

Ordinance No. 122036

*me*

Council Bill No. 115487

The City of Seattle - Legislative Department  
Council Bill/Ordinance sponsored by:

An ordinance relating to the Side Sewer Code, amending various provisions of Chapter 21.16 of the Seattle Municipal Code, to revise the provisions for licensing of registered side sewer contractors, to change the Department authorized to administer and enforce the provisions, to extend the life a side sewer permit from 90 days to 18 months, to revise the standards for street restoration, and to update enforcement provisions including the establishment of civil penalties.

**Committee A**

*7/10/06 approved 1-0 Council*

CF No. \_\_\_\_\_

Date Introduced:	FEB 13 2006	
Date 1st Referred:	FEB 13 2006	To: (committee) <i>Environment, Emergency Management and Utilities</i>
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	3-13-06	Full Council Vote: 6-0
Date Presented to Mayor:	3-14-06	Date Approved: 3/17/06
Date Returned to City Clerk:	3/22/06	Date Published: 17 APR 06 T.O. F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

*3-13-06 Passed 6-0 (Excused)*

This file is complete and ready for presentation to Full Council

*Law Department*

Law Dept. Review

OMP Review

City Clerk Review

*(Signature)*

me

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin  
Councilmember

## Committee Action:

7/10/06 approved 1-0 Conlin

3-23-06 Passed 6-0 (Excused: Conlin, Dalbey, Melner)

This file is complete and ready for presentation to Full Council. Committee: RC 3/10  
(initial/date)

**Law Department**

Law Dept. Review

OMP Review

City Clerk Review

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Indexed

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Environment Management
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1 behalf of the registered side sewer contractor. The onsite supervision must be by a person 1) who  
2 has successfully completed the examination provided for in Section 21.16.060A2, and 2) who is  
3 listed on the roster required by Section 21.16.068 as the registered side sewer contractor or as a  
4 current employee of the registered side sewer contractor.

5 Section 3. Section 21.16.060 of the Seattle Municipal Code, which was last amended  
6 by Ordinance 120794, is amended to read as follows:

7 **21.16.060 Registered side sewer contractor—~~Qualification—Registration—~~**  
8 **~~Insurance—Bond—Registration expiration and renewal.~~**

9 A. To ~~((obtain registration from the City))~~ register as a registered side sewer  
10 contractor (RSSC), ~~((an))~~ each applicant must:

11 1. Pay a registration fee of \$200 to the Director of the Department of  
12 Planning and Development;

13 2. Successfully complete an oral and written examination administered by the  
14 Director of the Department of Planning and Development, or employ an individual who has  
15 successfully completed the examination. Each applicant for the oral and written exam must pay  
16 ((Pay)) to the ((City Director of Executive Administration)) Director of the Department of  
17 Planning and Development an examination fee of ((Sixty Dollars-(\$60.00))) \$100 ((for each  
18 individual who takes)) to take the examination required by this subsection;

19 ~~((2))~~3. ~~((Successfully complete or employ an individual who has successfully~~  
20 ~~completed an oral and written examination administered by the Director of Seattle Public~~  
21 ~~Utilities - ))~~ Provide to the Director of the Department of Planning and Development a roster of



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1 all individuals employed by the applicant who have passed the examination provided for in  
2 subsection A2 of this Section;

3 ((3))4. ((Possess)) Provide evidence to the Department of Planning and  
4 Development that the applicant possesses a current Washington State Contractor's license;

5 ((4))5. ((Possess)) Provide evidence to the Department of Planning and  
6 Development that the applicant possesses a current City Business ((and Occupation)) license  
7 issued pursuant to Section 5.55.030 of the Seattle Municipal Code;

8 ((5))6. File with the ((Director of Seattle Public Utilities)) Risk Management  
9 Division of the Department of Executive Administration a certificate of insurance that meets the  
10 standards of subsection B, and maintain the ((a certificate of)) insurance as required  
11 ((prescribed)) by subsection B; ((and))

12 ((6))7. Post with the City Clerk and maintain in full force and effect a bond as  
13 required ((prescribed)) by subsection C of this section((-);

14 8. Agree in writing, to defend, indemnify and hold harmless the City from all  
15 claims, actions or damages of every kind and description, including reasonable attorney fees and  
16 necessary litigation expenses incurred by the City, that may accrue to or be suffered by any  
17 person arising out of any opening in any street, alley, avenue or other public place made by the  
18 registered contractor or those in the registered contractor's employ, in making any connection  
19 with any public or private sewer, or for any other purpose or object associated with side sewer  
20 construction and related activities, except for such losses that directly result from the sole  
21 negligence of the City; and



1           9.     Agree in writing to provide direct on-site supervision in compliance with  
2 Section 21.16.055 of all work located in a public place that is to be performed by or on behalf of  
3 the registered side sewer contractor, including without limitation all work relating to installation,  
4 alteration, extension, connection to or repair of the side sewer.

5           B.     Insurance. Each applicant for ~~((registered))~~ side sewer contractor registration  
6 shall file with the ~~((Director of Seattle Public Utilities))~~ Risk Management Division of the  
7 Department of Executive Administration ~~((a certificate))~~ certification of insurance, and each  
8 registered side sewer contractor shall maintain in full force and effect ~~((a policy of))~~ insurance  
9 from insurers ~~((an insurance company licensed to do business in The State of Washington))~~  
10 acceptable to the Risk Management Division of the Department of Executive Administration.  
11 The ~~((certificate))~~ certification shall state that the applicant/contractor carries comprehensive  
12 general liability insurance with ~~((bodily injury))~~ limits of not less than ~~((Three Hundred~~  
13 ~~Thousand Dollars (\$300,000.00) for any one (1) person killed or injured in any one (1) accident~~  
14 ~~or occurrence, and))~~ \$1,000,000.00 for each occurrence combined single limit bodily injury and  
15 property damage ~~((for more than one (1) person killed or injured in any one (1) accident or~~  
16 ~~occurrence and with property damage liability limits of at least One Hundred Thousand Dollars~~  
17 ~~(\$100,000.00) for all damages arising out of injury to or destruction of property)).~~ Such policy  
18 shall contain an endorsement or policy wording naming the City as an additional insured or, in  
19 lieu of naming the City as an additional insured, insuring the obligation described in subsection  
20 A8 above to indemnify the City, and providing for not less than ~~((ten (10)))~~ 30 ~~((days<sup>2</sup>))~~ days  
21 prior written notice to the City of any change, cancellation or expiration of such policy. ~~((The~~  
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1 Director of Seattle Public Utilities shall, upon notice, cancel the contractor's registration if such  
2 insurance shall cease to be of full force and effect)).

