If the antenna is set back a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park.~~)) All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

C. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception-window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76, may be permitted from Subsection B of this section,~~)) the Director may grant a waiver from the development standards of this Section and Section 23.57.016, subject to the following criteria:

1. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

2. The applicant shall use material, shape and color to minimize visual impact.

Section 37. A new Section, 23.57.016, is hereby added to the Seattle Municipal Code (SMC) to read as follows:

23.57.016 Visual Impacts and Design Standards

A. Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.

B. If mounted on a pitched roof, facilities shall be screened by materials that maintain the pitch of the roof, matching color and texture as closely as possible, or integrated with and enclosed within structures such as dormers or gables compatible with the roof design. See exhibit 23.57.016B.

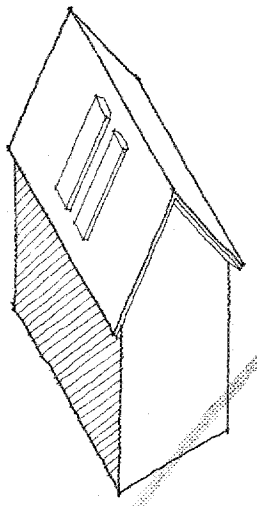
C. If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Screening for satellite dishes is addressed in subsection E, below. Said screening shall be integrated with architectural design, material, shape and color. Siting shall be near the center of the roof if in a separate screened enclosure, or mounted flat

against existing stair and elevator penthouses or mechanical equipment enclosures and shall be no taller than such structures.

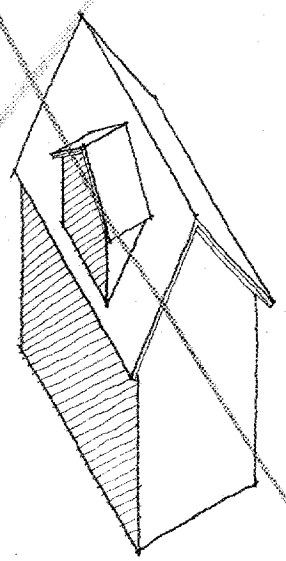
D. Facilities that are side-mounted on buildings shall be integrated with architectural elements such as window design or building decorative features, or screened by siding or other materials matching the building exterior, or otherwise be integrated with design, material, shape, and color so as to not be visibly distinctive. In general, antennas shall be as unobtrusive as practicable, including the use of non-reflective materials. Installations on the primary building façade shall be allowed only if roof, ground-mounted, or secondary façade mounted installation is technically unfeasible.

Exhibit 23.57.016B
Integration of Telecommunication Facilities

Screened by materials that maintain the pitch of the roof.



Enclosed within structures such as dormers or gables compatible with the roof design.



E. Satellite dishes shall be screened to the top of the dish on at last three (3) sides and shall be enclosed in the direction of the signal to the elevation allowed by the azimuth of the antenna. If screening on the remaining side is not to the top of the antenna, the antenna and the inside and outside of the screen shall be painted the same color to minimize visibility and mask the contrasting shape of the dish with building or landscape elements.

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

G. Antennas mounted on a permitted accessory structure, such as a free standing sign, shall be integrated with design, material, shape and color and shall not be visibly distinctive from the structure.

H. A screen for a ground-mounted dish antenna shall be a minimum six feet (6') tall and shall extend to the top of the dish. The screen may be in the form of a view-obscuring fence, wall or hedge that shall be maintained in good condition. Chain link, plastic or vinyl fencing/screening is prohibited.

I. Antennas attached to a public facility, such as a water tank, shall be integrated with the design, material, shape and color of, and shall not be visibly distinctive from, the public facility. Antennas attached to City-owned poles shall follow the terms and conditions contained in Section 15.32.300.

J. Freestanding transmission towers shall minimize external projections from the support structure to reduce visual impacts and to the extent feasible shall integrate antennas in a screening structure with the same dimensions as external dimensions of the support structure, or shall mount antennas with as little projection from the structure as feasible. External conduits, climbing structures, fittings, and other projections from the external face of the support structure shall be minimized to the extent feasible.

K. The standards set forth in this Section 23.57.016 may be varied as follows:

1. For new buildings these standards may be varied through the design review process provided for in Section 23.41.014.

2. For existing buildings that have previously gone through the design review process these standards may be varied by the Director if the Director determines that the new minor communication facilities would be consistent with the Director's design review decision on the original building; otherwise, these standards may be varied through the administrative design review process provided for in Section 23.41.016.

3. For existing buildings that have not previously gone through the design review process these standards may be varied through the administrative design review process provided for in Section 23.41.016.

Section 38. Subsection A of Section 23.66.122 of the SMC, which Section was last amended by Ordinance 119484, is amended as follows:

23.66.122 Prohibited uses.

A. The following uses are prohibited in the entire Pioneer Square Preservation District as both principal and accessory uses:

Retail ice dispensaries;
Plant nurseries;
Frozen food lockers;
Animal services;
Automotive retail sales and service, except gas stations located in parking garages;
Marine retail sales and service;
Heavy commercial services;
Fuel sales;
Sales, service and rental of commercial equipment and construction materials;
Adult motion picture theaters;
Adult panorams;
Bowling alleys;
Skating rinks;
Major ((~~C~~))communication utilities;
Advertising signs and off-premises directional signs;
Transportation facilities, except passenger terminals;
Outdoor storage;
Jails;
Work-release centers;
General and heavy manufacturing uses;
Salvage and Recycling uses, except recycling collection stations; and
High impact uses.

* * *

Section 39. Subsection C of Section 23.66.140 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.66.140 Height.

* * *

C. Rooftop Features. The height limits established for the rooftop features described in this subsection may be increased by the average height of the existing street parapet or a historically substantiated reconstructed parapet on the building on which the

rooftop feature is proposed. The setbacks required for rooftop features may be modified by the Department of Neighborhoods Director, after a sight line review by the Preservation Board to ensure that the features are minimally visible from public streets and parks within three hundred (300) feet of the structure.

1. ((~~Radio and television receiving antennas excluding dishes, r~~)) Religious symbols for religious institutions, smokestacks and flagpoles may extend up to fifty (50) feet above the roof of the structure or the maximum height limit, whichever is less, except as regulated in Chapter 23.64 of this Land Use Code, provided that they are a minimum of ten (10) feet from all lot lines.

2. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls may extend up to four (4) feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage.

3. Solar collectors, excluding greenhouses, may extend up to seven (7) feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage, provided they are a minimum of ten (10) feet from all lot lines.

4. The following rooftop features may extend up to eight (8) feet above the roof or maximum height limit, whichever is less, when they are set back a minimum of fifteen (15) feet from the street and three (3) feet from an alley. They may extend up to twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street. A setback may not be required at common wall lines subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The combined coverage of the following listed rooftop features shall not exceed fifteen (15) percent of the roof area:

a. Solar collectors, excluding greenhouses;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of these rooftop features, not to exceed twenty-five (25) percent of the roof area, may be permitted subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

5. Structures existing prior to June 1, 1989 may add new or replace existing mechanical equipment up to eight (8) feet above the existing roof elevation when they are set back a minimum of fifteen (15) feet from the street and three (3) feet from an alley; or may extend up to twelve (12) feet above the existing roof elevation when they are set back a minimum of thirty (30) feet from the street, subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

6. Residential and Office Penthouses.

a. Residential penthouses may cover a maximum of fifty (50) percent of the total roof surface and may extend up to eight (8) feet above the roof when set back a minimum of fifteen (15) feet from the street property line, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. Office penthouses shall be permitted only when the footprint of the existing structure is greater than ten thousand (10,000) square feet and the structure is at

least sixty (60) feet in height. When permitted, office penthouses shall be set back a minimum of fifteen (15) feet from all property lines and may cover a maximum of fifty (50) percent of the total roof surface. Office penthouses may extend up to twelve (12) feet above the roof of the structure and shall be functionally integrated into the existing structure.

c. The combined height of the structure and a residential penthouse or office penthouse, where permitted, shall not exceed the maximum height limit for that area of the District in which the structure is located.

7. Screening of Rooftop Features. Measures may be taken to screen rooftop features from public view subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The amount of rooftop area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection C4 above. In no circumstances shall the height of the rooftop screening exceed fifteen (15) feet above the maximum height limit.

8. See Section 23.57.014 for regulation of communication utilities and accessory devices.

* * *

Section 40. Subsection A of Section 23.66.322 of the SMC, which Section was last amended by Ordinance 114623, is amended as follows:

23.66.322 Prohibited uses.

A. The following uses shall be prohibited as both principal and accessory uses in the entire International Special Review District:

Adult motion picture theaters;
Adult panorams;
All general and heavy manufacturing uses;
All high-impact uses;
All salvage and recycling uses, except recycling collection stations;
Automotive retail sales and service;
Bowling lanes;
Major ((~~C~~))communication utilities;
Sales, service and rental of commercial equipment and construction materials;
Drive-in businesses;
Frozen food lockers;
Heavy commercial services;
Marine retail sales and services;
Medical testing laboratories;
Mortuary services;
Motels;
Outdoor storage;
Plant nurseries;
Retail ice dispensaries;

Shooting galleries;
Skating rinks;
Mobile home parks;
Transportation facilities except passenger terminals;
Animal services;
Jails;
Work-release centers.

* * *

Section 41. Subsection C of Section 23.66.332 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.66.332 Height

* * *

C. Rooftop Features.

1. The Special Review Board and the Department of Neighborhoods Director shall review rooftop features to preserve views from Kobe Terrace Park.

2. ((~~Radio and television receiving aerials excluding dishes, r~~)) Religious symbols for religious institutions, smokestacks and flagpoles are exempt from height controls, except as regulated in Chapter 23.64 of this Land Use Code, provided they are at least ten (10) feet from all lot lines.

3. Open railings, planters, clerestories, skylights, ((~~dish antennae,~~)) play equipment, parapets and firewalls may extend up to four (4) feet above the maximum height limit and may have unlimited rooftop coverage.

4. Solar collectors excluding greenhouses may extend up to seven (7) feet above the maximum height limit and may have unlimited rooftop coverage.

5. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit provided that the combined coverage of all features listed below does not exceed fifteen (15) percent of the roof area:

a. Solar collectors, excluding greenhouses;

b. Stair and elevator penthouses;

c. Mechanical equipment that is set back at least fifteen (15) feet from the roof edge((.));

d. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of these rooftop features, not to exceed twenty-five (25) percent of the roof area, may be permitted subject to review by the Special Review Board and approved by the Department of Neighborhoods Director.

6. Structures existing prior to June 1, 1989 may add new or replace existing mechanical equipment up to fifteen (15) feet above the existing roof elevation of the

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structure as long as it is set back at least fifteen (15) feet from the roof edge subject to review by the Special Review Board and approval by the Department of Neighborhoods Director.

7. Screening of Rooftop Features. Measures may be taken to screen rooftop features from public view subject to review by the Special Review Board and approval of the Department of Neighborhoods Director. The amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection C5 above. In no circumstances shall the height of rooftop screening exceed fifteen (15) feet above the maximum height limit.

8. For height exceptions for communication utilities and devices, see Section 23.57.014.

Section 42. Subsection C of Section 23.76.022 of the SMC, which Section was last amended by Ordinance 119096, is amended as follows:

23.76.022 Administrative appeals.

* * *

C. Hearing Examiner Appeal Procedures.

1. Consolidated Appeals. All appeals of Type II Master Use Permit decisions other than shoreline decisions shall be considered together in a consolidated hearing before the Hearing Examiner.

2. Standing. Appeals may be initiated by any person significantly affected by or interested in the permit.

3. Filing of Appeals.

a. Appeals shall be filed with the Hearing Examiner by five (5:00) p.m. of the fourteenth calendar day following publication of notice of the decision; provided, that when a fourteen (14) day DNS comment period is required pursuant to SMC Chapter 25.05, appeals may be filed until five (5:00) p.m. of the twenty-first calendar day following publication of notice of the decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. The appeal shall be in writing and shall clearly identify each component of a Type II Master Use Permit being appealed. The appeal shall be accompanied by payment of the filing fee as set forth in SMC Section 3.02.125, Hearing Examiner filing fees. Specific objections to the Director's decision and the relief sought shall be stated in the written appeal.

b. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

c. The Hearing Examiner shall not accept any request for an interpretation included in the appeal unless it complies with the requirements of Section 23.88.020C3c.

4. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.

5. Notice of Hearing. Notice of the hearing on the appeal shall be mailed by the Director at least twenty (20) days prior to the scheduled hearing date to parties of record and those requesting notice. Notice shall also be included in the next general mailed release.

6. Scope of Review. Appeals shall be considered de novo. The Hearing Examiner shall entertain issues cited in the appeal which relate to compliance with the procedures for Type II decisions as required in this chapter, compliance with substantive criteria, determinations of nonsignificance (DNSs), adequacy of an EIS upon which the decision was made, or failure to properly approve, condition or deny a permit based on disclosed adverse environmental impacts and any requests for an interpretation included in the appeal or consolidated appeal pursuant to Section 23.88.020C3.

7. Standard of Review. The Director's decisions made on a Type II Master Use Permit shall be given substantial weight, except for determinations on variances, conditional uses, and special exceptions, which shall be given no deference.

8. The Record. The record shall be established at the hearing before the Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony, written argument or exhibits.

9. Postponement or Continuance of Hearing. The Hearing Examiner shall not grant requests for postponement or continuance of an appeal hearing to allow an applicant to proceed with an alternative development proposal under separate application, unless all parties to the appeal agree in writing to such postponement or continuance.

10. Hearing Examiner's Decision. The Hearing Examiner shall issue a written decision within fifteen (15) days after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made. The Director and all parties of record shall be bound by the terms and conditions of the Hearing Examiner's decision.

11. Notice of Hearing Examiner Decision. The Hearing Examiner's decision shall be mailed by the Hearing Examiner on the day the decision is issued to the parties of record and to all those requesting notice. If environmental issues were raised in the appeal, the decision shall also be filed with the SEPA Public Information Center. The decision shall contain information regarding judicial review. To the extent such information is available to the Hearing Examiner, the decision shall contain the name and address of the owner of the property at issue, of the applicant, and of each person who filed an appeal with the Hearing Examiner, unless such person abandoned the appeal or such person's claims were dismissed before the hearing.

