

BACKYARD COTTAGES

Ordinance No. 123141

Council Bill No. 116528

An ordinance relating to land use and housing; amending Sections 22.206.160, 23.44.014, 23.44.041, 23.84A.006, 23.84A.008, 23.84A.032, 23.90.018 and 23.90.019 of the Seattle Municipal Code to permit detached accessory dwelling units (backyard cottages) in all single-family zones and to make other changes concerning authorization and use of accessory dwelling units.

Related Legislation File:

Date Introduced and Referred: <u>5-18-09</u>	To: (committee): Planning, Land Use & Neighborhoods (PLUNC)
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>11-2-09</u>	Date Presented to Mayor: <u>11-3-09</u>
Date Signed by Mayor: <u>11.4.09</u>	Date Returned to City Clerk: <u>11.4.09</u>
Published by Title Only _____	Date Vetoed by Mayor:
Published in Full Text <input checked="" type="checkbox"/>	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: George Lamm

Committee Action:

Date	Recommendation	Vote
<u>9/23/09</u>	<u>NO ACTION</u>	
<u>10/8/09</u>	<u>APPROVE 3:0 SC, TB, TR AS AMENDED</u>	

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

Full Council Action:

Date	Decision	Vote
<u>11-2-09</u>	<u>Passed</u>	<u>9-0</u>

Law Department

ORDINANCE 123141

1 AN ORDINANCE relating to land use and housing; amending Sections 22.206.160, 23.44.014,
2 23.44.041, 23.84A.006, 23.84A.008, 23.84A.032, 23.90.018 and 23.90.019 of the Seattle
3 Municipal Code to permit detached accessory dwelling units (backyard cottages) in all
4 single-family zones and to make other changes concerning authorization and use of
5 accessory dwelling units.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

6 Section 1. Subsection C of Section 22.206.160 of the Seattle Municipal Code, which
7
8 Section was last amended by Ordinance 122728, is amended as follows:

9 **22.206.160 Duties of Owners**

10 * * *

11 C. Just Cause Eviction

12 1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW
13 59.18.290), owners may not evict residential tenants without a court order, which can be issued
14 by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction
15 (RCW 59.18.380). In addition, owners of housing units shall not evict or attempt to evict any
16 tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant, unless the owner
17 can prove in court that just cause exists. The reasons for termination of tenancy listed below, and
18 no others, shall constitute just cause under this section:
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21 * * *

22 o. The owner seeks to discontinue sharing with a tenant the owner's own
23 housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a
24 tenant of an accessory dwelling unit authorized pursuant to ((SMC)) Section 23.44.041 that is
25



1 accessory to the housing unit in which the owner resides (~~(,)~~) or seeks to terminate the tenancy of
2 a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on
3 the same lot. This subsection does not apply if ((so long as)) the owner has ((not)) received a
4 notice of violation of the development standards of ((SMC)) Section 23.44.041 ((regarding that
5 unit)). If the owner has received such a notice of violation, subsection C1m of ((this section))
6 Section 22.206.160 applies;

7 * * *

8
9 Section 2. Subsection D of Section 23.44.014 of the Seattle Municipal Code, which
10 Section was last amended by Ordinance 123046, is amended as follows:

11 **23.44.014 Yards**

12 * * *

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14 D. Exceptions from Standard Yard Requirements. No structure shall be placed in a
15 required yard except pursuant to the following:

16 1. Garages. Garages may be located in a required yard subject to the standards of
17 Section 23.44.016.

18 2. Certain Accessory Structures in Side and Rear Yards.

19 a. Except for detached accessory dwelling units, ((A))any accessory
20 structure that complies with the requirements of Section 22.44.040 may be constructed in a side
21 yard that abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed
22 corner lot within ((five-))5(()) feet of the key lot and not abutting the front yard of the key lot,
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1 upon recording with the King County Department of Records and Elections an agreement to this
2 effect between the owners of record of the abutting properties.