3 C. Each registered side sewer contractor shall post with the City Clerk and maintain  
4 in full force and effect a bond in the sum of (~~Fifteen Thousand Dollars (\$15,000.00))~~)  
5 \$30,000.00 conditioned that the (~~applicant shall indemnify and save harmless the City from all~~  
6 ~~claims, actions, or damages of every kind or description which may accrue to or be suffered by~~  
7 ~~any person by reason of any opening in any street, alley, avenue or other public place made by the~~  
8 ~~contractor or those in the contractor's employ, in making any connection with any public or~~  
9 ~~private sewer, or for any other purpose or object whatever, and that the~~) contractor shall (~~also~~)  
10 replace and restore such street, alley, avenue or other public place as required by SMC 21.16.280  
11 (~~to as good a state and condition as at the time of commencement of said work, and maintain~~  
12 ~~the same in good order, and that the contractor shall comply with all of the provisions of this~~  
13 ~~subtitle and any other ordinance of the City, relating to the business of side sewer contracting~~).  
14 If a claim is made on the bond, the registered side sewer contractor shall immediately post with  
15 the City Clerk a new bond with the same terms and conditions.

16 D. Expiration of Registration. All registrations issued under this chapter  
17 automatically expire on January 31 of each year and must be renewed pursuant to the provisions  
18 of subsection E.

19 E. Renewal of Registration. In order to renew a registration, the contractor shall:

- 20 1. Pay a renewal fee of \$150.00.



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1                   2.     Provide proof of compliance with the requirements of subsections  
2 21.16.060A(2) through (9).

3                   3.     Provide the name(s) of the person or persons who have successfully passed  
4 the oral and written examination required by Subsection A(2) and who are currently employed by  
5 the side sewer contractor applying for renewal.

6                   F.     Failure to Renew. A contractor seeking to renew a side sewer contractor  
7 registration more than one year after its expiration must provide proof of compliance with all of  
8 the initial registration requirements of Subsection A.

9                   Section 6.     Section 21.16.065 of the Seattle Municipal Code, which was last amended  
10 by Ordinance 118396, is amended as follows:

11 **21.16.065     ~~((Cancellation, suspension or denial))~~ Suspension of registration.**

12                   A.     In addition to other penalties provided by law, the Director of ~~((Seattle Public~~  
13 ~~Utilities))~~ the Department of Planning and Development may ~~((cancel or))~~ suspend the  
14 registration of a registered side sewer contractor ~~((, or may deny an application for registration,))~~  
15 for any of the following causes:

16                   1.     Failure to successfully complete the examination or to employ an  
17 individual who has successfully completed the examination required by Section 21.16.060;

18                   2.     Failure to maintain the ~~((comprehensive general liability))~~ insurance or  
19 bond required by Section 21.16.060;

20                   3.     Failure to comply with the provisions of this ~~((title))~~ chapter of the Seattle  
21 Municipal Code or ~~((the))~~ any rules and regulations issued by the Director of ~~((Seattle Public~~

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1 ~~Utilities)) the Department of Planning and Development under this chapter ((governing the~~  
2 ~~construction and laying of side sewers));~~

3 4. Fraud or misrepresentation in registering as a side sewer contractor; or

4 5. ~~((Failure to pay for labor or material used in the construction of a side~~  
5 ~~sewer;~~

6 6. ~~Fraud or misrepresentation to the owner or occupant of a building for the~~  
7 ~~purpose of obtaining a contract for the construction of a side sewer;~~

8 ~~7-)) Nonpayment for work performed by the City for which the side sewer~~  
9 ~~contractor is liable((; or).~~

10 ~~((8. Construction or other performance showing dissatisfactory work by the~~  
11 ~~side sewer contractor.))~~

12 B. Upon information and belief that a registered side sewer contractor's registration  
13 should be suspended ~~((or cancelled, or an application for registration denied,))~~ for any of the  
14 causes enumerated in subsection A of this section, the Director of ~~((Seattle Public Utilities))~~ the  
15 Department of Planning and Development shall send notice ~~((by certified mail))~~ to the contractor  
16 that the contractor's registration ~~((as a side sewer contractor))~~ may be suspended ~~((or cancelled or~~  
17 ~~an application for registration may be denied))~~ in not less than ~~((ten (10)))~~ 10 days from the date  
18 of the notice. The notice shall contain a statement of the basis for the suspension ~~((or~~  
19 ~~cancellation, or for denial of application for registration)).~~

20 C. If the registered side sewer contractor wishes to appeal the ~~((action))~~ suspension,  
21 the contractor must file with the Hearing Examiner within 10 days of the date of service or  
22 mailing of the notice required by subsection B, whichever is earlier, a request for a hearing



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1 detailing the reasons why the proposed suspension should not be imposed, with a copy to the  
2 Director of ((Seattle Public Utilities)) the Department of Planning and Development ((a request  
3 for a hearing before the Hearing Examiner within ten (10) days of the date of service or mailing  
4 of such notice)). The registered side sewer contractor shall submit the Hearing Examiner's filing  
5 fee with ((such)) the request as well as a copy of the notice of suspension.

6 D. If a timely request for a hearing is filed by the contractor ((or applicant)), a  
7 hearing shall be scheduled before the Hearing Examiner and shall be conducted by the Hearing  
8 Examiner ((according to his/her rules for contested cases)).

9 E. When a hearing has been requested ((by a contractor in connection with))  
10 regarding a suspension ((or cancellation)) of a ((the contractor's)) registration, the registration  
11 shall remain in effect pending the determination made as a result of such hearing; provided, that  
12 in cases involving a substantial and immediate threat to the public health, safety or welfare, the  
13 registration may be summarily suspended by the Director. Any notice of a summary suspension  
14 must state that it is a summary suspension and state the facts surrounding the substantial and  
15 immediate threat to the public health, safety or welfare.

16 F. If a timely appeal is not filed ((by the contractor or applicant)), the notice ((order))  
17 of the Director of ((Seattle Public Utilities)) the Department of Planning and Development  
18 ((denying,)) suspending ((or revoking)) the registration shall be final. ((; provided, that the  
19 Hearing Examiner may waive the ten (10) day requirement upon satisfaction that failure to  
20 receive notice of the order was beyond the control of the person requesting the hearing.))



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1 G. The Director of ~~((Seattle Public Utilities'))~~ the Department of Planning and  
2 Development's decision(s) shall be reversed only if the Hearing Examiner finds that the  
3 decision was arbitrary and capricious.