12. Appeal of Hearing Examiner's Decision. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040 ((.)), or if the appeal concerns a decision on personal wireless

service, the appeal shall be filed within thirty (30) days of the Hearing Examiner's or Council's final decision.

Section 43. Subsection D of Section 23.76.056 of the SMC, which Section was last amended by Ordinance 118181, is amended as follows:

23.76.056 Council decision on Hearing Examiner recommendation.

* * *

D. Any Type IV decision shall be final and conclusive unless Council retains jurisdiction or the decision is reversed or remanded on judicial appeal or appeal to the Shorelines Hearings Board. Any judicial review of a decision not appealable to the Shorelines Hearings Board must be commenced within twenty-one (21) days of issuance of the Council's decision, as provided by RCW 36.70C.040 ((.)), except that an appeal of a decision concerning personal wireless service must be commenced within thirty (30) days of issuance of the decision.

* * *

Section 44. Section 23.84.006 of the SMC, which was last amended by Ordinance 120443, is amended as follows:

23.84.006 "C."

* * *

Communication Devices and Utilities (and Related Terms).

1. "Candelabra mounting" means a single spreader that supports more than two (2) antennas.

((~~1~~))2. "Communication device, accessory" means a device by which radiofrequency communication signals are transmitted and/or received, such as but not limited to whip, horn and dish antennas, and which is accessory to the principal use on the site. ((~~Receive-only television and radio antennas and amateur radio towers are not included in this definition. Communication equipment such as Citizen Band radios, telephones which depend upon wires and cables or hand-held telephones are exempt from the Land Use Code regulations.~~))

((~~2~~))3. "Communication utility, major" means a ((~~business~~)) use in which the means for radiofrequency transfer of information are provided by facilities with significant impacts beyond their immediate area. These utilities include, but are not limited to FM and AM radio((~~,~~)) and UHF and VHF television transmission towers((~~, and earth stations~~)). A major communication utility use does not include communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or

television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

((~~3~~))4. "Communication utility, minor" means a ((~~business~~)) use in which the means for radiofrequency transfer of information are provided but which generally does not have significant impacts beyond the immediate area. These ((~~facilities~~)) utilities are smaller in size than major communication utilities and include two (2) way, land-mobile, personal wireless services and cellular communications facilities; cable TV facilities; point-to-point microwave antennas; FM translators; and FM boosters with under ten (10) watts transmitting power. A minor communication utility does not include wire, cables, or communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

((4))5. "Dish antenna" means a round parabolic device for the reception and/or transmission of radiofrequency communication signals. Dish antenna may serve either as a major or minor communication utility or may be an accessory communication device. Dish antenna may be either a) a satellite earth station antenna, which receives signals from and/or transmits signals to satellites, or b) a point-to-point, point-to-multipoint, or point-to-consecutive-point antenna, which receive signals from terrestrial sources.

((~~5. "Earth station" means a major communication utility which transmits and receives signals to and from an orbiting satellite and is twenty-five (25) feet in diameter or larger.~~))

6. "Fixed wireless service" means the transmission of commercial non-broadcast communication signals via wireless technology to and/or from a fixed customer location. Fixed wireless service does not include AM radio, FM radio, amateur ("HAM") radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.

7. "Personal wireless service" means a commercial use offering cellular mobile services, unlicensed wireless services and common carrier wireless exchange access services.

((~~6~~))8. "Physical expansion of major or minor communication utilities" means any increase in footprint and/or envelope of transmission towers. Physical expansion does not include an increase in height of the tower resulting from repair, reconstruction, replacement or modification to the antenna ((~~, accessory telecommunication devices, transmission tower or accessory building~~)) that would result in lower radiofrequency radiation exposure readings at ground level or in greater public safety, as long as the height above mean sea level does not increase by more than ten (10) percent and in any event does not exceed one thousand one hundred (1,100) feet above mean sea level. Replacement of existing antennas or addition of new antennas is not considered physical expansion, unless such replacement or addition increases the envelope of the transmission tower by such means as utilizing a candelabra mounting. Replacement or expansion of an equipment building is not considered physical expansion.

((~~7~~))9. "Receive-only communication device((s))" means a radiofrequency device with the ability to receive signals, but not to transmit them.

((~~8~~))10. "Reception window obstruction" means a physical barrier which would block the signal between an orbiting satellite an a land-based antenna.

11. "Satellite dish antenna." See "Dish antenna."

((~~9~~))12. "Shared-use facility" means a telecommunication facility used by two (2) or more television stations or five (5) or more FM stations.

((~~10~~))13. "Single-occupant facility" means a telecommunication facility used by only one (1) television station or by one (1) television station and one (1) to four (4) FM stations.

((~~11~~))14. "Transmission tower" means a tower or monopole on which communication devices are placed. Transmission towers may serve either as a major or minor communication facility.

((~~12. "Candelabra mounting" means a single spreader which supports more than two (2) antennas.~~))

15. "Whip antenna" means an omnidirectional antenna, cylindrical in shape, four inches (4") or less in diameter and twelve feet (12') or less in length.

* * *

Section 45. Subsection F of Section 25.05.675 of the SMC, which Section was last amended by Ordinance 120692, is amended as follows:

25.05.675 Specific environmental policies.

* * *

F. Environmental Health.

1. Policy Background.

a. The use, discharge, disposal, emission or application of toxic or hazardous materials may pose hazards to human health and to plants, animals and ecological systems. Hazardous materials include such things as pesticides, herbicides, and electromagnetic transmissions.

b. Federal, state and regional regulations are the primary means of mitigating risks associated with hazardous and toxic materials. ((~~c. Federal, state and regional regulations cannot always~~)) However, such regulations cannot always be developed and implemented to anticipate or eliminate adverse impacts from hazardous materials and transmissions. Public knowledge regarding such hazardous materials and transmissions may develop more quickly than the regulations ((~~can react and be implemented~~)).

c. To the extent that personal wireless and fixed wireless facilities comply with the Federal Communications Commission regulations concerning radiofrequency emissions, the City may not regulate placement, construction, and modification of such facilities on the basis of the environmental effects of such emissions, according to the Federal Telecommunications Act of 1996.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts resulting from toxic or hazardous materials and transmissions, to the extent permitted by federal and state law.

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b. For all proposed projects involving the use, treatment, transport, storage, disposal, emission, or application of toxic or hazardous chemicals, materials, wastes or transmissions, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the extent of potential adverse impacts and the need for mitigation, where permitted by federal and state law.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, if the decisionmaker makes a written finding that applicable federal, state and regional laws and regulations did not anticipate or do not adequately address the adverse impacts of a proposed project, the project may be conditioned or denied to mitigate its adverse impacts. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;
ii. Reduction in the size or scope of a project or operation;
iii. Limits on the time and/or duration of operation; and
iv. Alternative routes of transportation.

* * *

Section 46. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 47. 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 the Municipal Code Section 1.04.020.

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

_____
President of the City Council

Approved by me this ..... day of ....., 2002

_____
Mayor

Filed by me this ..... day of ....., 2002

_____
City Clerk

(Seal)

Seattle City Clerk

DA,CM, and JHT
C.B. 114222
September 17, 2002
V #3 (As Passed Out of Land Use Committee)

ORDINANCE_____

AN ORDINANCE relating to land use and zoning, amending Chapter 23.57 and Sections 23.41.004, 23.41.012, 23.44.002, 23.44.012, 23.45.002, 23.45.009, 23.45.016, 23.45.050, 23.45.058, 23.45.066, 23.45.074, 23.47.002, 23.47.012, 23.47.024, 23.48.002, 23.48.010, 23.49.002, 23.49.008, 23.49.009, 23.49.208, 23.49.338, 23.50.002, 23.50.020, 23.66.122, 23.66.140, 23.66.322, 23.66.332, 23.76.022, 23.76.056, 23.84.006, and 25.05.675 of the Seattle Municipal Code to clarify regulations, to add additional regulations and to comply with new federal and state telecommunication laws.

WHEREAS, the City's Comprehensive Plan calls for universal access to state-of-the-art telecommunication services (Utilities G6) and for encouraging the development of telecommunications infrastructure citywide (Economic Development E24); and

WHEREAS, the Federal Telecommunications Act of 1996 encourages the growth of the telecommunications industry through deregulation, and places certain limits on local governmental authority to condition or deny applications for personal wireless service facilities; and

WHEREAS, the Federal Communications Commission has preempted local government control over certain small receive-only antennas; and

WHEREAS, the State of Washington amended the State Environmental Policy Act (SEPA) in 1996 to exclude certain telecommunications facilities from environmental review; and

WHEREAS, the City of Seattle recognizes the health, safety and public welfare aspects of telecommunication facilities; and

WHEREAS, the City of Seattle will encourage creative approaches in siting telecommunication facilities to minimize the unsightly characteristics that may be associated with these facilities, while providing for a wide range of locations and options for providers:

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection B of Section 23.41.004 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

SMC 23.41.004 Applicability.

***

B. Design Review -- Optional.

1. Design review is optional to any applicant for new multifamily, commercial or Major Institution structures not otherwise subject to this chapter, in the Stadium Transition Area Overlay District and in all multifamily, commercial or downtown zones.

2. An administrative design review process is an option to an applicant for new multifamily, or commercial structures, if the structure would not exceed SEPA thresholds or as provided in subsection B3 below, in the Stadium Transition Area Overlay District and in multifamily, commercial or downtown zones, according to the process described in Section 23.41.016.

3. Administrative Design Review to Protect Trees. As provided in Sections 25.11.070 and 25.11.080, an administrative design review process (Section 23.41.016) is an option to an applicant for new multifamily and commercial structures in Lowrise, Midrise, and commercial zones to protect a tree over two (2) feet in diameter measured four and one-half (4 ½) feet above the ground, even when the project exceeds SEPA thresholds but design review would not otherwise be required by Subsection A, above.

<u>4. An administrative design review process is an option to an applicant for installation of telecommunication devices on new or existing structures according to the process described in Section 23.41.016 in order to vary minor communication utility height limits in downtown zones set forth in SMC 23.57.013B, and telecommunication facilities development standards set forth in Section 23.57.016.</u>

***

Section 2. Subsection B of Section 23.41.012 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

23.41.012 Development standard departures.

* * *

B. Departures may be granted from the following requirements:

1. Structure width and depth limits;
2. Setback requirements;
3. Modulation requirements;
4. SCM zone facade requirements, including transparency and blank facade provisions;
5. Design, location on the lot and access to parking requirements;
6. Open space or common recreation area requirements;
7. Lot coverage limits;
8. Screening and landscaping requirements;

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9. Standards for the location and design of nonresidential uses in mixed use buildings;

10. Within Urban Centers, in L3 zones only, the pitched roof of a structure, as provided in Section 23.45.009 C, may incorporate additional height of up to twenty (20) percent of the maximum height permitted, as provided in Section 23.45.009 A, subject to the following limitations:

a. A pitched roof may not incorporate the additional height if the structure is on a lot abutting or across a street or alley from a single-family residential zone,

b. The proposed structure must be compatible with the general development potential anticipated within the zone,

c. The additional height must not substantially interfere with views from up-slope properties, and

d. No more than one (1) project on one (1) site within each Urban Center may incorporate additional height in the pitched roofs of its structures pursuant to this subsection unless development regulations enacted pursuant to a neighborhood planning process allow other projects to incorporate such additional height;

11. Building height within the Roosevelt Commercial Core, up to an additional three (3) feet, for properties zoned NC3-65', (Exhibit 23.41.012A, Roosevelt Commercial Core);

12. Building height within the Ballard Municipal Center master plan area, for properties zoned NC3-65', (Exhibit 23.41.012B, Ballard Municipal Center Master Plan area). The additional height may not exceed nine (9) feet, and may be granted only for townhouses that front a mid-block pedestrian connection or a park identified in the Ballard Municipal Center Master Plan;

13. Reduction in required parking for ground level retail uses that abut established mid-block pedestrian connections through private property as identified in the "Ballard Municipal Center Master Plan Design Guidelines, 2000." The parking requirement must be no less that the required parking for Pedestrian 1 designated areas shown in Section 23.47.044 Chart E;

14. Downtown or Stadium Transition Overlay District street facade requirements;

15. Downtown upper-level development standards;

16. Downtown coverage and floor size limits;

17. Downtown maximum wall dimensions;

18. Downtown street level use requirements;

19. Combined coverage of all rooftop features in downtown zones subject to the limitations in Section 23.49.008 C2;

20. Certain conditions to allowance of additional height in DOC 1 and DOC 2 zones pursuant to subsection 23.49.008A 2, as follows:

a. Limits on gross floor area of stories under subsection 23.49.008 A2a(2); and

b. Percentages of lot area that must be occupied by open space or by structures no greater than thirty-five (35) or sixty-five (65) feet in height, under subsection 23.49.008 A2b(1);

21. Building height in Lowrise zones, and parking standards of Section 23.54.015 in Midrise and Commercial zones, in order to protect existing trees as provided in Chapter 25.11; ((~~and~~))

22. Downtown view corridor and Downtown Green Street requirements to allow open railings on upper level roof decks or rooftop open space to project into the required view corridor or Green Street setback, provided such railings are determined to have a minimal impact on views and meet the requirements of the Building Code((.)); and

23. Minor communication utility height limits in downtown zones set forth in SMC 23.57.013B, and telecommunication facilities development standards set forth in Section 23.57.016.

Section 3. Section 23.44.002 of the SMC, which Section was last amended by Ordinance 116295, is amended as follows:

23.44.002 Applicability of provisions.

This chapter details those authorized uses and their development standards which are or may be permitted in the three (3) single-family residential zones: SF 9600, SF 7200 and SF 5000. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 4. Subsection C of Section 23.44.012 of the SMC, which Section was last amended by Ordinance 120609, is amended as follows:

23.44.012 Height limits.

* * *

C. Height Limit Exceptions.

1. ((~~Radio and Television Antennas and~~)) Flagpoles. Except in the Airport Height Overlay District, Chapter 23.64, ((~~receive-only radio and television antennas, except for dishes, and~~)) flagpoles are exempt from height limits, provided that they are no closer to any adjoining lot line than fifty (50) percent of their height above existing grade, or, if attached only to a roof, no closer than fifty (50) percent of their height above the roof portion where attached.