3 b. Except for detached accessory dwelling units, ((A))any detached
4 accessory structure that complies with the requirements of Section 23.44.040 may be located in a
5 rear yard, provided that on a reversed corner lot, no accessory structure shall be located in that
6 portion of the required rear yard that abuts the required front yard of the adjoining key lot, nor
7 shall the accessory structure be located closer than 5 feet from the key lot's side lot line unless
8 the provisions of subsection 23.44.014.D.2.a or 23.44.016.D.9 apply.
9

10 * * *

11 Section 3. Section 23.44.041 of the Seattle Municipal Code, which Section was last
12 amended by Ordinance 123001, is amended as follows:

13 **23.44.041 Accessory ((d)) Dwelling ((u)) Units((-))**
14

15 A. Accessory dwelling units, general provisions. The Director may authorize an
16 accessory dwelling unit, and that dwelling unit may be used as a residence, only under the
17 following conditions:

18 1. A lot with or proposed for a single-family dwelling may have no more than
19 one (((1))) accessory dwelling unit.
20

21 2. ~~(((One (1) of the dwelling units shall be occupied by one (1) or more owners of~~
22 ~~the property as the owner's(s') permanent and principal residence, and the owner-occupant))~~ The
23 owner(s) of the lot shall comply with the owner occupancy requirements of subsection C of
24 Section 23.44.041((-Owner Occupancy)).
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3. Any number of related persons may occupy each unit in a single-family dwelling unit with an accessory dwelling unit; provided that, if unrelated persons occupy either unit, the total number of persons occupying both units may not altogether exceed eight ((8)).

4. All accessory dwelling units ((must)) are required to meet the development standards in Table A ((the following)), unless modified in subsection B of Section 23.44.041:

<u>Table A for 23.44.041</u> <u>Development Standards for All Accessory Dwelling Units</u>	
a. Maximum Gross Floor Area	<u>Attached accessory dwelling units are limited to ((One thousand-))1,000 sq. ft. ((square-foot)), including garage and storage area.</u> ¹ <u>Detached accessory dwelling units are limited to 800 sq. ft., including garage and storage area but excluding areas below grade, measured as set forth in Section 23.86.007.</u>
b. Entrances	Only one ((1)) entrance to the structure may be located on each street-facing facade of the dwelling unit. ²
((c. Parking))	((One (1) off-street parking space is required, and may be provided as tandem parking with the parking space provided for the principal dwelling unit.³ An existing required parking space may not be eliminated to accommodate an accessory dwelling unit, unless it is replaced elsewhere on the lot.))

Footnotes:

¹. The gross floor area of an attached accessory dwelling unit may exceed ((one thousand (1,000) square feet)) sq. ft. only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999, and if the entire accessory dwelling unit is located on one ((1))level.

². More than one entrance may be allowed if: a) two ((2)) entrances on the street-facing facade existed on January 1, 1993; or b) the Director determines that topography, screening or another design solution is effective in de-emphasizing the presence of a second entrance.

~~((³. No off-street parking space will be required for an accessory dwelling unit if:~~

~~—a. The topography or location of existing principal or accessory structures makes provision of an off-street parking space physically infeasible; or~~

~~—b. The site is located in a restricted parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than seventy-five (75) percent for on-street parking within four hundred (400) feet of all property lines of the site.~~

~~—c. The provisions in this footnote 3 providing for exceptions to the parking requirement do~~



not apply to sites located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B).))

5. Except on lots located within areas that are defined as either an urban center or urban village in the City's Comprehensive Plan, one off-street parking space is required for the accessory dwelling unit and may be provided as tandem parking with the parking space provided for the principal dwelling unit. An existing required parking space may not be eliminated to accommodate an accessory dwelling unit unless it is replaced elsewhere on the lot. Except for lots located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B), the Director may waive the off-street parking space requirement for an accessory dwelling unit if:

a. The topography or location of existing principal or accessory structures on the lot makes provision of an off-street parking space physically infeasible; or

b. The lot is located in a restricted parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than 75 percent for on-street parking within 400 feet of all property lines of the site.