4 H. The record shall be established at the hearing before the Hearing Examiner, which  
5 shall be conducted according to the Hearing Examiner's rules for contested cases. ~~((The Hearing~~  
6 ~~Examiner shall either close the record after the hearing or leave it open to a specified date for~~  
7 ~~additional testimony, written argument or exhibits.))~~

8 I. The Hearing Examiner shall issue a written decision within ~~((fifteen (15)))~~ 15 days  
9 after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the  
10 decision of the Director of ((Seattle Public Utility's decision)) the Department of Planning and  
11 Development to suspend the registration. Written findings and conclusions supporting the  
12 Hearing Examiner's decision shall be made. The Director of ~~((Seattle Public Utilities))~~ the  
13 Department of Planning and Development and all parties of record shall be bound by the terms  
14 and conditions of the Hearing Examiner's decision.

15 J. The Hearing Examiner's decision shall be mailed ~~((by the Hearing Examiner))~~ on  
16 the day the decision is issued to the parties of record and to all those requesting notice.

17 K. ~~((The Hearing Examiner's decision shall be final and conclusive unless the~~  
18 ~~Hearing Examiner's decision specifically states that the Hearing Examiner retains jurisdiction.~~

19 L.)) Within fifteen (15) calendar days from the date of issuance of the Hearing  
20 Examiner's decision, a party of record may appeal the decision to the King County Superior  
21 Court through application for a writ of review.



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1 Section 6. Section 21.16.070 of the Seattle Municipal Code, which was last amended  
2 by Ordinance 118396, is amended as follows:

3 **21.16.070 Permit required.**

4 A. A side sewer permit is required for any work on a side sewer including, but not  
5 limited to, construction, alteration, repair, removal, and capping.

6 B. When an existing structure is removed from a site and a new structure is  
7 constructed, a side sewer permit is required to connect the new structure to the public sewer  
8 system or approved outlet.

9 C. Unless an emergency exists, as determined by the Director of ~~((Seattle Public  
10 Utilities))~~ the Department of Planning and Development, a side sewer permit must be obtained  
11 from the Director of ~~((Seattle Public Utilities))~~ the Department of Planning and Development  
12 before any work may be started on a side sewer located within the City's sewer service area,  
13 either on private property or within a public place.

14 D. No ~~((permit shall be altered and no))~~ work shall be performed on a side sewer  
15 other than that provided for in the permit or any revised permit issued by the Department of  
16 Planning and Development. If additional work is necessary, the Director of ~~((Seattle Public  
17 Utilities))~~ the Department of Planning and Development may require an additional permit and/or  
18 fees.

19 Section 7. Section 21.16.080 of the Seattle Municipal Code, which was last amended  
20 by Ordinance 118396, is amended as follows:

21 **21.16.080 Permit—Application—Authority of the Director of the Department of**  
22 **Planning and Development ~~((Director of Seattle Public Utilities' authority))~~.**



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1           A.     For work in a public place, a permit shall only be issued to an individual who has  
2 successfully completed the examination ~~((prescribed in))~~ required by Section 21.16.060 of the  
3 Seattle Municipal Code and who is a registered side sewer contractor or an employee ~~((duly~~  
4 ~~authorized representative))~~ of a registered side sewer contractor.

5           B.     For work in other than a public place, a permit may be issued to the owner or  
6 occupant of the property or agent thereof.

7           C.     ~~((Whenever a registered side sewer contractor applies for a permit, a permit shall~~  
8 ~~be issued only to an individual who has successfully completed the examination prescribed in~~  
9 ~~Section 21.16.060 of the Seattle Municipal Code and who is a duly authorized representative of~~  
10 ~~the contractor.~~

11           D.) Application for the permit required by this chapter shall be filed with the Director of  
12 ~~((Seattle Public Utilities))~~ the Department of Planning and Development with the following:

- 13           1.     The name, address and telephone number of the applicant;
- 14           2.     Name, mailing address, and telephone number of the property owner;
- 15           3.     Legal description and address of the property to be served;
- 16           4.     A scale drawing showing the location of all structures on the property,  
17 dimensions of the structures, and the location of all existing and proposed side sewers;
- 18           5.     Purposes for which all structures are to be used;
- 19           6.     Proof that all necessary permits have been obtained in conjunction with or  
20 prior to issuance of the side sewer permit;



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1 ~~side sewer contractor who shall, upon receiving written notice of the amount thereof or upon~~  
2 ~~posting of such notice at the area make immediate payment thereof to the City Director of~~  
3 ~~Executive Administration)) to the standards and in the manner required by the Seattle~~  
4 Department of Transportation.

5 Section 10. Section 21.16.380 of the Seattle Municipal Code, which was last amended  
6 by Ordinance 119192, is amended as follows:

7 **21.16.380 Violation—Penalty.**

8 A. Violation.

9 (1) A failure to comply with any provision of this chapter or any rule,  
10 regulation, notice, or order of the Director of Health, the Director of Seattle Public Utilities, or  
11 the Director of the Department of Planning and Development issued pursuant to this chapter is a  
12 violation of this chapter.

13 (2) Each day of violation or failure to comply constitutes a separate violation.

14 B. Civil Penalty.

15 (1) In addition to any other sanction or remedial procedure that may be  
16 available, any person who violates or fails to comply with any provision of this chapter, or any  
17 rule, regulation, notice, or order of the Director of Health, the Director of Seattle Public Utilities,  
18 or the Director of the Department of Planning and Development issued pursuant to this chapter  
19 shall be subject to a civil penalty in the amount of \$500 per day for each day of each violation.

20 (2) The Director of Health, of Seattle Public Utilities or of the Department of  
21 Planning and Development shall notify the City Attorney in writing of the name of any person  
22 subject to a civil penalty for violations of this chapter. The City Attorney shall, with the



1 assistance of the Director, take appropriate action to collect the penalty. In any civil action for a  
2 penalty, the City has the burden of proving by a preponderance of the evidence that a violation  
3 exists or existed.

4 C. Alternative criminal penalty.

5 ((A)) Any person who violates or fails to comply with any provision of this chapter or any  
6 rule, regulation, notice, or order of the Director of Health, the Director of Seattle Public Utilities,  
7 or the Director of the Department of Planning and Development issued pursuant to this chapter is  
8 guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04 of the Seattle  
9 Municipal Code, except that absolute liability shall be imposed for such a violation or failure to  
10 comply and none of the mental states described in Section 12A.04.030 of the Seattle Municipal

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1 Code need be proved. The Director may request the City Attorney to prosecute such violations  
2 criminally as an alternative to the civil penalty provided in Section 21.16.380 B.