2. Other Features. Open rails, planters, skylights, and clerestories may extend no higher than the ridge of a pitched roof or four (4) feet above a flat roof. Chimneys may extend four (4) feet above the ridge of a pitched roof or above a flat roof.

3. Solar Collectors. For height exceptions for solar collectors, not including solar greenhouses, see Section 23.44.046.

4. For non-residential principal uses, the following rooftop features may extend up to ten (10) feet above the maximum height limit, as long as the combined total

coverage of all features does not exceed fifteen (15) percent of the roof area, or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses; and

b. Mechanical equipment.

5. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.010.

Section 5. Subsection B of Section 23.45.002 of the SMC, which Section was last amended by Ordinance 118414, is amended as follows:

23.45.002 Scope of provisions.

***

B. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

***

Section 6. Subsection D of Section 23.45.009 of the SMC, which Section was last amended by Ordinance 120609, is amended as follows:

23.45.009 Structure height—Lowise zones.

* * *

D. Rooftop Features.

1. ((~~Radio and television receive-only antennas, except for dish antennas, f~~))Flagpoles((,)) and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend no higher than the ridge of a pitched roof permitted under subsection C above or four (4) feet above the maximum height limit set in subsection A of this section. For cottage housing developments, these rooftop features may extend four (4) feet above the eighteen (18) foot height limit.

3. For cottage housing developments, chimneys may exceed the height limit by four (4) feet or may extend four (4) feet above the ridge of a pitched roof.

4. Except in cottage housing developments, the following rooftop features may extend ten (10) feet above the maximum height limit established in subsection A so long as the combined total coverage of all features does not exceed fifteen (15) percent of

the roof area or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys((.));

e. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

5. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

6. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection D6 at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to the maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted ((~~on rooftops by special exception~~)) according to the provisions of Chapter 23.57.011;

f. Nonfirewall parapets;

g. Play equipment.

7. For height limits and exceptions for communication utilities and devices, Section 23.57.011.

* * *

Section 7. Subsection B of Section 23.45.016 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.016 Open space requirements -- Lowrise zones.

* * *

B. Development Standards.

1. Lowrise Duplex/Triplex Zones and Ground-related Housing in Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones.

a. Lowrise Duplex/Triplex Zones -- Private Usable Open Space.

(1) Private usable open space shall be provided at ground level in one (1) contiguous parcel with a minimum area of four hundred (400) square feet,

except that in cottage housing developments, the quantity per unit shall be a minimum of two hundred (200) square feet. No horizontal dimension of the open space shall be less than ten (10) feet.

(2) Private usable open space shall be located a maximum of four (4) feet above or below a private entry to the unit it serves. The floor of the unit accessed by this entry shall have a minimum area of three hundred (300) square feet. This minimum area may include a private garage if habitable floor area of the same unit is located directly above.

b. Lowrise Duplex/Triplex Zones -- Common Open Space. Required common open space shall be provided at ground level in one (1) contiguous parcel with a minimum area of six hundred (600) square feet, except that in cottage housing developments, the quantity per unit shall be a minimum of one hundred fifty (150) square feet. In cottage housing developments, each cottage shall abut the common open space. No horizontal dimension of the open space shall be less than ten (10) feet.

c. Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones -- Ground-related Housing.

(1) In Lowrise 1 zones the required open space shall be provided in one (1) contiguous parcel, except that in cottage housing developments, the open space shall be allotted as described in subsections A2c above and B1c(5) below. In Lowrise 2, Lowrise 3 and Lowrise 4 zones, the required open space for each ground-related dwelling unit is not required to be in one (1) contiguous area, but no open space area shall be less than one hundred twenty (120) square feet. No horizontal dimension of the open space shall be less than ten (10) feet.

(2) Required open space may be located a maximum of ten (10) feet above or below the unit it serves, except as permitted in subsection B1c(4), provided that the access to such open space does not go through or over common circulation areas, common or public open spaces, or the open space serving another unit.

(3) At least fifty (50) percent of the required open space for a unit shall be level, provided that:

i. The open space may be terraced; and

ii. Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two (2) feet.

(4) For additional dwelling units proposed within a structure existing on August 11, 1982, the vertical distance between the unit and the private, landscaped open space may exceed ten (10) feet where the following criteria are met:

i. Where the structure was constructed with floor-to-floor heights in excess of ten (10) feet, the open space may be located a maximum of ten (10) feet plus the height between floors in excess of ten (10) feet, above or below the unit it serves; or

ii. Where the structure was constructed with the first floor in excess of two (2) feet above grade, the open space may be located a maximum of ten (10) feet plus the additional height of the first floor in excess of two (2) feet above grade, above or below the unit it serves.

(5) Lowrise 1 Zone -- Cottage Housing Developments.

i. At least fifty (50) percent of the required total open space per unit shall be provided as private usable open space in one (1) contiguous parcel. No horizontal dimension of the open space shall be less than ten (10) feet.

ii. Common open space shall be provided at ground level in one (1) contiguous parcel with a minimum area per unit of one hundred fifty (150) square feet. No horizontal dimension of the open space shall be less than ten (10) feet. Each cottage shall abut the common open space.

d. Required open space may be located in the front, sides or rear of the structure.

e. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit, or common areas which directly face the open space of a different unit, are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls or wingwalls.

f. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

g. Required private usable open space shall be landscaped according to standards promulgated by the Director for ground-related dwelling units.

2. Lowrise 1, Lowrise 2, Lowrise 3 and Lowrise 4 Zones -- Apartments.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

d. In order to qualify as above-ground level open space, balconies, decks, and in L3 and L4 zones, individual unit decks on roofs, shall all have a minimum horizontal dimension of six (6) feet, and a total area of at least sixty (60) square feet, while common roof gardens in L3 and L4 zones shall have a minimum area of two hundred fifty (250) square feet. Common roof garden open space shall be landscaped according to the rules promulgated by the Director.

e. For cluster development, at least twenty (20) percent of the required open space shall be provided in one (1) contiguous area.

f. Terraced Housing on a Slope of Twenty-five (25) Percent or More.

(1) No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

(2) Required open space is permitted in the front, sides or rear of the structure.

(3) Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11, shall not be counted as open space.

(4) In order to qualify as above-ground-level open space, rooftop areas shall have a minimum horizontal dimension of at least ten (10) feet and a total area of at least one hundred twenty (120) square feet.

g. ((~~Rooftop space within the following parameters shall not count toward meeting open space requirements, the area eight (8) feet from and in front of a directional antenna and at least two (2) feet from the back of a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.~~)). When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

3. Open Space Exception. When all parking and access to parking is uncovered and is surfaced in permeable material, except gravel, the quantity of required ground-level open space shall be reduced by five (5) percent of the total lot area.

* * *

Section 8. Subsection D of Section 23.45.050 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.050 Midrise—Structure height.

* * *

D. Rooftop Features.

1. ((~~Radio and television receive-only antennas, except dish antennas, f~~))Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the maximum height limit set in subsections A and B of this ((s))Section.

3. The following rooftop features may extend ten (10) feet above the maximum height limit set in subsections A and B of this section, so long as the combined total coverage of all features does not exceed fifteen (15) percent of the roof area or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys;

e. Sun and wind screens;

f. Penthouse pavilions for the common use of residents;

g. Greenhouses which meet minimum energy standards administered by the Director((.)) ;

h. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

4. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.011;

f. Nonfirewall parapets;

g. Play equipment;

h. Sun and wind screens;

i. Penthouse pavilions for the common use of residents.

6. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

Section 9. Subsection B of Section 23.45.058 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.058 Midrise—Open space requirements.

* * *

B. Development Standards.

1. Required open space shall be landscaped according to standards promulgated by the Director.

2. Ground-related Housing.

a. The required open space for each unit is not required to be in one (1) contiguous area, but no open space area shall be less than one hundred twenty (120) square feet, and no horizontal dimension shall be less than ten (10) feet.

b. Required open space may be located in the front, sides or rear of the structure.

c. Required open space may be located a maximum of ten (10) feet above or below the unit it serves, provided that the access to such open space does not go through or over common circulation areas, common or public open space, or the open space serving another unit, except as permitted in subsection B2g.

d. The grade of the open space can either be the existing grade or within eighteen (18) inches of existing grade. The portion of the open space which is within ten (10) feet of the unit shall include the point where the access to the open space from the unit occurs.

e. Direct access to the open space shall be from at least one (1) habitable room of at least eighty (80) square feet of the principal living areas of the unit. Principal living areas shall not include foyers, entrance areas, closets or storage rooms, hallways, bathrooms or similar rooms alone or in combination.

f. At least fifty (50) percent of the required open space for a unit shall be level, provided that:

(1) The open space may be terraced; and

(2) Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two (2) feet.

g. For additional dwelling units proposed within a structure existing on August 11, 1982, the vertical distance between the unit and the private, landscaped open space may exceed ten (10) feet where the following criteria are met:

(1) Where the structure was constructed with floor-to-floor heights in excess of ten (10) feet, the open space may be located a maximum of ten (10) feet plus the height between floors in excess of ten (10) feet, above or below the unit it serves; or

(2) Where the structure was constructed with the first floor in excess of two (2) feet above grade, the open space may be located a maximum of ten (10) feet plus the additional height of the first floor in excess of two (2) feet above grade, above or below the unit it serves.

h. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit or common area which directly faces the open space of a different unit are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls, or wingwalls. Fences, freestanding walls, or wingwalls located in setbacks shall be no more than six (6) feet in height in accordance with Section 23.45.014G.

i. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

3. Apartments.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

d. In order to qualify as aboveground open space, balconies and decks shall have a minimum horizontal dimension of at least six (6) feet, and the minimum area shall be sixty (60) feet.

e. For cluster development, at least twenty (20) percent of the required open space shall be provided in one (1) contiguous area.

f. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

4. Terraced Housing on a Slope of Twenty-five (25) Percent or More.

a. No horizontal dimension for required ground-level open space shall be less than ten (10) feet.

b. Required open space is permitted in the front, sides or rear of the structure.

c. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Building Code, Chapter 11—Accessibility, shall not be counted as open space.

d. In order to qualify as aboveground open space, rooftop areas, balconies ((~~or~~)) and decks shall have a minimum horizontal dimension of at least ten (10) feet, and a total area of at least one hundred twenty (120) feet.

* * *

Section 10. Subsection C of Section 23.45.066 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.45.066 Highrise—Structure height.

* * *

C. Height Exceptions.

1. ((~~Radio and television receive-only antennas, except dish antennas, f~~))Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than fifty (50) percent of their height above existing grade or, if attached only to the roof, no closer than fifty (50) percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets, and firewalls may extend four (4) feet above the maximum height limit set in subsections A and B of this ((s))Section.

3. The following rooftop features may extend up to ten (10) feet above the maximum height limit, so long as the combined total coverage of all features does not

exceed fifteen (15) percent of the roof area, or twenty (20) percent of the roof area if the total includes screened mechanical equipment:

a. Stair and elevator penthouses;

b. Mechanical equipment;

c. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least five (5) feet from the roof edge;

d. Chimneys;

e. Sun and wind screens;

f. Penthouse pavilions for the common use of residents((.)) ;

g. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.011.

4. For height exceptions for solar collectors, see Section 23.45.146, Solar collectors.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed below at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.011;

f. Nonfirewall parapets;

g. Play equipment;

h. Sun and wind screens;

i. Penthouse pavilions for the common use of residents.

6. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

Section 11. Subsection B of Section 23.45.074 of the SMC, which Section was adopted by Ordinance 110570, is amended as follows:

23.45.074 Highrise--Open space requirements.

* * *

B. Development Standards.

1. No horizontal dimension for required open space at ground level or on the roof of the base structure shall be less than fifteen (15) feet, nor shall any open space area be less than two hundred twenty-five (225) square feet.

2. In order to qualify as above-ground-level open space, balconies, decks, or open space on the roof of a base structure shall be thirty-seven (37) feet or less above existing grade.

3. Required open space is permitted in the front, side or rear of the structure.

4. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State ((~~Rules and Regulations for Barrier-Free Design~~)) Building Code, Chapter 11, shall not be counted as open space.

5. In order to qualify as aboveground open space, no horizontal dimension for balconies and decks shall be less than six (6) feet, and the minimum area for balconies and decks shall be sixty (60) feet.

6. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.011.

Section 12. Subsection E of Section 23.47.002 of the SMC, which Section was last amended by Ordinance 117430, is amended as follows:

23.47.002 Scope of provisions.

***

E. Requirements for streets, alleys and easements are provided in Chapter 23.53. Standards for parking quantity, access and design are provided in Chapter 23.54. Signs shall be regulated by Chapter 23.55. Methods for measurements are provided in Chapter 23.86. ((~~Requirements for c~~)) Communication utilities and accessory communication devices ((~~are contained~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

***

Section 13. Subsections H, J, and K of Section 23.47.012 of the SMC, which Section was last amended by Ordinance 120609, are amended as follows:

23.47.012 Structure height and floor area ratio.

* * *

H. Rooftop Features.

1. ((~~Radio and television receiving antennas, excluding dish antennas; ham radio towers; s~~)) Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend no higher than the ridge of a pitched roof as permitted by Section 23.47.012F or up to four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar Collectors.

a. In zones with height limits of thirty (30) feet or forty (40) feet, solar collectors may extend up to four (4) feet above the maximum height limit, with unlimited rooftop coverage.

b. In zones with height limits of sixty-five (65) feet or more, solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection does not exceed twenty (20) percent of the roof area or twenty-five (25) percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least fifteen (15) feet from the roof edge; and

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.012.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses;

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, permitted according to the provisions of ((~~Chapter~~)) Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

6. Structures existing prior to May 10, 1986 may add new or replace existing mechanical equipment up to fifteen (15) feet above the roof elevation of the structure and shall comply with the noise standards of Section 23.47.018.

7. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

* * *

((~~J. Television Receiving Antennas. The maximum height of television receiving antennas, except for dish antennas, shall be no more than fifty (50) feet in zones where the maximum height limit does not exceed fifty (50) feet. In zones with a maximum height limit~~

~~which exceeds fifty (50) feet the maximum height of the antenna shall not exceed the maximum height allowed for all structures.~~

~~K.~~)) J. Height Exceptions for Public Schools.

1. For new public school construction on new public school sites, the maximum permitted height shall be the maximum height permitted in the zone.

2. For new public school construction on existing public school sites, the maximum permitted height shall be the maximum height permitted in the zone or thirty-five (35) feet plus fifteen (15) feet for a pitched roof, whichever is greater.

3. For additions to existing public schools on existing public school sites, the maximum height permitted shall be the maximum height permitted in the zone, the height of the existing school, or thirty-five (35) feet plus fifteen (15) feet for a pitched roof, whichever is greater.

4. Development standard departure for structure height may be granted or required pursuant to the procedures and criteria set forth in Chapter 23.79. For construction of new structures on new and existing public school sites to the extent not otherwise permitted outright, maximum height which may be granted as a development standard departure in zones with height limits of thirty (30) or forty (40) feet shall be thirty-five (35) feet plus fifteen (15) feet for a pitched roof for elementary schools and sixty (60) feet plus fifteen (15) feet for a pitched roof for secondary schools. All height maximums may be waived by the Director when waiver would contribute to reduced demolition of residential structures.

5. To qualify for the pitched roof exception, all parts of the roof above the height limit must be pitched at a rate of not less than three to twelve (3:12). No portion of a shed roof shall extend above the height limit under this provision.

Section 14. Subsection B of Section 23.47.024 of the SMC, which Section was last amended by Ordinance 118794, is amended as follows:

23.47.024 Open space standards.

* * *

B. Open Space Development Standards.

1. When permitted, required usable open space may be provided at ground level or may be provided above the ground in the form of balconies, decks, solaria, greenhouses, or roof gardens or decks.

2. Balconies and decks provided above the ground as open space shall have a minimum area of sixty (60) square feet and no horizontal dimension shall be less than six (6) feet.

3. Usable open space at ground level, and roof gardens, solaria, and greenhouses provided above ground as open space shall have a minimum area of two hundred fifty (250) square feet. No horizontal dimension shall be less than ten (10) feet.

4. Required usable open space is permitted at the front, sides, or rear of the structure.

5. Parking areas, driveways, and pedestrian access to the nonresidential or residential entrances, except for pedestrian access meeting the Washington State Building Code, Chapter 11 -- Accessibility, shall not be counted as open space.

6. Required open space shall be landscaped according to standards promulgated by the Director.

7. ((~~Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight (8) feet from and in front of a directional antenna and at least two (2) feet from the back of a directional antenna, or, for an omnidirectional antenna, eight (8) feet away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.~~)) When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.012.

Section 15. Subsection B of Section 23.48.002 of the SMC, which Section was last amended by Ordinance 119239, is amended as follows:

23.48.002 Scope of provisions.

***

B. Other regulations, such as requirements for streets, alleys and easements (Chapter 23.53); standards for parking quantity, access and design (Chapter 23.54); signs (Chapter 23.55); and methods for measurements (Chapter 23.86) ((~~and requirements for communication utilities and accessory communication devices (Chapter 23.57)~~))may apply to development proposals. Communication utilities and accessory communication devices except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 16. Subsection C of Section 23.48.010 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.48.010 General structure height.

***

C. Rooftop Features.

1. ((~~Radio and television receiving antennas excluding dish antennas; ham radio towers; s~~)) Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport

Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend up to four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection D4 does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. Atriums, greenhouses, and solariums;

e. Play equipment and open mesh fencing which encloses it, as long as the fencing is at least fifteen (15) feet from the roof edge; and

f. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.012.

5. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection D5 at least ten (10) feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Atriums, greenhouses and solariums;

e. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices according to the provisions of ((~~Chapter~~)) Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

6. Screening. Rooftop mechanical equipment and elevator penthouses shall be screened with fencing, wall enclosures, or other structures.

7. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

Section 17. Subsection E of Section 23.49.002 of the SMC, which Section was last amended by Ordinance 116295, is amended as follows:

23.49.002 Scope of provisions.

***

E. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57.

Section 18. Subsection C of Section 23.49.008 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.008 Structure height.

The following provisions regulating structure height apply to all property in downtown zones except the DH1, PSM, IDM, and IDR zones.

* * *

C. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage and may not exceed the height limits as indicated:

a. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls up to four (4) feet above the maximum height limit;

b. Solar collectors up to seven (7) feet above the maximum height limit; and

c. The rooftop features listed below may extend up to fifty (50) feet above the roof of the structure on which they are located or fifty (50) feet above the maximum height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

((~~(1) Major or minor communication utilities,~~))
((~~(2)~~)) (1) Religious symbols for religious institutions,
((~~(3)~~)) (2) Smokestacks, and
((~~(4)~~)) (3) Flagpoles.

They shall be located a minimum of ten (10) feet from all lot lines.

2. The following rooftop features are permitted as long as the combined coverage of all features does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent if the total includes stair or elevator penthouses or screened mechanical equipment. Except in the PMM zone, additional combined coverage of all rooftop features, not to exceed thirty-five (35) percent of the roof area, may be permitted through the Design Review process for Development Standard Departures in Section 23.41.012.

a. The following rooftop features are permitted to extend up to fifteen (15) feet above the maximum height limit:

(1) Solar collectors;
(2) Stair penthouses;

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(3) Play equipment and open-mesh fencing, as long as the fencing is at least fifteen (15) feet from the roof edge;

(4) Mechanical equipment; and

(5) Mechanical equipment, whether new or replacement, may be allowed up to fifteen (15) feet above the roof elevation of a structure existing prior to June 1, 1989.

b. Elevator penthouses are permitted to extend beyond the maximum height limit as follows:

(1) In the PMM zone, up to fifteen (15) feet above the maximum height limit for the zone.

(2) Except in the PMM zone, up to twenty (20) feet above the maximum height limit for a penthouse designed for an elevator cab up to eight (8) feet high; or

(3) Except in the PMM zone, up to twenty-two (22) feet above the maximum height limit for a penthouse designed for an elevator cab more than eight (8) feet high.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

3. Screening of Rooftop Features.

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection C2 of this section.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten (10) percent of the maximum height of the zone in which the structure is located, or fifteen (15) feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. The rooftop features listed in subsection C1c of this section may exceed a height of fifty (50) feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a three hundred (300) foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

((~~d. The feature shall not adversely affect the function of existing transmission or receiving equipment within a five (5) mile radius.~~))

((~~e~~))d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the maximum allowable height shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a Certificate of Approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of fifty (50) percent of the total roof surface. Except as the Director may allow under subsection C5b of this section:

(1) A residential penthouse allowed under this subsection shall be set back a minimum of fifteen (15) feet from the street property line.

(2) A residential penthouse may extend up to eight (8) feet above the roof, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within three hundred (300) feet from the structure, the Director may allow one or both of the following:

(1) an increase of the penthouse height limit under subsection C5a of this section by an amount up to the average height of the structure's street-facing parapet; or

(2) a reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection C5b must be consistent with the Certificate of Approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum permitted height that could be permitted in the DRC zone by the City Council as provided in Section 23.49.008 A1.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection C5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

Section 19. Subsection E of Section 23.49.009 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.009 Open space.

* * *

E. Limitations. Open space satisfying the requirement of this section for any project shall not be used to satisfy the open space requirement for any other project, nor shall any bonus be granted to any project for open space meeting the requirement of this section for any other project. When a transmitting antenna is sited or proposed to be sited on a rooftop where required open space is located, see Section 23.57.013. Open space on the site of any building for which a Master Use Permit decision was issued or a complete building permit application was filed prior to the effective date of the ordinance codified in this section, that is not required under the Land Use Code in effect when such permit decision was issued or such application filed but that would have been required for the same building by this section, shall not be used to satisfy the open space requirement or to gain an FAR bonus for any other project.

* * *

Section 20. Section 23.49.208 of the SMC, which Section was last amended by Ordinance 113279, is amended as follows:

23.49.208 International District Mixed, structure height.

* * *

B. Rooftop features may be permitted according to the provisions of Section 23.66.332.

((~~B~~))C. In the seventy-five (75) to eighty-five (85) foot height district, structures in excess of seventy-five (75) feet, to a maximum of eighty-five (85) feet, shall be permitted only if fifty (50) percent of the gross floor area, excluding parking, is in residential use.

((~~C~~))D. In the one hundred (100) to one hundred twenty (120) foot height district, structures in excess of one hundred (100) feet, to a maximum of one hundred twenty (120) feet shall be permitted if seventy-five (75) percent or more of the gross floor area, excluding parking, is in residential use, or may be permitted as part of a planned community development, pursuant to Section 23.49.036, Planned community development.

((~~D~~))E. In the sixty-five (65) to one hundred twenty (120) foot height district, structures in excess of sixty-five (65) feet, to a maximum of one hundred twenty (120) feet, may be permitted only as a part of a planned community development, pursuant to Section 23.49.036, Planned community development.

Section 21. Subsection A of Section 23.49.338 of the SMC, which Section was last amended by Ordinance 120443, is amended as follows:

23.49.338 Pike Market Mixed, prohibited uses.

A. The following uses are prohibited as both principal and accessory uses in areas outside of the Pike Place Market Historical District, Map 1L:

1. Drive-in businesses, except gas stations located in parking garages;
2. Outdoor storage;
3. Adult motion picture theaters and adult panorams;
4. Transportation facilities;
5. Major ((~~C~~))communication utilities;
6. All general manufacturing uses;
7. All salvage and recycling uses, except recycling collection stations;
8. All industrial uses;
9. Jails; and
10. Work-release centers.

* * *

Section 22. Subsection C of Section 23.50.002 of the SMC, which Section was last amended by Ordinance 120611, is amended as follows:

23.50.002 Scope of provisions.

***

C. Communication utilities and accessory communication devices ((~~are regulated by~~)) except as exempted in Section 23.57.002 are subject to the regulations in this Chapter and additional regulations in Chapter 23.57. Requirements for streets, alleys and easements are provided in Chapter 23.53. Standards for parking access and design are provided in Chapter 23.54. Signs are regulated by Chapter 23.55. Methods for measurements are provided in Chapter 23.86. Definitions are in Chapter 23.84.

***

Section 23. Subsection A of Section 23.50.020, which Section was last amended by Ordinance 120117, is amended as follows:

23.50.020 All Industrial zones—Structure height exceptions and additional restrictions.

A. Rooftop Features. Where height limits are otherwise applicable to a structure, and except as provided in subsections C4, D4, E4 and F3 of Section 23.50.024, the following conditions shall apply to rooftop features:

1. ((~~Radio and television receiving antennas, excluding dish antennas; amateur radio towers; s~~)) Smokestacks; chimneys and flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of ten (10) feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend four (4) feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to seven (7) feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit, as long as the combined total coverage of all features listed in this subsection does not exceed twenty (20) percent of the roof area, or twenty-five (25) percent of the roof area if the total includes screened mechanical equipment:

a. Solar collectors;

b. Stair and elevator penthouses;

c. Mechanical equipment; and

d. ((~~Dish antennas,~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of ((~~Chapter~~)) Section 23.57.015.

* * *

Subchapter I General Provisions

Section 24. Section 23.57.001 of the SMC, which Section was last amended by Ordinance 118414, is amended as follows:

23.57.001 Intent and Objectives.

((~~The intent of this chapter is to provide~~)) This Chapter provides regulations and development standards for major and minor communication utilities and accessory communication devices. The regulations and development standards contained in this chapter are imposed to minimize the health, safety and visual impact of telecommunication utilities on nearby areas. Development of communication utilities and accessory devices may also be subject to other regulations, including but not limited to ((~~Title 25 of the Municipal Code (~~))Chapter 25.05, SEPA Policies and Procedures and ((~~; Chapter 25.09, Regulations for Environmentally Critical Areas;~~)) Chapter 25.10, Radiofrequency Radiation ((~~)~~)), in addition to the Land Use Code.

Section 25. Section 23.57.002 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.002 Scope ((~~of provisions~~)) and applicability of provisions.

A. The provisions of this chapter shall apply to communication utilities and accessory communication devices in all zones where permitted.

1. Direct broadcast satellite service, video programming service, or fixed wireless service antennas, as defined in applicable federal regulations, that measure one (1) meter (3.28 feet) or less in diameter or diagonal measurement are exempt from the provisions of this chapter, except in special review, historic and landmark districts and on buildings designated by the Seattle Landmarks Preservation Board.

2. Special rule for satellite dish antennas. Satellite dish antennas are exempt from the provisions of this chapter when:

a. the antenna measures one (1) meter (3.28 feet) or less in diameter in the residential zones; or

b. the antenna measures two (2) meters (6.56 feet) or less in diameter in the non-residential zones.

B. The provisions of this Chapter do not apply to Citizen Band radios, equipment designed and marketed as consumer products such as computers (including internet linkage), telephones, microwave ovens and remote control toys, and to television broadcast and radio receive-only antennas except satellite dishes not exempted in subsection A.

((~~B~~))C. Lots located in the Shoreline District shall meet the requirements of the Seattle Shoreline Master Program in addition to the provisions of this chapter. In the event there is a conflict between the regulations of the Shoreline Master Program and this chapter, the provisions of the Shoreline Master Program shall apply.

D. Communication Utilities and Accessory Communication Devices Located in Major Institutional Overlay Districts. Communication Utilities located in Major Institutional Overlay Districts (Chapter 23.69) shall be subject to the use provisions and development standards of Chapter 23.57. Communication devices accessory to major institution uses located in a Major Institutional Overlay District shall be subject to the use provisions and development standards of Chapter 23.57 unless such devices are addressed in a Master Plan adopted pursuant to Subchapter VI of Chapter 23.69. Accessory Communication Devices associated with the University of Washington are subject to Subsection 23.69.006.A.