B. Accessory ((D))dwelling ((U))units, detached, additional provisions. A detached accessory dwelling unit is also known as a backyard cottage. The Director may authorize a detached accessory dwelling unit, and that unit may be used as a residence, only under the conditions set forth in subsection A of Section 23.44.041 and the following additional conditions:



1. ~~((Locations allowed. An accessory dwelling unit may be located in a structure separate from a principal single family dwelling unit in single family zones within the area bounded by I-5 to the west, I-90 to the north, Lake Washington to the east, and the Seattle corporate limits to the south.))~~ Detached accessory dwelling units are not permitted on a lot if any portion of the lot is within the Shoreline District established ~~((by))~~ pursuant to Section 23.60.010.

2. ~~((Development standards.))~~ Detached accessory dwelling units ~~((shall))~~ are required to meet the additional development standards set forth in Table B for Section 23.44.041 ~~((following standards and the standards of subsection A, except as modified in this subsection))~~:

Table B for 23.44.041 Development Standards for Detached Accessory Dwelling Units ¹	
a. Minimum Lot Size	4,000 ((square feet)) sq. ft.
b. Minimum Lot Width	25 feet
c. Minimum Lot Depth	70 feet ²
d. Maximum Lot Coverage	The provisions of Section 23.44.010 apply.
e. Maximum Rear Yard Coverage	((The provisions of Section 23.44.014D.6.b apply.)) <u>A detached accessory dwelling unit, together with any other accessory structures and other portions of the principal structure, is limited to a maximum combined coverage of 40% of the rear yard.</u>
f. Maximum Gross Floor Area	((20% of the lot size, or)) <u>Eight hundred ((800 square feet, whichever is less,)) sq. ft. including garage ((or)) and storage area but excluding areas below grade, measured as set forth in Section 23.86.007.((³))</u>
g. Front Yard	A detached accessory dwelling unit may not be located within the front yard required by ((S)) subsection 23.44.014.A.
h. Minimum Side Yard	The provisions of ((S)) subsection 23.44.014.C



Table B for 23.44.041
Development Standards for Detached Accessory Dwelling Units¹

	apply.				
i. Minimum Rear Yard	A detached accessory dwelling unit may be located within a required rear yard ((when)) if it is not within 5 feet of <u>any</u> ((the rear)) lot line, unless the ((rear)) lot line is adjacent to an alley, in which case a detached accessory dwelling unit may be located at <u>that</u> ((the rear)) lot line. ^{3,4((5))}				
j. Location of Entry	Entrances to detached accessory dwelling units may not be located on facades facing the nearest side lot line or the rear lot line unless the nearest side lot line or rear lot line abuts an alley or other public right-of-way.				
k. Maximum Height Limits ⁽⁽⁶⁾⁾⁵	<u>The roof peak of the detached accessory dwelling unit may not extend more than 15 feet above the roof peak of the principal dwelling unit and must comply with the height limits set forth in the table below.</u> ((Lot Width (feet)))				
	<u>Lot Width (feet)</u>				
	Less than 30	<u>30((-) or greater up to 35</u>	<u>36((-) or greater up to 40</u>	41 or greater up to 50	<u>50 or greater⁶</u>
(1) Maximum Structure Height (feet)	12	14	15	16	<u>16</u>
(2) Maximum Structure Height with Pitched Roof (feet)	15	21	22	22((3))	<u>23</u>
(3) Maximum Structure Height with Shed or Butterfly Roof (feet); see Exhibit A for 23.44.041 ((B)) .	15	18	19	20	<u>20</u>
<u>l. Minimum Separation from Principal Structure</u>	<u>5 feet</u>				



Table B for 23.44.041
Development Standards for Detached Accessory Dwelling Units¹

Footnotes:

1. ~~((Exceptions to the standards contained in subsections a through j are permitted))~~ The Director may allow an exception to standards a-f, h, i and j pursuant to Section 23.44.041.B.3 ((2)), ((when converting)) for converting existing ((noneonforming)) accessory structures.

2. For lots that do not meet the lot depth requirement, but have a greater width than depth and an area greater than ~~((five thousand-)) 5,000 ((square feet))~~ sq. ft., a detached accessory dwelling unit is permitted, provided the detached accessory dwelling unit is not located in a required yard.