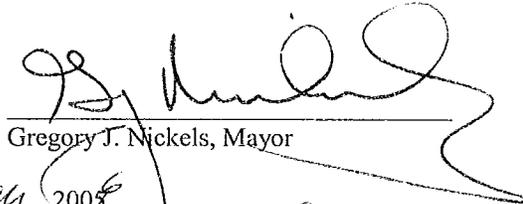
3 ~~((B. Each day of violation or failure to comply shall constitute a separate violation.))~~

4 Section 11. This ordinance shall take effect and be in force thirty (30) days from and after  
5 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after  
6 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

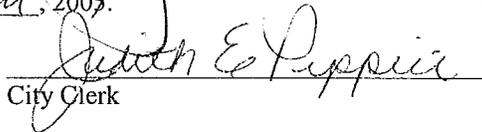
7 Passed by the City Council the 13<sup>th</sup> day of March, 2006, and signed by me in open  
8 session in authentication of its passage this 13<sup>th</sup> day of March, 2006.

9   
10 \_\_\_\_\_  
President of the City Council

11 Approved by me this 17<sup>th</sup> day of March, 2006

12   
13 \_\_\_\_\_  
Gregory J. Nickels, Mayor

14 Filed by me this 22nd day of March, 2006.

15   
16 \_\_\_\_\_  
City Clerk

(Seal)



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**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Planning and Development	Ken Watanabe/ 386-9785	Amanda Allen/684-8894

**Legislation Title:**

An ordinance relating to the Side Sewer Code, amending various provisions of Chapter 21.16 of the Seattle Municipal Code, to revise the provisions for licensing of registered side sewer contractors, to change the Department authorized to administer and enforce the provisions, to extend the life a side sewer permit from 90 days to 18 months, to revise the standards for street restoration, and to update enforcement provisions including the establishment of civil penalties.

• **Summary of the Legislation:**

This ordinance updates the City's program for regulation and registration of side sewer contractors (RSSCs) who work on public property. The proposed legislation updates the provisions for insurance and bonds; and for granting, and suspending RSSC registrations. It also increases fees to provide funding for administration of the registration program. A detailed list of changes is included at the end of this fiscal note.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

SPU delegated administration of the RSSC program to DPD in February, 2003 as part of a long-term consolidation of responsibility for enforcement of site development, drainage and side sewer regulations to DPD. This legislation completes the transfer of responsibility for the RSSC program to DPD and updates the regulations.

- *Please check one of the following:*

**This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

**This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

**Appropriations:** *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/ programs associated with this ordinance have appropriations that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2005 Appropriation	2006 Anticipated Appropriation
NA				

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<b>TOTAL</b>				
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\*See budget book to obtain the appropriate Budget Control Level for your department.

**Notes:** No appropriations will result from this legislation.

**Anticipated Revenue/Reimbursement: Resulting From This Legislation:** This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Fund Name and Number	Department	Revenue Source	2006 Revenue	2007 Revenue
	DPD	Examination fee	\$1,440	\$ 1,440
	DPD	Registration fee	1,000	13,000
<b>TOTAL</b>			<b>\$2,440</b>	<b>\$14,440</b>

**Notes:** The legislation increases the examination fee by \$40. In the past, an average of three people per month have taken the exam. Therefore, revenue is estimated to increase by approximately \$1,440 per year from examination fees.

The legislation adds a fee of \$200 for registration of side sewer contractors. It is estimated that five new contractors will register each year, producing \$1,000 in new revenue annually.

The legislation adds a fee of \$150 for renewal of contractor registrations. It is expected that 80 contractors will renew their registrations annually, producing \$12,000 in revenue. Since licenses expire on January 31, the renewal fee will not be collected in 2006.

**Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE**

**Impact:** This table should only reflect the actual number of positions created by this legislation. In the event that positions have been, or will be, created as a result of previous or future legislation or budget actions, please provide details in the Notes section below the table.

Position Title and Department*	Fund Name	Fund Number	Part-Time/Full Time	2005 Positions	2005 FTE	2006 Positions**	2006 FTE**
NA							
<b>TOTAL</b>							

\* List each position separately

\*\* 2006 positions and FTE are total 2006 position changes resulting from this legislation, not incremental changes. Therefore, under 2006, please be sure to include any continuing positions from 2005

**Notes:** No positions will be created or abrogated because of this legislation. The RSSC program will continue to be administered with existing staff.



- **Do positions sunset in the future?** (If yes, identify sunset date):  
No positions will sunset.

**Spending/Cash Flow:** This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name and Number	Department	Budget Control Level*	2005 Expenditures	2006 Anticipated Expenditures
NA				
<b>TOTAL</b>				

\* See budget book to obtain the appropriate Budget Control Level for your department.

**Notes:**

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

If this legislation is not implemented, the cost of administering the program will continue to be borne by other fees, mostly side sewer permit fees. This legislation attributes the cost of the program to those contractors who directly benefit.

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

The City could abandon the program of examining and registering side sewer contractors for work on public property. However, this might not produce actual savings, because the result is likely to be substandard side sewer work on public property that the City would be required to complete or correct at its expense.

Other alternatives are to continue to fund the program from either side sewer permit fees or from the General Subfund resources.

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

No public hearing is required.

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

**Please list attachments to the fiscal note below:**

Attachment A — Changes Made by the Proposed Legislation

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# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

December 6, 2005

Honorable Jan Drago  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

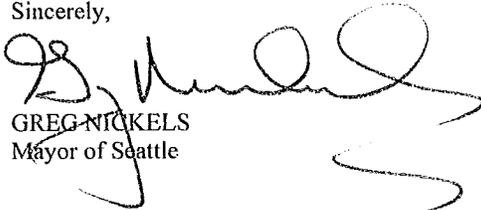
Dear Council President Drago:

I am pleased to transmit the attached proposed Council Bill that updates the City's registered side sewer contractor (RSSC) regulations. SPU delegated administration of the program to DPD in February, 2003 as part of a long-term consolidation of responsibility for enforcement of site development, drainage and side sewer regulations to DPD. This legislation transfers authority for implementation and enforcement of the registered side sewer contractor program to DPD.

For many years, the City has required side sewer contractors who work on public property to be registered with the City. This legislation updates the code provisions and enhances DPD's ability to enforce the regulations effectively. The legislation adds new civil enforcement provisions, updates the insurance and bond requirements, and increases fees so that the cost of administering the program will be borne by the registered side sewer contractors. A more detailed list of changes accompanies this letter.