Section 26. Subsection B of Section 23.57.003 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.003 Nonconforming uses and structures.

* * *

B. The following activities shall be permitted outright for existing major and minor communication utilities and accessory communication devices which are nonconforming structures: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation or repair. The addition of new telecommunication devices to an existing major communication utility transmission tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four (4) feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four (4) feet in any dimension, plus any proposed additional such horn or dish antenna, are accessory to the communication utility. Physical expansion shall be prohibited, except as may be permitted by ((~~Council Conditional Use~~)) the provisions in each zone.

Section 27. A new Section 23.57.004 is hereby added to Chapter 23.57 to read as follows:

23.57.004 Removal of Unused Facilities

There shall be a rebuttable presumption that any major or minor communication utility or accessory communication device that is regulated by this Chapter and that is not operated for a period of twelve (12) months shall be considered abandoned. This presumption may be rebutted by a showing that such utility or device is an auxiliary, back-up, or emergency utility or device not subject to regular use or that the facility is otherwise not abandoned. For those utilities deemed abandoned, all equipment, including but not limited to antennas, poles, towers, and equipment shelters associated with the utility or accessory communication device shall be removed within twelve (12) months of the cessation of operation. Irrespective of any agreement among them to the contrary, the owner or operator of such unused facility, or the owner of a building or land upon which the utility is located, shall be jointly and severally responsible for the removal of abandoned utilities or devices.

Subchapter II Major Communication Utilities

Section 28. Section 23.57.005, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.005 Permitted and prohibited locations.

A. Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial 1, 2 and 3, and the Seattle Cascade Mixed Zones.

1. New major communication utilities shall be prohibited.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') feet in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

B. Commercial 1 and 2 Zones.

1. New Major Communication Utilities.

a. Single-occupant major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to the development standards in Section 23.57.008.

b. Shared-use major communication utilities may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

2. Physical expansion of existing major communication utilities may be permitted by Council Conditional Use under the criteria listed in Section 23.57.006 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') feet in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

C. Downtown Zones.

1. In Pioneer Square Mixed, International District Mixed, International District Residential and Pike Market Mixed Zones, new major communication utilities shall be prohibited.

2. In all other downtown zones, establishment or physical expansion of major communication utilities may be permitted, whether single-occupant or shared, by Administrative Conditional Use under the evaluation criteria listed in Section 23.57.007 and according to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

D. Industrial Zones.

Establishment or physical expansion of major communication utilities, whether single- occupant or shared, may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and the development standards in Section 23.57.008. The following activities shall be permitted outright for existing communication utilities and

accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

Section 29. Subsections A and H of Section 23.57.008 of the SMC, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.008 Development standards.

A. In Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial, and Seattle Cascade Mixed zones, physical expansion of a major communication utility may be permitted only when:

1. The expanded facility will be a shared-use utility, and another broadcaster has contracted to relocate its transmitter to the expanded facility; and

2. A different existing tower of similar size in the immediate vicinity will be removed within six (6) months of issuance of the certificate of occupancy.

* * *

H. Equipment shelters and other accessory structures shall comply with the development standards of this Section whether or not physical expansion, as defined in Section 23.84.006, is proposed.

Subchapter III Minor Communication Utilities and Accessory Communication Devices

Section 30. Section 23.57.009 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.009 Permitted and prohibited locations for all minor communication utilities, and d((~~D~~))evelopment standards for minor communication utilities with freestanding transmission towers ((~~for minor communication utilities~~)) in all zones.

A. Permitted And Prohibited Locations For All Minor Communication Utilities. New Minor Communication Utilities and Accessory Communication devices shall be regulated as provided in Sections 23.57.010, 23.57.011, 23.57.012, 23.57.013, 23.57.014,

and 23.57.015. However, minor communication utilities shall be permitted at any location if the applicant can demonstrate by technical studies that 1) the facility is for commercial mobile service, unlicensed wireless services, fixed wireless service, or common carrier wireless exchange access service as defined by applicable federal statutes or regulations; and 2) a facility at the site proposed is necessary to close an existing significant gap or gaps in the availability of a wireless carrier's communication service or to provide additional call capacity and that, absent the proposed facility, remote users of a wireless carrier's service are unable to connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication; and 3) that the facility and the location proposed is the least intrusive facility at the least intrusive location consistent with effectively closing the service gap. In considering the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic and the displacement of residential dwelling units in a residential zone.

B. Interior Locations. Minor communication utilities located entirely within the interior of a structure shall be permitted outright on lots developed with non-single family principal uses in single family zones, and on all lots in all other zones. The installation of the utility shall not result in the removal of a dwelling unit in a residential zone.

C. Minor communication utilities with ((~~F~~))freestanding transmission towers ((~~for minor communication utilities~~)) shall be subject to the access, setback, screening and landscaping requirements for major communication utilities in subsections B, C, ((~~and~~)) E and H of Section 23.57.008 in addition to the standards of each zone as described in this Chapter.

Section 31. Section 23.57.010 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.010 Single Family and Residential Small Lot zones.

A. Uses Permitted Outright.

1. ((~~Amateur Radio Devices.~~)) Amateur radio devices accessory to a residential use ((~~which~~)) that meet the development standards of subsection E are permitted outright.

2. Minor communication utilities are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Accessory Communication Devices.

1. ((~~Receive-only c~~)) Communication devices, regulated by this Chapter pursuant to Section 23.57.002, that are accessory to residential uses and ((~~which~~)) meet the development standards of subsection E are permitted outright;

2. Communication devices on the same lot ((~~site~~)) as and accessory to institutions, public facilities, public utilities, major institutions and nonconforming

residential uses, which meet the development standards of subsection E are permitted outright.

C. Uses Permitted by Administrative Conditional Use. ((~~When locating on the same lot as an existing utility or public facility, minor communication utilities~~))

1. The following may be permitted by Administrative Conditional Use, pursuant to the criteria listed in Subsection C2, as applicable.

a. The establishment or expansion of a minor communication utility, except on lots zoned Single Family or Residential Small Lot and containing a single family residence or no use.

b. Mechanical equipment associated with minor communication utilities whose antennas are located on another site or in the right-of-way, is permitted outright where the equipment is completely enclosed within a structure that meets the development standards of the zone. The equipment shall not emit radiofrequency radiation, and shall not result in the loss of a dwelling unit. Antennas attached to City-owned poles in the right-of-way shall follow the terms and conditions contained in Section 15.32.300.

2. Administrative Conditional Use Criteria.

a. The proposal shall not ((~~result in a commercial intrusion which would~~)) be significantly detrimental to the residential character of the surrounding residentially zoned area, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

b. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

c. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

i.) the antenna is at least one hundred feet (100') from a MIO boundary, and

ii.) the antenna is substantially screened from the surrounding neighborhood's view.

((~~2~~))d. If the proposed minor communication utility is proposed to exceed the permitted height of the zone ((~~or is a transmission tower~~)), the applicant shall demonstrate the following:

((~~a. The need for the proposed communication utility to be in a Single Family zone and a justification for the proposed height;~~

~~b. That the materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~c. That proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.~~))

i.) the requested height is the minimum necessary for the effective functioning of the minor communication utility, and

ii.) construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

e. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

f. If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009 A.

D. Uses Permitted by Council Conditional Use. The establishment or expansion of a minor communication utility other than as described in subsection C above, may be permitted as a Council Conditional Use, pursuant to the following criteria, as applicable:

((~~1. The minor communication utility shall not result in a commercial intrusion which would be substantially detrimental to the residential character of the surrounding residentially zoned area.~~))

1. The proposal is for a personal wireless facility that meets the criteria contained in subsection 23.57.009A;

2. If located on a lot developed with a single family dwelling, the proposed minor communication utility is clearly incidental to the use of the property as a dwelling;

((~~2~~)) 3. If the proposed minor communication utility is proposed to exceed the permitted height of the zone ((~~or is a transmission tower~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. ((~~the following:~~

~~a. The need for the proposed communication utility to be in a Single Family zone and a justification for the proposed height;~~

~~b. That the materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~c. That proposed communication utility will not be substantially detrimental to the residential character of an area, for example through the demolition of residential dwelling units in a residential zone.~~))

E. Development Standards.

1. Location. Minor communication utilities and accessory communication devices regulated pursuant to Section 23.57.002 and amateur radio towers:

a. ((~~Dish antennas~~)) are prohibited in the required front yard, and amateur radio towers are additionally prohibited in side yards.

((~~b. Dish antennas shall be set back a minimum of ten feet (10') from all lot lines, except as provided in subsection D5.~~))

b. ((~~c. Dish antennas~~)) when ground-mounted, shall be ((~~counted~~)) included in lot coverage and rear yard coverage calculations. For dish antennas, lot ((~~C~~))coverage shall be calculated with the dish in a horizontal position.

c. ((~~d. Dish antennas~~)) may be located on rooftops of non-residential buildings, but shall not be located on rooftops of principal or accessory structures containing residential uses, except as provided in subsection E5.

((~~e. Accessory amateur radio towers may not be located in required front or side yards.~~))

2. Height and Size.

a. The height limit of the ((~~underlying~~)) zone shall apply to ((~~transmission towers~~)) minor communication utilities and accessory communication devices. Exceptions to the height limit may be authorized through the approval of an Administrative Conditional Use (see subsection C above) ((~~if located on an existing utility or public facility,~~)) or a Council Conditional Use (subsection D above).

((~~b. The maximum height for dish antennas shall be twelve feet (12') above finished grade, except as provided in subsection E5.~~))

((e)) b. The maximum diameter of dish antennas shall be ((~~twelve feet (12')~~)) six feet (6'), except for major institutions within a Major Institution Overlay District, when regulated as an administrative conditional use in subsection C above.

((~~d~~)) c. The maximum height of an accessory amateur radio tower shall be no more than fifty feet (50') above existing grade. Cages and antennas may extend to a maximum additional fifteen feet (15'). The base of the tower shall be ((~~located at a distance~~)) setback from any lot line a distance at least equivalent to one-half (1/2) the height of the total structure, including tower or other support, cage and antennas.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. A screen for freestanding antennas shall be six feet (6') tall and may be a view-obscuring fence, wall or hedge and shall be maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height above the rooftop of the installed antenna.~~

~~c. Exceptions. No screening shall be required in the following circumstances:~~

~~(i) As provided in subsection E5;~~

~~(ii) If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii) For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv) If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~

~~d. The visibility of a minor communication utility on a rooftop shall be minimized by painting it the same color as the building upon which it is located.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4. Access and Signage. Access to transmitting accessory communication devices and to minor communication utilities shall be restricted to authorized personnel by fencing or other means of security. If located on a residential structure or on a public utility, warning signs at every point of access to the transmitting antenna shall be posted with information on the existence of radiofrequency radiation.

5. ((~~Special Exceptions for Dish Antenna~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to provisions of Chapter 23.76,~~)) the Director may grant a waiver ((~~may be permitted~~)) from development standards of subsections E1b((~~,~~)) and E1d~~, E2b and E3~~ of this ((~~subs~~))Section and the screening requirements of Section 23.57.016. The first waiver to be considered will be ((~~from the requirement for a ten-foot (10') setback; the second,~~)) reduction, then waiver from screening ((~~; and the third from the maximum permitted elevation up to a maximum of eighteen feet (18')~~)). Only if these waived regulations would still result in obstruction shall rooftop location be considered. Approval of a ((~~special exception~~)) waiver shall be subject to the following criteria:

a. The applicant shall demonstrate that the obstruction is a result of factors beyond the property owner's control, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

b. The applicant shall be required to use material, shape and color to minimize visual impact.

c. If a ((~~special exception~~)) waiver is sought per this subsection to permit a rooftop location, the maximum permitted height of the device shall be four (4) feet above the existing roofline or four (4) feet above the zone height limit, whichever is higher.

Section 32. Section 23.57.011 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.011 Lowrise, Midrise and Highrise zones.

A. Uses Permitted Outright.

1. Amateur radio devices accessory to a residential use that meet the development standards of subsection C are permitted outright.

2. ((~~Accessory Communication Devices.~~)) Communication devices accessory to residential, public facility, public utility, major institution or institutional use are permitted outright when they meet the development standards of subsection C.

3. Mechanical equipment, associated with minor communication utilities whose antennas are located on another site or in the right-of-way, is permitted outright where

the equipment is completely enclosed within a structure that meets the development standards of the zone. The equipment shall not emit radiofrequency radiation, and shall not result in the loss of a dwelling unit. Antennas attached to City-owned poles in the right-of-way shall follow the terms and conditions contained in Section 15.32.300.

4. Minor communication utilities are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses Permitted by Administrative Conditional Use. ((~~Minor communication utilities~~)) The establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002, may be permitted as an Administrative Conditional Use when they meet the development standards of subsection C and the following criteria, as applicable:

1. ((~~The minor communication utility shall not result in a commercial intrusion which would be substantially detrimental to the residential character of the surrounding residentially zoned area.~~)) The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

3. Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:

a.) the antenna is at least one hundred feet (100') from a MIO boundary, and

b.) the antenna is substantially screened from the surrounding neighborhood's view.

((~~2~~))4. If the minor communication utility is proposed to exceed the zone height limit ((~~or is a transmission tower~~)), the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility. ((~~the following:~~

~~(i) The need for the proposed communication utility to be in a residential zone and a justification for the proposed height;~~

~~(ii) That the proposed materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;~~

~~(iii) That the proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.~~))

5. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

C. Development Standards.

1. Location. Minor communication utilities and accessory communication devices regulated pursuant to Section 23.57.002 and amateur radio towers:

a. ((~~Minor accessory communication devices and amateur radio towers may not be located~~)) are prohibited in a required front or side setback.

b. ((~~Minor communication utilities other than freestanding transmission towers , accessory communication devices and amateur radio towers~~)) may be located in a required rear setback, except for transmission towers.