The amendments proposed by this legislation improve the City's enforcement of regulations that protect public health and the environment by integrating the side sewer program more fully into the construction permit process. Thank you for your consideration of this legislation. Should you have questions, please contact Ken Watanabe at 386-9785.

Sincerely,



GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

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STATE OF WASHINGTON - KING COUNTY

--ss.

196325  
CITY OF SEATTLE, CLERKS OFFICE

No.

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 12<sup>th</sup> 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:122036 ORDINANCE

was published on

03/28/06

The amount of the fee charged for the foregoing publication is the sum of \$ 862.36, which amount has been paid in full.



*[Signature]*

Subscribed and sworn to before me on

03/28/06

*[Signature]*

Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

ORDINANCE 122035

AN ORDINANCE relating to the Side Sewer Code, amending various provisions of Chapter 21.16 of the Seattle Municipal Code, to revise the provisions for licensing of registered side sewer contractors, to change the Department authorized to administer and enforce the provisions, to extend the life of a side sewer permit from 90 days to 18 months, to revise the standards for street restoration, and to update enforcement provisions including the establishment of civil penalties.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 23 of Section 21.16.030 of the Seattle Municipal Code, which was last amended by Ordinance 121276, is amended to read as follows:

21.16.030 Definitions.

Words and phrases used in this chapter, unless (the same shall be) they are contrary to or inconsistent with the context, shall mean as follows.

...

23. "Registered side sewer contractor" means a person approved and registered by the Director of (Seattle Public Utilities) the Department of Planning and Development to construct or repair side sewers.

Section 2. A new section 21.16.055 is added to the Seattle Municipal Code as follows:

21.16.055 Work in a public place—registered contractor, supervision and permit required.

No work may be performed in a public place to construct or repair side sewers except by a registered side sewer contractor pursuant to a permit issued pursuant to Section 21.16.080. Direct onsite supervision shall be provided of all work to be performed in a public place by or on behalf of the registered side sewer contractor. The onsite supervision must be by a person 1) who has successfully completed the examination provided for in Section 21.16.060A2, and 2) who is listed on the roster required by Section 21.16.068 as the registered side sewer contractor or as a current employee of the registered side sewer contractor.

Section 3. Section 21.16.060 of the Seattle Municipal Code, which was last amended by Ordinance 120794, is amended to read as follows:

21.16.060 Registered side sewer contractor—Qualification—Registration—Insurance—Bond—Registration expiration and renewal.

A. To (obtain registration from the City) register as a registered side sewer contractor (RSSC), (any) each applicant must:

1. Pay a registration fee of \$200 to the Director of the Department of Planning and Development;

2. Successfully complete an oral and written examination administered by the Director of the Department of Planning and Development, or employ an individual who has successfully completed the examination. Each applicant for the oral and written exam must pay (pay) to the (City Director of Executive Administration) Director of the Department of Planning and Development an examination fee of, (every three (60-60)) \$100 (for each individual who takes) to take the examination required by this subsection;

(0)3. (Successfully complete or employ an individual who has successfully completed oral and written examination administered by the Director of Seattle Public Utilities;) Provide to the Director of the Department of Planning and Development a roster of all individuals employed by the applicant who have passed the examination provided for in subsection A2 of this Section;

(0)4. ((Possess) Provide evidence to the Department of Planning and Development that the applicant possesses a current Washington State Contractor's license;

(0)5. ((Possess) Provide evidence to the Department of Planning and Development that the applicant possesses a current City Business (and Occupation) license issued pursuant to Section 5.55.030 of the Seattle Municipal Code;

(0)6. File with the (Director of Seattle Public Utilities) Risk Management Division of the Department of Executive Administration a certificate of insurance that meets the standards of subsection B, and maintain the (a certificate of) insurance as required (prescribed) by subsection B; (and)

(0)7. Post with the City Clerk and maintain in full force and effect a bond as required (prescribed) by subsection C of this section;

8. Agree in writing to defend, indemnify and hold harmless the City from all claims, actions or damages of every kind and description, including reasonable attorney fees and necessary litigation expenses incurred by the City that may accrue to or be suffered by any person arising out of any claim in any street, alley, avenue or other public place made by the registered contractor or those in the registered contractor's employ, in making any connection with any public or private sewer, or for any other purpose or object associated with side sewer construction and related activities, except for such losses that directly result from the sole negligence of the City; and

9. Agree in writing to provide direct onsite supervision in compliance with Section 21.16.055 of all work located in a public place that is to be performed by or on behalf of the registered side sewer contractor, including without limitation all work relating to installation, alteration, extension, connection, or repair of the side sewer.

B. Insurance. Each applicant for (registered) side sewer contractor registration shall file with the (Director of Seattle Public Utilities) Risk Management Division of the Department of Executive Administration (a certificate) certificate of insurance, and each registered side sewer contractor shall maintain in full force and effect (a copy of) insurance from Insurax (an insurance company licensed to do business in the State of Washington) acceptable to the Risk Management Division of the Department of Executive Administration. The (certificated) certification shall state that the applicant/contractor carries comprehensive general liability insurance with (the) liability limit

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necessary litigation expenses incurred by the City, that may accrue to or be suffered by any person arising out of any opening in any street, alley, avenue or other public place made by the registered contractor or those in the registered contractor's employ, in making any connection with any public or private sewer, or for any other purpose or object associated with side sewer construction and related activities, even if such losses that directly result from the sole negligence of the City; and

B. Agree in writing to provide direct on-site supervision in compliance with Section 21.16.065 of all work located at a public place that is to be performed by or on behalf of the registered side sewer contractor, including without limitation all work relating to installation, alteration, extension, connection to or repair of the side sewer.

B. Insurance. Each applicant for (registered) side sewer contractor registration shall file with the (Director of Seattle Public Utilities) Risk Management Division of the Department of Executive Administration (the certificate) certification of insurance, and each registered side sewer contractor shall maintain in full force and effect (a policy of) insurance from an insurer (an insurance company licensed to do business in the State of Washington) acceptable to the Risk Management Division of the Department of Executive Administration. The (certificate) certification shall state that the applicant/contractor carries comprehensive general liability insurance with (policy injury) limits of not less than (Three Hundred Thousand Dollars (\$300,000.00)) for any one (1) person killed or injured in any one (1) accident or occurrence; and (1,000,000.00) for each occurrence combined single limit bodily injury and property damage (for more than one (1) person killed or injured in any one (1) accident or occurrence and with property damage liability limits of at least One Hundred Thousand Dollars (\$100,000.00) for all damages arising out of injury to or destruction of property). Such policy shall contain an endorsement or policy wording naming the City as an additional insured or, in lieu of naming the City as an additional insured, providing the obligation described in subsection A8 above to indemnify the City, and providing for not less than (ten (10)) (30 (days)) days prior written notice to the City of any change, cancellation or expiration of such policy. (The Director of Seattle Public Utilities shall, upon notice, cause the contractor's registration if such insurance shall cease to be of full force and effect).

C. Each registered side sewer contractor shall post with the City Clerk and maintain in full force and effect a bond in the sum of (Fifteen Thousand Dollars (\$15,000.00)) \$30,000.00 conditioned that the applicant shall indemnify and save harmless the City from all claims, actions, or damages of every kind or description which may accrue to or be suffered by any person by reason of any opening in any street, alley, avenue or other public place made by the contractor or those in the contractor's employ, in making any connection with any public or private sewer, or for any other purpose or object whatever; and that the contractor shall (also) replace and restore such street, alley, avenue or other public place as required by SMD 21.16.280 (to as good a state and condition as at the time of commencement of said work; and maintain the same in good order; and that the contractor shall comply with all of the provisions of this subtitle and any other ordinance of the City relating to the business of side sewer contracting). If a claim is made on the bond, the registered side sewer contractor shall immediately post with the City Clerk a new bond with the same terms and conditions.

D. Expiration of Registration. All registrations issued under this chapter automatically expire on January 31 of each year, and must be renewed pursuant to the provisions of subsection E.

E. Renewal of Registration. In order to renew a registration, the contractor shall:

1. Pay a renewal fee of \$160.00.
2. Provide proof of compliance with the requirements of subsections 21.16.060(A)(2) through (9).
3. Provide the name(s) of the person or persons who have successfully passed the oral and written examination required by Subsection A(2) and who are currently employed by the side sewer contractor applying for renewal.

F. Failure to Renew. A contractor seeking to renew a side sewer contractor registration more than one year after its expiration must provide proof of compliance with all of the initial registration requirements of Subsection A.

Section 6, Section 21.16.065 of the Seattle Municipal Code, which was last amended by Ordinance 118398, is amended as follows:

21.16.065 ((Cancellation; suspension or denial)) Suspension of registration.

A. In addition to other penalties provided by law, the Director of (Seattle Public Utilities) the Department of Planning and Development may (cancel or) suspend the registration of a registered side sewer contractor (or may deny an application for registration) for any of the following causes:

1. Failure to successfully complete the examination or to employ an individual who has successfully completed the examination required by Section 21.16.060;
2. Failure to maintain the (comprehensive general liability) insurance or bond required by Section 21.16.060;
3. Failure to comply with the provisions of this ((title)) chapter of the Seattle Municipal Code or ((the)) any rules and regulations issued by the Director of (Seattle Public Utilities) the Department of Planning and Development under this chapter (governing the construction and laying of side sewers);
4. Fraud or misrepresentation in registering as a side sewer contractor; or
5. ((Failure to pay for labor or material used in the construction of a side sewer;
6. Fraud or misrepresentation to the owner or occupant of a building for the purpose of obtaining a contract for the construction of a side sewer;
- 7.)) Nonpayment for work performed by the City for which the side sewer contractor is liable ((or)).

((3. Construction or other performance showing dissatisfactory work by the side sewer contractor.))

B. Upon information and belief that a registered side sewer contractor's registration should be suspended (or cancelled) or an application for registration denied) for any of the causes enumerated in subsection A of this section, the Director of (Seattle Public Utilities) the Department of Planning and Development shall send notice (by certified mail) to the contractor that the contractor's registration (or side sewer contractor) may be suspended (or cancelled) or an application for registration may be denied) in not less than (ten (10)) 10 days from the date of the notice. The notice shall contain a statement of the basis for the suspension (or cancellation) or for denial of application for registration).

C. If the registered side sewer contractor wishes to appeal the (action) suspension, the contractor must file with the Hearing Examiner within 10 days of the date of service or mailing of the notice required by subsection B, whichever is earlier, a request for a hearing detailing the reasons why the proposed suspension should not be imposed, with a copy to the Director of (Seattle Public Utilities) the Department of Planning and Development (a request for a hearing before the Hearing Examiner within ten (10) days of the date of service or mailing of such notice). The registered side sewer contractor shall

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5. Failure to pay for labor and material used in the construction of a side sewer;

6. Fraud or misrepresentation to the owner or occupant of a building for the purpose of obtaining a contract for the construction of a side sewer;

7. Nonpayment for work performed by the City for which the side sewer contractor is liable (or);

(8-Construction or other performance showing dissatisfactory work by the side sewer contractor.)

D. Upon information and belief that a registered side sewer contractor's registration should be suspended (or cancelled) or an application for registration denied for any of the causes enumerated in subsection A of this section, the Director of (Seattle Public Utilities) the Department of Planning and Development shall send notice (by certified mail) to the contractor that the contractor's registration (or side-sewer contractor) may be suspended (or cancelled) or an application for registration may be denied (in not less than (ten (10)) 10 days from the date of the notice. The notice shall contain a statement of the basis for the suspension (or cancellation) or for denial of application for registration.)

C. If the registered side sewer contractor wishes to appeal the (section) suspension, the contractor must file with the Hearing Examiner within 10 days of the date of recording or mailing of the notice required by subsection B, whichever is earlier, a request for a hearing stating the reasons why the proposed suspension should not be imposed, with a copy to the Director of (Seattle Public Utilities) the Department of Planning and Development (a request for a hearing before the Hearing Examiner within ten (10) days of the date of service or mailing of such notice). The registered side sewer contractor shall submit the Hearing Examiner's filing fee with (such) the request as well as a copy of the notice of suspension.

D. If a timely request for a hearing is filed by the contractor (or applicant), a hearing shall be scheduled before the Hearing Examiner and shall be conducted by the Hearing Examiner (according to his/her rules for contested cases).

E. When a hearing has been requested (by a contractor in connection with) regarding a suspension (or cancellation) of a (the contractor's) registration, the registration shall remain in effect pending the determination made as a result of such hearing; provided, that in cases involving a substantial and immediate threat to the public health, safety or welfare, the registration may be summarily suspended by the Director. Any notice of a summary suspension must state the facts surrounding the substantial and immediate threat to the public health, safety or welfare.