((~~c. In all Lowrise zones, dish antennas shall not be located on rooftops of principal or accessory structures, except as provided in subsection C5.~~))

((~~d. In Midrise and Highrise zones, minor communication utilities and accessory communication devices may be located on rooftops and may exceed the zone height limit by a maximum of four feet (4').~~))

((~~e~~)) c. In all Lowrise, Midrise and Highrise zones, minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and penthouses above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Public Health Department may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report. ((~~are prohibited on the outside, except rooftops, of buildings containing the residential units.~~))

2. Height and Size.

a. The height limit of the ((~~underlying~~)) zone shall apply ((~~for transmission towers~~)) to minor communication utilities and accessory communication devices, except as may be permitted in subsection ((~~B~~)) C of this section.

((~~b. The maximum height above finished grade for freestanding dish antennas shall be twelve feet (12'), except as provided in subsection C5.~~))

((~~c~~)) b. The maximum diameter of dish antennas shall be ((~~twelve feet (12')~~)) six feet (6'), except for major institutions within the Major Institution Overlay District, regulated through an administrative conditional use in subsection C above.

((~~d~~)) c. The maximum height of an amateur radio tower shall be no more than fifty feet (50') above existing grade. Cages and antennas may extend to a maximum additional fifteen feet (15'). The base of the tower shall be ((~~located at a distance~~)) setback from any lot line a distance at least equivalent to one-half (1/2) the height of the total structure, including tower or other support, cage and antennas.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. A screen for freestanding antennas shall be six feet (6') tall, may be a view-obscuring fence, wall or hedge, and shall be maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height above the roof of the installed antenna.~~

~~c. Exceptions. No screening shall be required under the following circumstances:~~

~~(i)As provided in subsection C5;~~

~~(ii)If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii)For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv)If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~))
All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4. Access and Signage. Access to transmitting minor communication utilities and to accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

5. ((~~Special Exceptions for Dish Antenna.~~)) Reception Window Obstruction. ((~~a.~~)) When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76,~~)) the Director may grant a waiver ((~~may be permitted~~)) from the ((~~development standards~~)) screening requirements of ((~~subsections C1c, C2b, and C3~~)) Section 23.57.016. ((~~The first waiver to be considered will be from the requirement of subsection C2b, and the second from C3. Only if these waived regulations still result in obstruction shall rooftop location requirements of subsection C1c be considered.~~)) Approval of a ((~~special exception~~)) waiver shall be subject to the following criteria:

((~~(i)~~)) a. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into consideration potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

((~~(ii)~~)) b. The applicant shall use material, shape and color to minimize visual impact.

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((~~b. If a special exception is sought to permit a rooftop location, the maximum permitted height of the device shall be four feet (4') above the roofline or four feet (4') above the zone permitted height, whichever is higher.~~))

((~~c. If a special exception is sought from subsection C2b, the maximum permitted height shall be eighteen feet (18').~~))

Section 33. Section 23.57.012 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.012 Commercial zones.

A. Uses Permitted Outright.

1. In Neighborhood Commercial, Commercial, and the Seattle Cascade Mixed zones, minor communication utilities other than freestanding transmission towers and accessory communication devices shall be permitted outright when meeting the height limit of the zone as modified by the development standards of subsection C ((~~and the height limit of the zone~~)).

2. ((~~In Commercial zones, minor communication utilities and accessory communication devices shall be permitted outright when meeting the development standards of subsection C. The height limit of the underlying zone shall not apply unless the lot is adjacent to a Single Family zone.~~)) Minor communication utilities that do not meet the height limit of the zone are permitted outright on existing freestanding major or minor telecommunication utility towers. Minor communication utilities locating on major communication utility towers are subject to the limitations of Sections 23.57.003 and 23.57.005.

B. Uses permitted by Administrative Conditional Use.

((~~1.~~)) In Neighborhood Commercial, Commercial, and the Seattle Cascade Mixed zones, an Administrative Conditional Use shall be required for the establishment or expansion of a free standing transmission towers, and for minor communication utilities and accessory communication devices that ((~~, other than whip antennas, to~~)) exceed the height limit of the underlying zone or the development standards of subsection C of this Section ((~~, which includes the rooftop provisions of subsection C1c~~)). Approval shall be pursuant to the following criteria, as applicable: ((~~of subsection B3.~~

~~2. In Commercial zones, an Administrative Conditional Use shall be required for minor communication utilities and accessory communication devices proposed to be located on lots adjacent to Single Family zones to exceed the height limit of the underlying zone. Approval shall be pursuant to the criteria of subsection B3.~~

~~3. Administrative Conditional Use Criteria.~~

~~a. The applicant shall use material, shape and color to minimize adverse visual impacts on the neighboring residential zone.~~))

((~~b~~))1. The proposal shall not result in a significant change in the pedestrian or retail character of the commercial area.

((~~c~~))2. If the minor communication utility is proposed to exceed the zone height limit or the development standards of subsection C of this section, t((~~T~~))he applicant shall demonstrate that ((~~compliance with the height limit is not feasible and that~~

~~the proposed height will deviate to the least practicable extent from this standard.~~)) the requested height is the minimum necessary for the effective functioning of the minor communication utility.

3. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

C. Development Standards.

1. Location and Height.

Facilities in special review, historic, and landmark districts are subject to the standards of Section 23.57.014. On sites that are not in special review, historic, or landmark districts, antennas may be located on the rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, subject to the height limits in Paragraphs 1.a and 1.b, as limited by Paragraph 1.c, below:

a. Utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen feet (15') above the height of the building legally existing as of the effective date of this ordinance;

b. Utilities and devices located on a rooftop of a building that conforms to the height limit may extend up to fifteen feet (15') above the zone height limit or above the highest portion of a building, whichever is less.

c. Any height above the underlying zone height limit permitted under Paragraphs 1.a and 1.b, above, shall be allowed only if the combined total coverage by communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in Section 23.47.012H.4, does not exceed twenty percent (20%) of the total rooftop area, or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.

d. The following rooftop areas shall not be counted towards open space requirements for the building:

(i). The area eight feet (8') from and in front of a directional antenna and the area two feet (2') from and in back of a directional antenna.

(ii). The area within eight feet (8') in any direction from an omnidirectional antenna.

(iii). Such other areas in the vicinity of paging facilities as determined by the Seattle-King County Health Department after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

((~~a. Minor communication utilities, other than transmission towers, and accessory communication devices may not be located within ten feet (10') of any lot line.~~))

((~~b. Minor communication utilities and accessory communication devices may be located on rooftops and may exceed the zone height limit by a maximum of four feet (4') except as permitted in subsection C1c;whip antennas are exempted from the zone height limit.~~))

((~~c. Minor communication utilities and accessory communication devices located on rooftops may extend up to fifteen feet (15') above the zone height limit if the combined total of communication utilities and accessory communication devices in addition to the roof area occupied by rooftop features listed in Section 23.47.012 does not exceed twenty percent (20%) of the total rooftop area or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.~~))

((~~d~~))((~~Minor communication utilities and accessory communication devices shall be prohibited on the outside, except for rooftops, of a building containing residential units~~))

2. Access and Signage. Access to minor communication utilities and transmitting accessory communication devices shall be restricted to authorized personnel by fencing or other means of security. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. ((~~Size~~)) Height of Amateur Radio Tower. The maximum height of an amateur radio tower shall be no more than fifty feet (50') above grade in zones where the maximum height limit ((~~does not exceed~~)) is fifty feet (50') or less. Cages and antennas may extend to a maximum additional fifteen feet (15'). In zones with a maximum permitted height over fifty feet (50'), the height above grade of the amateur radio tower shall not exceed the maximum height limit of the zone.

4. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. The screen for a freestanding antenna shall be six feet (6') high, and may be a view-obscuring fence, wall or hedge maintained in good condition.~~

~~b. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height of the antenna.~~

~~c. Exceptions. No screening shall be required under the following circumstances:~~

~~(i) As provided by subsection C5;~~

~~(ii) If the antenna is set back from the property line a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park;~~

~~(iii) For amateur radio towers, whip antennas, antennas attached to sides of structures, and antennas attached to freestanding transmission towers;~~

~~(iv) If the antenna is adjacent to or across a street or alley from a designated major institution, no screening is required on that frontage.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

5. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a~~

~~Special Exception may be permitted~~)) the Director may grant a waiver from the development standards of ((~~subsection C4~~)) this Section and Section 23.57.016, subject to the following criteria:

a. The applicant shall demonstrate that obstruction of the reception window is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to reception window obstruction.

b. The applicant shall use material, shape and color to minimize visual impact.

Section 34. Subsections B and C of Section 23.57.013, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.013 Downtown zones.

* * *

B. Development Standards.

1. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

2. ((~~The height limit of the zone shall not apply.~~)) Height.

a. Except for special review historic and landmark districts (see Section 23.57.014), minor communication utilities and accessory communication devices may be located on rooftops of buildings, including sides of parapets and equipment penthouses above the roofline, as follows:

i. These utilities and devices located on a rooftop of a building nonconforming as to height may extend up to fifteen feet (15') above the height of the building existing as of the date of this ordinance;

ii These utilities and devices located on a rooftop may extend up to fifteen feet (15') above the zone height limit or above the highest portion of a building, whichever is less.

The additional height permitted in a (i) and (ii) above is permitted if the combined total of communication utilities and accessory communication devices, in addition to the roof area occupied by rooftop features listed in Section 23.49.008 C2, does not exceed twenty percent (20%) of the total rooftop area or twenty-five percent (25%) of the rooftop area including screened mechanical equipment.

b. The height of minor communications utilities and accompanying screening may be further increased through the design review process, not to exceed ten (10) percent of the maximum height of the zone in which the structure is located. For new buildings this increase in height may be granted through the design review process provided for in Section 23.41.014. For minor communication utilities on existing buildings this

increase in height may be granted through administrative design review provided for in Section 23.41.016.

3. Visual Impacts. ((~~Antennas four feet (4') or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~a. The screen for a freestanding antenna shall be six feet (6') tall, and may be a view-obscuring fence, wall or hedge maintained in good condition.~~

~~b. For antennas located on rooftops screening shall be provided to a height equal to two-thirds (2/3) of the height of the antenna.~~

~~c. Exception. No screening shall be required under the following circumstances:~~

~~(i) As provided by subsection C;~~

~~(ii) For amateur radio towers, whip antennas, antennas attached to sides of structures and any antennas attached to freestanding transmission towers.~~))

All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

4 ((~~d~~)). Antennas ((~~shall be prohibited on the outside, except for rooftops,~~)) may be located on rooftops of ((~~a building containing residential units.~~)) buildings, including sides of parapets above the roofline. Rooftop space within the following parameters shall not count toward meeting open space requirements: the area eight feet (8') away from and in front of a directional antenna and at least two feet (2') from the back of a directional antenna, or, for an omnidirectional antenna, eight feet (8') away from the antenna in all directions. The Seattle-King County Department of Public Health may require a greater distance for paging facilities after review of the Non-Ionizing Electromagnetic Radiation (NIER) report.

C. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76, may be permitted from~~)) the Director may grant a waiver from the development standards of ((~~subsection B3~~)) this Section and Section 23.57.016, subject to the following criteria:

1. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

2. The applicant shall use material, shape and color to minimize visual impact.

Section 35. Section 23.57.014 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.014 Special review, historic and landmark districts.
((~~In the Pioneer Square Mixed, International District Mixed, International District Residential, and Pike Market Mixed zones, new minor communication utilities are prohibited.~~)).
Communication utilities and accessory communication devices for which a Certificate of Approval may be required in IDR, PSM, IDM, PMM (see SMC 25.24) zones, the International Special Review District, the Pioneer Square Preservation District, and the Ballard Avenue (SMC 25.16), Columbia City (SMC 25.20) and Harvard-Belmont (SMC 25.22) Landmark Districts shall be sited in a manner that minimizes visibility from public streets and parks and may be permitted as follows:

A. Minor communication utilities and accessory communication devices may be permitted subject to the use provisions and development standards of the underlying zone and this Chapter, with the following additional height allowance: communication utilities and devices may extend up to four feet (4') above a roof of the structure, regardless of zone height limit.

B. An Administrative Conditional Use approval shall be required for communication utilities and accessory devices regulated per Section 23.57.002, and which do not meet the requirements of subsection A above. Any action under this Section shall be subject to the Pioneer Square Preservation District and the International Special Review District review and approval and the Department of Neighborhoods Director; in the Ballard Avenue Landmark District by the Ballard Avenue Landmark District Board and the Department of Neighborhoods Director; in the Pike Place Market Historical District by the Pike Place Market Historical Commission, and in the Columbia City Landmark District and the Harvard-Belmont Landmark District by the Landmarks Preservation Board, according to the following criteria:

1. Location on rooftops is preferred, set back toward the center of the roof as far as possible. If a rooftop location is not feasible, communication utilities and accessory communication devices may be mounted on secondary building facades. Siting on primary building facades may be permitted only if the applicant shows it is impossible to site the devices on the roof or secondary facade. Determination of primary and secondary building facades will be made by the appropriate board or commission.

2. Communication utilities and accessory communication devices shall be installed in a manner that does not hide, damage or obscure architectural elements of the building or structure.

3. Visibility shall be further minimized by painting, screening, or other appropriate means, whichever is less obtrusive. Creation of false architectural features to obscure the device is discouraged.

Section 36. Section 23.57.015 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.015 Industrial zones.

A. Permitted Uses. Minor communication utilities and accessory communication devices shall be permitted outright when meeting the standards of the zone in which the site is located, except for height limits, and subsection B of this section.

B. Development Standards.

1. Height limits of the zone shall not apply to antennas or their support structures.

2. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other common areas. Warning signs at every point of access to the rooftop or common area shall be posted with information on the existence of radiofrequency radiation.

3. Visual Impacts. ((~~Antennas four (4) feet or more in any dimension shall be screened from any public park or residentially zoned lot located adjacent to or across a street or alley from the lot as follows:~~

~~1. The screen for a freestanding antenna shall be six (6) feet tall, may be a view-obscuring fence, wall or hedge, and shall be maintained in good condition.~~

~~2. For an antenna located on a rooftop, screening shall be provided to a height equal to two-thirds (2/3) the height of the antenna.~~

~~3. Exceptions. No screening shall be required under the following circumstances:~~

~~a. As provided by subsection C of this section;~~

~~b. For amateur radio towers, whip antennas, antennas attached to sides of structures and any antennas attached to freestanding transmission towers;~~

~~c. If the antenna is set back a distance of at least five (5) times its diameter or height, whichever is greater, from any residentially zoned lot or public park.~~)) All minor communication utilities and accessory communication devices, except for facilities located on buildings designated by the Seattle Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio towers, shall meet the standards set forth in Section 23.57.016.