F. If a timely appeal is not filed (by the contractor or applicant), the notice (order) of the Director of (Seattle Public Utilities) the Department of Planning and Development (denying) suspending (or revoking) the registration shall be final; provided, that the Hearing Examiner may waive the ten (10) day requirement upon satisfaction that failure to receive notice of the order was beyond the control of the person requesting the hearing.)

G. The Director of (Seattle Public Utilities) the Department of Planning and Development's decision(s) shall be reversed only if the Hearing Examiner finds that the decision was arbitrary and capricious.

H. The record shall be established at the hearing before the Hearing Examiner, which shall be conducted according to the Hearing Examiner's rules for contested cases. (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.)

I. The Hearing Examiner shall issue a written decision within (fifteen (15)) 15 days after closing the record. The Hearing Examiner may affirm, reverse, remand or modify the decision of the Director of (Seattle Public Utilities) the Department of Planning and Development to suspend the registration. Written findings and conclusions supporting the Hearing Examiner's decision shall be made. The Director of (Seattle Public Utilities) the Department of Planning and Development and all parties of record shall be bound by the terms and conditions of the Hearing Examiner's decision.

J. 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.

K. (The Hearing Examiner's decision shall be final and conclusive unless the Hearing Examiner's decision specifically states that the Hearing Examiner retains jurisdiction.)

(L) Within fifteen (15) calendar days, from the date of issuance of the Hearing Examiner's decision, a party of record may appeal the decision to the King County Superior Court through application for a writ of review.

(M-Whenever a registration is denied, no reapplication for registration will be considered by the Director of Seattle Public Utilities until correction of the disability on which the denial was based.)

(N) Whenever a registration is suspended (revoked), no new application for registration or renewal (that has been revoked) of that contractor may be made (will be considered) by the Director of Seattle Public Utilities during the period of suspension (for a period of one (1) year, commencing on the date the order to revoke becomes final).

(O) The period of suspension (shall be a period as stated in the order to suspend; and) may be for any period up to one (1) year, commencing on the date the period of suspension provided for in the Director's notice. Hearing Examiner's decision or order to suspend (becomes final) actual basis.

N. After the period of suspension, the registered contractor must apply for and obtain a license renewal pursuant to Section 21.16.068 in order to be reinstated as a registered side sewer contractor.

Section 5. A new section, Section 21.16.068, is added to the Seattle Municipal Code as follows:

SMC 21.16.068 Registered Contractor Roster Required.

Each registered subcontractor shall provide to the Director of the Department of Planning and Development a roster of current employees who have passed the examination described in SMC 21.16.064. Each registered side sewer contractor shall notify the Director of the Department of Planning and Development within 10 days of any changes in the employment status of any employees who are or should be on this roster.

Section 6. Section 21.16.070 of the Seattle Municipal Code, which was last amended by Ordinance 118396, is amended as follows:

21.16.070 Permit required.

A. A side sewer permit is required for any work on a side sewer including, but not limited to, construction, alteration, repair, removal, and capping.

B. When an existing structure is removed from a site and a new structure is constructed, a side sewer permit is required to connect the new structure to the public sewer system or approved outlet.

C. Unless an emergency exists, as determined by the Director of (Seattle Public Utilities) the Department of Planning and Development, a side sewer permit must be obtained from the Director of (Seattle Public

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Director of the Department of Planning and Development within 10 days of any changes in the employment status of any employees who are or should be on this roster.

Section 8, Section 21.16.070 of the Seattle Municipal Code, which was last amended by Ordinance 118396, is amended as follows:

**21.16.070 Permit required.**

A. A side sewer permit is required for any work on a side sewer including, but not limited to, construction, alteration, repair, removal, and capping.

B. When an existing structure is removed from a site and a new structure is constructed, a side sewer permit is required to connect the new structure to the public sewer system or approved outlet.

C. Unless an emergency exists, as determined by the Director of (Seattle Public Utilities) the Department of Planning and Development, a side sewer permit must be obtained from the Director of (Seattle Public Utilities) the Department of Planning and Development before any work may be started on a side sewer located within the City's sewer service area, either on private property or within a public place.

D. No (permit shall be altered and no) work shall be performed on a side sewer other than that provided for in the permit or any revised permit issued by the Department of Planning and Development. If additional work is necessary, the Director of (Seattle Public Utilities) the Department of Planning and Development may require an additional permit and/or fees.

Section 7, Section 21.16.080 of the Seattle Municipal Code, which was last amended by Ordinance 118396, is amended as follows:

**21.16.080 Permit—Application—Authority of the Director of the Department of Planning and Development (Director of Seattle Public Utilities authority).**

A. For work in a public place, a permit shall only be issued to an individual who has successfully completed the examination (prescribed in) required by Section 21.16.060 of the Seattle Municipal Code and who is a registered side sewer contractor or an employee (duly authorized representative) of a registered side sewer contractor.

B. For work in other than a public place, a permit may be issued to the owner or occupant of the property or agent thereof.

C. (Whenever a registered side sewer contractor applies for a permit, a permit shall be issued only to an individual who has successfully completed the examination prescribed in Section 21.16.060 of the Seattle Municipal Code and who is a duly authorized representative of the contractor.)

D) Application for the permit required by this chapter shall be filed with the Director of (Seattle Public Utilities) the Department of Planning and Development with the following:

1. The name, address and telephone number of the applicant;
2. Name, mailing address, and telephone number of the property owner;
3. Legal description and address of the property to be served;
4. A scale drawing showing the location of all structures on the property, dimensions of the structures, and the location of all existing and proposed side sewers;
5. Purposes for which all structures are to be used;
6. Proof that all necessary permits have been obtained in conjunction with or prior to issuance of the side sewer permit;
7. Proof that all necessary assessments, releases, and/or permissions to connect have been obtained and (recorded) provided to the Director of Department of Planning and Development for recording with the King County Department of Records and Elections;
8. Proof of payment of all permit fees and other charges required by Chapter 21.24 of the Seattle Municipal Code.

D. ((E)) The Director of (Seattle Public Utilities) the Department of Planning and Development may change or modify the application and designate the manner and place where the side sewer shall connect to the public sewer system, may specify the material, size and grade of the side sewer, and determine whether or not a permit shall be granted. The Director of (Seattle Public Utilities) the Department of Planning and Development may require the applicant to furnish plans prepared and stamped by a professional engineer, licensed in the State of Washington. The Director of (Seattle Public Utilities) the Department of Planning and Development shall keep such records as the Director (whether) deems necessary of all side sewer permits and inspection reports.

E. ((F)) Notwithstanding any other provisions of this chapter, the Director of (Seattle Public Utilities) the Department of Planning and Development may refuse, until the condition is corrected, to issue a permit for work in a public place to a registered side sewer contractor for any of the following conditions:

1. Failure to pay within (sixty (60)) 60 days any bill for work performed by the City and for which the contractor is liable;
2. Failure to maintain the (comprehensive general liability) insurance or the bond required by Section 21.16.060 of the Seattle Municipal Code; (or)
3. Failure to comply with a notice posted pursuant to Section 21.16.300 of the Seattle Municipal Code; (or)
4. Failure to have a current business license issued under Section 5.55.030 of the Seattle Municipal Code; or
5. Failure to have a current Washington State Contractor's license.

Section 8, Subsection 21.16.090 C of the Seattle Municipal Code, which was last amended by Ordinance 118396, is amended to read as follows:

**21.16.090 Permits—Period of validity—Restrictions—Posting.**

C. All side sewer permits shall expire (ninety (90) days) 18 months after issuance unless extended by the Director of (Seattle Public Utilities) the Department of Planning and Development prior to the date of expiration. Expired permits are not subject to refunds pursuant to Section 21.24.090 of the Seattle Municipal Code.

Section 9, Section 21.16.280 of the Seattle Municipal Code, which was last amended by Ordinance 120794, is amended as follows:

**21.16.280 Restoration of streets and other public areas.**

Streets, sidewalks, planting strips, and other public areas except as mentioned in Section 21.16.270, disturbed or altered in the course of any side sewer or drainage work, shall be restored (by the side sewer contractor to the original surface condition as approved by the Director of Seattle Public Utilities, and in event of the failure of the contractor to restore the area the Director of Seattle Public Utilities may make such restoration and charge the cost thereof to the side sewer contractor who shall, upon receiving written notice of the amount thereof or upon posting of such notice at the area make immediate payment thereof to the City Director of Executive Administration) to the standards and in the manner required by the Seattle Department of Transportation.

Section 10, Section 21.16.380 of the Seattle Municipal Code, which was last

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8. Proof of payment of all permit fees and other charges required by Chapter 21.24 of the Seattle Municipal Code.

D. (B) The Director of (Seattle Public Utilities) the Department of Planning and Development may change or modify the application and designate the manner and place where the side sewer shall connect to the public sewer system, may specify the material, size and grade of the side sewer, and determine whether or not a permit shall be granted. The Director of (Seattle Public Utilities) the Department of Planning and Development may require the applicant to furnish plans prepared and stamped by a professional engineer, licensed in the State of Washington. The Director of (Seattle Public Utilities) the Department of Planning and Development shall keep such records as the Director (herein) deems necessary of all side sewer permits and inspection reports.

E. (F) Notwithstanding any other provision of this chapter, the Director of (Seattle Public Utilities) the Department of Planning and Development may refuse, until the condition is corrected, to issue a permit for work in a public place to a registered side sewer contractor for any of the following conditions:

1. Failure to pay within (sixty(60)) (60) days any bill for work performed by the City and for which the contractor is liable;
2. Failure to maintain the (comprehensive general liability) insurance or the bond required by Section 21.16.060 of the Seattle Municipal Code; (or)
3. Failure to comply with a notice posted pursuant to Section 21.16.360 of the Seattle Municipal Code; (or)
4. Failure to have a current business license issued under Section 5.55.030 of the Seattle Municipal Code; or
5. Failure to have a current Washington State Contractor's license.

Section 8, Subsection 21.16.090 C of the Seattle Municipal Code, which was last amended by Ordinance 118396, is amended to read as follows:

**21.16.090 Permits—Period of validity—Restriction—Posting.**

C. All side sewer permits shall expire (ninety(90) days) 18 months after issuance unless extended by the Director of (Seattle Public Utilities) the Department of Planning and Development prior to the date of expiration. Expired permits are not subject to refunds pursuant to Section 21.24.090 of the Seattle Municipal Code.

Section 9, Section 21.16.230 of the Seattle Municipal Code, which was last amended by Ordinance 120794, is amended as follows:

**21.16.230 Restoration of streets and other public areas.**

Streets, sidewalks, planting strips, and other public areas except as mentioned in Section 21.16.270, disturbed or altered in the course of any side sewer or drainage work, shall be restored (by the side sewer contractor to the original surface condition as approved by the Director of Seattle Public Utilities and in event of the failure of the contractor to so restore the area the Director of Seattle Public Utilities may make such restoration and charge the cost thereof to the side sewer contractor who shall, upon receiving written notice of the amount thereof or upon posting of such notice at the area, make immediate payment thereof to the City Director of Executive Administration) to the standards and in the manner required by the Seattle Department of Transportation.

Section 10, Section 21.16.380 of the Seattle Municipal Code, which was last amended by Ordinance 119192, is amended as follows:

**21.16.380 Violation—Penalty.**

A. Violation.

(1) A failure to comply with any provision of this chapter or any rule, regulation, notice or order of the Director of Health, the Director of Seattle Public Utilities, or the Director of the Department of Planning and Development issued pursuant to this chapter is a violation of this chapter.

(2) Each day of violation or failure to comply constitutes a separate violation.

B. Civil Penalty.

(1) In addition to any other sanction or remedial procedure that may be available, any person who violates or fails to comply with any provision of this chapter or any rule, regulation, notice, or order of the Director of Health, the Director of Seattle Public Utilities, or the Director of the Department of Planning and Development issued pursuant to this chapter shall be subject to a civil penalty in the amount of \$500 per day for each day of each violation.

(2) The Director of Health, of Seattle Public Utilities or of the Department of Planning and Development shall notify the City Attorney in writing of the name of any person subject to a civil penalty for violations of this chapter. The City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed.

C. Alternative criminal penalty.

(A) Any person who violates or fails to comply with any provision of this chapter or any rule, regulation, notice, or order of the Director of Health, the Director of Seattle Public Utilities, or the Director of the Department of Planning and Development issued pursuant to this chapter is guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04 of the Seattle Municipal Code, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 of the Seattle Municipal Code need be proved. The Director may request the City Attorney to prosecute such violations criminally as an alternative to the civil penalty provided in Section 21.16.380 B.

(B) Each day of violation or failure to comply shall constitute a separate violation.

Section 11. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 13th day of March, 2005, and signed by me in open session in authentication of its passage this 13th day of March, 2005.

Jan Drego

President of the City Council

Approved by me this 17th day of March, 2005.

Gregory J. Nickels, Mayor

Filed by me this 18th day of March, 2005.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, March 28, 2005.

3/28(196325)

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.