C. ((~~Special Exceptions~~)) Reception Window Obstruction. When, in the case of an accessory communications device or minor communications utility that would otherwise comply with this section, the strict adherence to all development standards would result in reception-window obstruction in all permissible locations on the subject lot, ((~~a special exception, according to the provisions of Chapter 23.76, may be permitted from Subsection B of this section,~~)) the Director may grant a waiver from the development standards of this Section and Section 23.57.016, subject to the following criteria:

1. The applicant shall demonstrate that the obstruction is due to factors beyond the control of the property owner, taking into account potential permitted development on adjacent and neighboring lots with regard to future reception-window obstruction.

2. The applicant shall use material, shape and color to minimize visual impact.

Section 37. A new Section, 23.57.016, is hereby added to the Seattle Municipal Code (SMC) to read as follows:

23.57.016 Visual Impacts and Design Standards

A. Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.

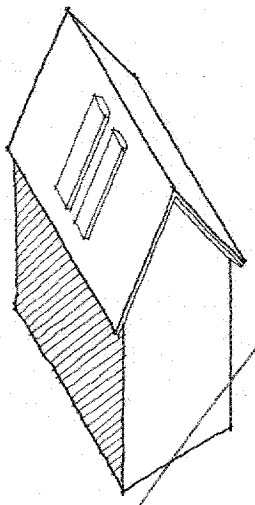
B. If mounted on a pitched roof, facilities shall be screened by materials that maintain the pitch of the roof, matching color and texture as closely as possible, or integrated with and enclosed within structures such as dormers or gables compatible with the roof design. See exhibit 23.57.016B.

C. If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Screening for satellite dishes is addressed in subsection E, below. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures and shall be no taller than such structures.

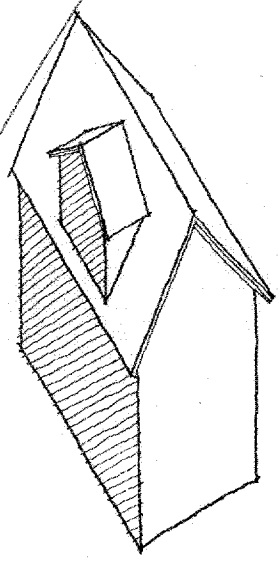
D. Facilities that are side-mounted on buildings shall be integrated with architectural elements such as window design or building decorative features, or screened by siding or other materials matching the building exterior, or otherwise be integrated with design, material, shape, and color so as to not be visibly distinctive. In general, antennas shall be as unobtrusive as practicable, including the use of non-reflective materials. Installations on the primary building façade shall be allowed only if roof, ground-mounted, or secondary façade mounted installation is technically unfeasible.

Exhibit 23.57.016B
Integration of Telecommunication Facilities

Screened by materials that maintain the pitch of the roof.



Enclosed within structures such as dormers or gables compatible with the roof design.



E. Satellite dishes shall be screened to the top of the dish on at last three (3) sides and shall be enclosed in the direction of the signal to the elevation allowed by the azimuth of the antenna. If screening on the remaining side is not to the top of the antenna, the antenna and the inside and outside of the screen shall be painted the same color to minimize visibility and mask the contrasting shape of the dish with building or landscape elements.

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

G. Antennas mounted on a permitted accessory structure, such as a free standing sign, shall be integrated with design, material, shape and color and shall not be visibly distinctive from the structure.

H. A screen for a ground-mounted dish antenna shall be a minimum six feet (6') tall and shall extend to the top of the dish. The screen may be in the form of a view-obscuring fence, wall or hedge that shall be maintained in good condition. Chain link, plastic or vinyl fencing/screening is prohibited.

I. Antennas attached to a public facility, such as a water tank, shall be integrated with the design, material, shape and color of, and shall not be visibly distinctive from, the public facility. Antennas attached to City-owned poles shall follow the terms and conditions contained in Section 15.32.300.

J. Freestanding transmission towers shall minimize external projections from the support structure to reduce visual impacts and to the extent feasible shall integrate antennas in a screening structure with the same dimensions as external dimensions of the support structure, or shall mount antennas with as little projection from the structure as feasible. External conduits, climbing structures, fittings, and other projections from the external face of the support structure shall be minimized to the extent feasible.

K. The standards set forth in this Section 23.57.016 may be varied as follows:

1. For new buildings these standards may be varied through the design review process provided for in Section 23.41.014.

2. For existing buildings that have previously gone through the design review process these standards may be varied by the Director if the Director determines that the new minor communication facilities would be consistent with the Director's design review decision on the original building; otherwise, these standards may be varied through the administrative design review process provided for in Section 23.41.016.

3. For existing buildings that have not previously gone through the design review process these standards may be varied through the administrative design review process provided for in Section 23.41.016.

Section 38. Subsection A of Section 23.66.122 of the SMC, which Section was last amended by Ordinance 119484, is amended as follows:

23.66.122 Prohibited uses.

A. The following uses are prohibited in the entire Pioneer Square Preservation District as both principal and accessory uses:

Retail ice dispensaries;
Plant nurseries;
Frozen food lockers;
Animal services;
Automotive retail sales and service, except gas stations located in parking garages;
Marine retail sales and service;
Heavy commercial services;
Fuel sales;
Sales, service and rental of commercial equipment and construction materials;
Adult motion picture theaters;
Adult panorams;
Bowling alleys;
Skating rinks;
Major ((~~C~~))communication utilities;
Advertising signs and off-premises directional signs;
Transportation facilities, except passenger terminals;
Outdoor storage;
Jails;
Work-release centers;
General and heavy manufacturing uses;
Salvage and Recycling uses, except recycling collection stations; and
High impact uses.

* * *

Section 39. Subsection C of Section 23.66.140 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.66.140 Height.

* * *

C. Rooftop Features. The height limits established for the rooftop features described in this subsection may be increased by the average height of the existing street parapet or a historically substantiated reconstructed parapet on the building on which the rooftop feature

is proposed. The setbacks required for rooftop features may be modified by the Department of Neighborhoods Director, after a sight line review by the Preservation Board to ensure that the features are minimally visible from public streets and parks within three hundred (300) feet of the structure.

1. ((~~Radio and television receiving antennas excluding dishes, r~~)) Religious symbols for religious institutions, smokestacks and flagpoles may extend up to fifty (50) feet above the roof of the structure or the maximum height limit, whichever is less, except as regulated in Chapter 23.64 of this Land Use Code, provided that they are a minimum of ten (10) feet from all lot lines.

2. Open railings, planters, clerestories, skylights, play equipment, parapets and firewalls may extend up to four (4) feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage.

3. Solar collectors, excluding greenhouses, may extend up to seven (7) feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage, provided they are a minimum of ten (10) feet from all lot lines.

4. The following rooftop features may extend up to eight (8) feet above the roof or maximum height limit, whichever is less, when they are set back a minimum of fifteen (15) feet from the street and three (3) feet from an alley. They may extend up to twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street. A setback may not be required at common wall lines subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The combined coverage of the following listed rooftop features shall not exceed fifteen (15) percent of the roof area:

a. Solar collectors, excluding greenhouses;

b. Stair and elevator penthouses;

c. Mechanical equipment;

d. ((~~Dish antennas~~)) Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of these rooftop features, not to exceed twenty-five (25) percent of the roof area, may be permitted subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

5. Structures existing prior to June 1, 1989 may add new or replace existing mechanical equipment up to eight (8) feet above the existing roof elevation when they are set back a minimum of fifteen (15) feet from the street and three (3) feet from an alley; or may extend up to twelve (12) feet above the existing roof elevation when they are set back a minimum of thirty (30) feet from the street, subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

6. Residential and Office Penthouses.

a. Residential penthouses may cover a maximum of fifty (50) percent of the total roof surface and may extend up to eight (8) feet above the roof when set back a minimum of fifteen (15) feet from the street property line, or twelve (12) feet above the roof when set back a minimum of thirty (30) feet from the street property line.

b. Office penthouses shall be permitted only when the footprint of the existing structure is greater than ten thousand (10,000) square feet and the structure is at

least sixty (60) feet in height. When permitted, office penthouses shall be set back a minimum of fifteen (15) feet from all property lines and may cover a maximum of fifty (50) percent of the total roof surface. Office penthouses may extend up to twelve (12) feet above the roof of the structure and shall be functionally integrated into the existing structure.

c. The combined height of the structure and a residential penthouse or office penthouse, where permitted, shall not exceed the maximum height limit for that area of the District in which the structure is located.

7. Screening of Rooftop Features. Measures may be taken to screen rooftop features from public view subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The amount of rooftop area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection C4 above. In no circumstances shall the height of the rooftop screening exceed fifteen (15) feet above the maximum height limit.

8. See Section 23.57.014 for regulation of communication utilities and accessory devices.

* * *

Section 40. Subsection A of Section 23.66.322 of the SMC, which Section was last amended by Ordinance 114623, is amended as follows:

23.66.322 Prohibited uses.

A. The following uses shall be prohibited as both principal and accessory uses in the entire International Special Review District:

Adult motion picture theaters;
Adult panorams;
All general and heavy manufacturing uses;
All high-impact uses;
All salvage and recycling uses, except recycling collection stations;
Automotive retail sales and service;
Bowling lanes;
Major ((~~C~~))communication utilities;
Sales, service and rental of commercial equipment and construction materials;
Drive-in businesses;
Frozen food lockers;
Heavy commercial services;
Marine retail sales and services;
Medical testing laboratories;
Mortuary services;
Motels;
Outdoor storage;
Plant nurseries;
Retail ice dispensaries;

Shooting galleries;
Skating rinks;
Mobile home parks;
Transportation facilities except passenger terminals;
Animal services;
Jails;
Work-release centers.

* * *

Section 41. Subsection C of Section 23.66.332 of the SMC, which Section was last amended by Ordinance 120117, is amended as follows:

23.66.332 Height

* * *

C. Rooftop Features.

1. The Special Review Board and the Department of Neighborhoods Director shall review rooftop features to preserve views from Kobe Terrace Park.

2. ((~~Radio and television receiving aerials excluding dishes, r~~)) Religious symbols for religious institutions, smokestacks and flagpoles are exempt from height controls, except as regulated in Chapter 23.64 of this Land Use Code, provided they are at least ten (10) feet from all lot lines.

3. Open railings, planters, clerestories, skylights, ((~~dish antennae,~~)) play equipment, parapets and firewalls may extend up to four (4) feet above the maximum height limit and may have unlimited rooftop coverage.

4. Solar collectors excluding greenhouses may extend up to seven (7) feet above the maximum height limit and may have unlimited rooftop coverage.

5. The following rooftop features may extend up to fifteen (15) feet above the maximum height limit provided that the combined coverage of all features listed below does not exceed fifteen (15) percent of the roof area:

a. Solar collectors, excluding greenhouses;

b. Stair and elevator penthouses;

c. Mechanical equipment that is set back at least fifteen (15) feet from the roof edge((.)); ;

d. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of these rooftop features, not to exceed twenty-five (25) percent of the roof area, may be permitted subject to review by the Special Review Board and approved by the Department of Neighborhoods Director.

6. Structures existing prior to June 1, 1989 may add new or replace existing mechanical equipment up to fifteen (15) feet above the existing roof elevation of the

structure as long as it is set back at least fifteen (15) feet from the roof edge subject to review by the Special Review Board and approval by the Department of Neighborhoods Director.

7. Screening of Rooftop Features. Measures may be taken to screen rooftop features from public view subject to review by the Special Review Board and approval of the Department of Neighborhoods Director. The amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection C5 above. In no circumstances shall the height of rooftop screening exceed fifteen (15) feet above the maximum height limit.

8. For height exceptions for communication utilities and devices, see Section 23.57.014.

Section 42. Subsection C of Section 23.76.022 of the SMC, which Section was last amended by Ordinance 119096, is amended as follows:

23.76.022 Administrative appeals.

* * *

C. Hearing Examiner Appeal Procedures.

1. Consolidated Appeals. All appeals of Type II Master Use Permit decisions other than shoreline decisions shall be considered together in a consolidated hearing before the Hearing Examiner.

2. Standing. Appeals may be initiated by any person significantly affected by or interested in the permit.

3. Filing of Appeals.

a. Appeals shall be filed with the Hearing Examiner by five (5:00) p.m. of the fourteenth calendar day following publication of notice of the decision; provided, that when a fourteen (14) day DNS comment period is required pursuant to SMC Chapter 25.05, appeals may be filed until five (5:00) p.m. of the twenty-first calendar day following publication of notice of the decision. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. The appeal shall be in writing and shall clearly identify each component of a Type II Master Use Permit being appealed. The appeal shall be accompanied by payment of the filing fee as set forth in SMC Section 3.02.125, Hearing Examiner filing fees. Specific objections to the Director's decision and the relief sought shall be stated in the written appeal.

b. In form and content, the appeal shall conform with the rules of the Hearing Examiner.

c. The Hearing Examiner shall not accept any request for an interpretation included in the appeal unless it complies with the requirements of Section 23.88.020C3c.

4. Pre-hearing Conference. At the Hearing Examiner's initiative, or at the request of any party of record, the Hearing Examiner may have a conference prior to the

hearing in order to entertain pre-hearing motions, clarify issues, or consider other relevant matters.

5. Notice of Hearing. Notice of the hearing on the appeal shall be mailed by the Director at least twenty (20) days prior to the scheduled hearing date to parties of record and those requesting notice. Notice shall also be included in the next general mailed release.

6. Scope of Review. Appeals shall be considered de novo. The Hearing Examiner shall entertain issues cited in the appeal which relate to compliance with the procedures for Type II decisions as required in this chapter, compliance with substantive criteria, determinations of nonsignificance (DNSs), adequacy of an EIS upon which the decision was made, or failure to properly approve, condition or deny a permit based on disclosed adverse environmental impacts and any requests for an interpretation included in the appeal or consolidated appeal pursuant to Section 23.88.020C3.

7. Standard of Review. The Director's decisions made on a Type II Master Use Permit shall be given substantial weight, except for determinations on variances, conditional uses, and special exceptions, which shall be given no deference.

8. The Record. The record shall be established at the hearing before the Hearing Examiner. The Hearing Examiner shall either close the record after the hearing or leave it open to a specified date for additional testimony, written argument or exhibits.

9. Postponement or Continuance of Hearing. The Hearing Examiner shall not grant requests for postponement or continuance of an appeal hearing to allow an applicant to proceed with an alternative development proposal under separate application, unless all parties to the appeal agree in writing to such postponement or continuance.

10. Hearing Examiner's Decision. The Hearing Examiner shall issue a written decision within fifteen (15) days after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the Director's decision. Written findings and conclusions supporting the Hearing Examiner's decision shall be made. The Director and all parties of record shall be bound by the terms and conditions of the Hearing Examiner's decision.

11. Notice of Hearing Examiner Decision. The Hearing Examiner's decision shall be mailed by the Hearing Examiner on the day the decision is issued to the parties of record and to all those requesting notice. If environmental issues were raised in the appeal, the decision shall also be filed with the SEPA Public Information Center. The decision shall contain information regarding judicial review. To the extent such information is available to the Hearing Examiner, the decision shall contain the name and address of the owner of the property at issue, of the applicant, and of each person who filed an appeal with the Hearing Examiner, unless such person abandoned the appeal or such person's claims were dismissed before the hearing.

12. Appeal of Hearing Examiner's Decision. The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner retains jurisdiction or the decision is reversed or remanded on judicial appeal. Any judicial review must be commenced within twenty-one (21) days of issuance of the Hearing Examiner's decision, as provided by RCW 36.70C.040 ((.)), or if the appeal concerns a decision on personal wireless service, the appeal shall be filed within thirty (30) days of the Hearing Examiner's or Council's final decision.

Section 43. Subsection D of Section 23.76.056 of the SMC, which Section was last amended by Ordinance 118181, is amended as follows:

23.76.056 Council decision on Hearing Examiner recommendation.

* * *

D. Any Type IV decision shall be final and conclusive unless Council retains jurisdiction or the decision is reversed or remanded on judicial appeal or appeal to the Shorelines Hearings Board. Any judicial review of a decision not appealable to the Shorelines Hearings Board must be commenced within twenty-one (21) days of issuance of the Council's decision, as provided by RCW 36.70C.040 ((~~.~~)), except that an appeal of a decision concerning personal wireless service must be commenced within thirty (30) days of issuance of the decision.

* * *

Section 44. Section 23.84.006 of the SMC, which was last amended by Ordinance 120443, is amended as follows:

23.84.006 "C."

* * *

Communication Devices and Utilities (and Related Terms).

1. "Candelabra mounting" means a single spreader that supports more than two (2) antennas.

((~~1~~))2. "Communication device, accessory" means a device by which radiofrequency communication signals are transmitted and/or received, such as but not limited to whip, horn and dish antennas, and which is accessory to the principal use on the site. ((~~Receive-only television and radio antennas and amateur radio towers are not included in this definition. Communication equipment such as Citizen Band radios, telephones which depend upon wires and cables or hand-held telephones are exempt from the Land Use Code regulations.~~))

((~~2~~))3. "Communication utility, major" means a ((~~business~~)) use in which the means for radiofrequency transfer of information are provided by facilities with significant impacts beyond their immediate area. These utilities include, but are not limited to FM and AM radio((~~,~~)) and UHF and VHF television transmission towers((~~, and earth stations~~)). A major communication utility use does not include communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

((~~3~~))4. "Communication utility, minor" means a ((~~business~~)) use in which the means for radiofrequency transfer of information are provided but which generally does not have significant impacts beyond the immediate area. These ((~~facilities~~)) utilities are smaller in size than major communication utilities and include two (2) way, land-mobile, personal wireless services and cellular communications facilities; cable TV facilities; point-to-point microwave antennas; FM translators; and FM boosters with under ten (10) watts transmitting power. A minor communication utility does not include wire, cables, or communication equipment accessory to residential uses; nor does it include the studios of broadcasting companies, such as radio or television stations, which shall be considered administrative offices even if there is point-to-point transmission to a broadcast tower.

((4))5. "Dish antenna" means a round parabolic device for the reception and/or transmission of radiofrequency communication signals. Dish antenna may serve either as a major or minor communication utility or may be an accessory communication device. Dish antenna may be either a) a satellite earth station antenna, which receives signals from and/or transmits signals to satellites, or b) a point-to-point, point-to-multipoint, or point-to-consecutive-point antenna, which receive signals from terrestrial sources.

((~~5. "Earth station" means a major communication utility which transmits and receives signals to and from an orbiting satellite and is twenty-five (25) feet in diameter or larger.~~))

6. "Fixed wireless service" means the transmission of commercial non-broadcast communication signals via wireless technology to and/or from a fixed customer location. Fixed wireless service does not include AM radio, FM radio, amateur ("HAM") radio, Citizen's Band (CB) radio, and Digital Audio Radio Service (DARS) signals.

7. "Personal wireless service" means a commercial use offering cellular mobile services, unlicensed wireless services and common carrier wireless exchange access services.

((~~6~~))8. "Physical expansion of major or minor communication utilities" means any increase in footprint and/or envelope of transmission towers. Physical expansion does not include an increase in height of the tower resulting from repair, reconstruction, replacement or modification to the antenna ((~~, accessory telecommunication devices, transmission tower or accessory building~~)) that would result in lower radiofrequency radiation exposure readings at ground level or in greater public safety, as long as the height above mean sea level does not increase by more than ten (10) percent and in any event does not exceed one thousand one hundred (1,100) feet above mean sea level. Replacement of existing antennas or addition of new antennas is not considered physical expansion, unless such replacement or addition increases the envelope of the transmission tower by such means as utilizing a candelabra mounting. Replacement or expansion of an equipment building is not considered physical expansion.

((~~7~~))9. "Receive-only communication device((~~s~~))" means a radiofrequency device with the ability to receive signals, but not to transmit them.

((~~8~~))10. "Reception window obstruction" means a physical barrier which would block the signal between an orbiting satellite an a land-based antenna.

11. "Satellite dish antenna." See "Dish antenna."

((~~9~~))12. "Shared-use facility" means a telecommunication facility used by two (2) or more television stations or five (5) or more FM stations.

((~~10~~))13. "Single-occupant facility" means a telecommunication facility used by only one (1) television station or by one (1) television station and one (1) to four (4) FM stations.

((~~11~~))14. "Transmission tower" means a tower or monopole on which communication devices are placed. Transmission towers may serve either as a major or minor communication facility.

((~~12. "Candelabra mounting" means a single spreader which supports more than two (2) antennas.~~))

15. "Whip antenna" means an omnidirectional antenna, cylindrical in shape, four inches (4") or less in diameter and twelve feet (12') or less in length.

* * *

Section 45. Subsection F of Section 25.05.675 of the SMC, which Section was last amended by Ordinance 120692, is amended as follows:

25.05.675 Specific environmental policies.

* * *

F. Environmental Health.

1. Policy Background.

a. The use, discharge, disposal, emission or application of toxic or hazardous materials may pose hazards to human health and to plants, animals and ecological systems. Hazardous materials include such things as pesticides, herbicides, and electromagnetic transmissions.

b. Federal, state and regional regulations are the primary means of mitigating risks associated with hazardous and toxic materials. ((~~c. Federal, state and regional regulations cannot always~~)) However, such regulations cannot always be developed and implemented to anticipate or eliminate adverse impacts from hazardous materials and transmissions. Public knowledge regarding such hazardous materials and transmissions may develop more quickly than the regulations ((~~can react and be implemented~~)).

c. To the extent that personal wireless and fixed wireless facilities comply with the Federal Communications Commission regulations concerning radiofrequency emissions, the City may not regulate placement, construction, and modification of such facilities on the basis of the environmental effects of such emissions, according to the Federal Telecommunications Act of 1996.

2. Policies.

a. It is the City's policy to minimize or prevent adverse impacts resulting from toxic or hazardous materials and transmissions, to the extent permitted by federal and state law.

b. For all proposed projects involving the use, treatment, transport, storage, disposal, emission, or application of toxic or hazardous chemicals, materials, wastes or transmissions, the decisionmaker shall, in consultation with appropriate agencies with expertise, assess the extent of potential adverse impacts and the need for mitigation, where permitted by federal and state law.

c. Subject to the Overview Policy set forth in SMC Section 25.05.665, if the decisionmaker makes a written finding that applicable federal, state and regional laws and regulations did not anticipate or do not adequately address the adverse impacts of a proposed project, the project may be conditioned or denied to mitigate its adverse impacts. Mitigating measures may include, but are not limited to:

i. Use of an alternative technology;
ii. Reduction in the size or scope of a project or operation;
iii. Limits on the time and/or duration of operation; and
iv. Alternative routes of transportation.

* * *

Section 46. Severability. The several provisions of this ordinance are declared to be separate and severable and the invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 47. 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 the Municipal Code Section 1.04.020.

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

_____
President of the City Council

Approved by me this ..... day of ....., 2002

_____
Mayor

Filed by me this ..... day of ....., 2002

_____
City Clerk

(Seal)

STATE OF WASHINGTON – KING COUNTY

--ss.

150595
City of Seattle,Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

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

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

CT:ORDINANCE 120928

was published on

10/21/2002

J. Stedman

Subscribed and sworn to before me on

10/21/2002

Notary public for the State of Washington,
residing in Seattle

MELISSA M. PASCUA
COMMISSION EXPIRES
NOTARY
PUBLIC
NOV 11, 2004
STATE OF WASHINGTON

Affidavit of Publication

B. Development Standards.

1. Access to transmitting minor communication utilities and accessory communication devices shall be restricted to authorized personnel when located on rooftops or other c

v ((~~telecommunication~~)) accessory communication devices or new minor cation utilities to an existing tower shall be permitted outright, except as follows: n a total of fifteen (15) horn and dish antennas which are over four feet (4') feet ension may be located on an existing tower, unless the applicant submits copies of Communications Commission licenses, as provided in Section 23.57.008 G, ing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the unication utility.

C. Downtown Zones.

1. In Pioneer Square Mixed, International District Mixed, International trict Residential and Pike Market Mixed Zones, new major communication utilities shall hibited.

2. In all other downtown zones, establishment or physical expansion of unication utilities may be permitted, whether single-occupant or shared, by ve Conditional Use under the evaluation criteria listed in Section 23.57.007 and to development standards in Section 23.57.008.

3. The following activities shall be permitted outright for existing mmunication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: No more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

D. Industrial Zones.

Establishment or physical expansion of major communication utilities, whether single- occupant or shared, may be permitted by Administrative Conditional Use under the criteria listed in Section 23.57.007 and the development standards in Section 23.57.008. The following activities shall be permitted outright for existing communication utilities and accessory communication devices: structural alteration to meet safety requirements, replacement on-site, maintenance, renovation, or repair. The addition of new ((~~telecommunication~~)) accessory communication devices or new minor communication utilities, to an existing tower shall be permitted outright, except as follows: no more than a total of fifteen (15) horn and dish antennas which are over four feet (4') in any dimension may be located on an existing tower, unless the applicant submits copies of Federal Communications Commission licenses, as provided in Section 23.57.008 G, showing that all of the existing fifteen (15) horn and dish antennas over four feet (4') in any dimension, plus any proposed additional such horn or dish antennas, are accessory to the communication utility.

Section 29. Subsections A and H of Section 23.57.008 of the SMC, which Section was adopted by Ordinance 116295, are amended as follows:

23.57.008 Development standards.

A. In Single Family, Residential Small Lot, Lowrise, Midrise, Highrise, ((~~and~~)) Neighborhood Commercial, and Seattle Cascade Mixed zones, physical expansion of a major communication utility may be permitted only when:

1. The expanded facility will be a shared-use utility, and another broadcaster has contracted to relocate its transmitter to the expanded facility; and

2. A different existing tower of similar size in the immediate vicinity will be removed within six (6) months of issuance of the certificate of occupancy.

* * *

H. Equipment shelters and other accessory structures shall comply with the development standards of this Section whether or not physical expansion, as defined in Section 23.84.006, is proposed.

Subchapter III Minor Communication Utilities and Accessory Communication Devices

Section 30. Section 23.57.009 of the SMC, which Section was adopted by Ordinance 116295, is amended as follows:

23.57.009 Permitted and prohibited locations for all minor communication utilities, and d((~~D~~))evelopment standards for minor communication utilities with freestanding transmission towers ((~~for minor communication utilities~~)) in all zones.

A. Permitted And Prohibited Locations For All Minor Communication Utilities. New Minor Communication Utilities and Accessory Communication devices shall be regulated as provided in Sections 23.57.010, 23.57.011, 23.57.012, 23.57.013, 23.57.014, and 23.57.015. However, minor communication utilities shall be permitted at any location if the applicant can demonstrate by technical studies that 1) the facility is for commercial mobile service, unlicensed wireless services, fixed wireless service, or common carrier wireless exchange access service as defined by applicable federal statutes or regulations, and 2) a facility at the site proposed is necessary to close an existing significant gap or gaps in the availability of a wireless carrier's communication service or to provide additional call capacity and that, absent the proposed facility, remote users of a wireless carrier's service are unable to connect with the land-based national telephone network, or to maintain a connection capable of supporting a reasonably uninterrupted communication, and 3) that the facility and the location proposed is the least intrusive facility at the least intrusive location consistent with effectively closing the service gap. In considering the degree of intrusiveness, the impacts considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic and the displacement of residential dwelling units in a residential zone.

B. Interior Locations. Minor communication utilities located entirely within the interior of a structure shall be permitted outright on lots developed with non-single family principal uses in single family zones, and on all lots in all other zones. The installation of the utility shall not result in the removal of a dwelling unit in a residential zone;