3. ~~((Areas below grade are exempt from the calculation of gross floor area.~~

4-))~~((When))~~ If the ((rear-))lot line is adjacent to an alley and a detached accessory dwelling unit includes a garage with a vehicle entrance that faces the alley, the garage portion of the structure may not be located within ((twelve-)) 12 (()) feet of the centerline of the alley.

4~~((5-))~~ On a reversed corner lot, no detached accessory dwelling unit shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot.

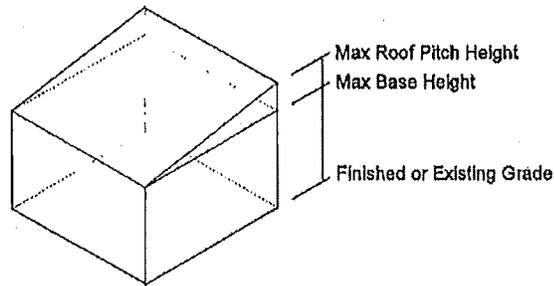
5~~((6-))~~ Features such as chimneys, antennas, and flagpoles may extend up to ((four-)) 4 (()) feet above the maximum allowed height. The additional height for sloped lots permitted by Section 23.44.012.B does not apply.

6. Detached accessory dwelling units may also be built to the maximum height limits listed in this column if both of the following conditions are met: a) the detached accessory dwelling unit is located on a lot with a rear lot line that is adjacent to an alley; and b) the width of the lot is 40 feet or greater.

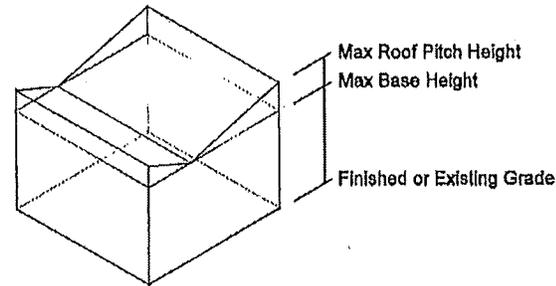


1 Exhibit A for 23.44.041 ((B)): Explanation of Terms for Shed and Butterfly Roofs for
2 Detached Accessory Dwelling Units.

3 Shed Roof Example



9 Butterfly Roof Example



15 3. Conversion of accessory structures. An existing accessory structure that is not
16 located in a required front yard may be converted into a detached accessory dwelling unit if ((:
17 a.) the ((accessory)) structure complies with the minimum standards set
18 forth in Sections 22.206.010 through 22.206.140 of the Housing and Building Maintenance Code
19 and with the Seattle Residential Code, if work requiring a permit thereunder is performed on the
20 structure or has previously been performed without a permit ((, SMC chapter 22.206; and)). The
21 Director may allow an exception to one or more of the
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23 ((b. nonconformity with the)) development standards for accessory
24 dwelling units contained in ((S))subsections 23.((θ))44.041.A.4 and standards a-f, h, i and j listed
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1 in Table B for 23.044.041, ~~(B.1)~~, is not increased; and) provided the conversion does not
2 increase the structure's nonconformity with the standard and

3 ~~((e.))~~ the applicant can demonstrate that the accessory structure was
4 constructed prior to June 1, 1999, as an accessory structure.

5 C. Owner ~~((O))~~ occupancy.

6 1. Requirement. An owner with at least a 50 percent interest in ~~((of))~~ the property
7 must occupy either the principal dwelling unit or the accessory dwelling unit for ~~((more than))~~
8 six ~~((6))~~ or more months of each calendar year as the owner's permanent residence. The
9 Director may waive this requirement for up to three years if a letter is submitted that provides
10 evidence to the Director showing good cause why the requirement for owner occupancy should
11 be waived. Good cause may include job dislocation, sabbatical leave, education, or illness.

12 2. Violation. If an owner is unable or unwilling to fulfill the ~~((there is a violation~~
13 ~~of the))~~ requirements of subsection 23.44.041.C.1, the owner shall remove those features of the
14 accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation
15 of this Title and the owner will

16 ~~((a. Re-occupy the structure; or~~
17 ~~b. Remove the accessory dwelling unit; or~~
18 ~~c. Submit evidence to the Director showing good cause why the~~
19 ~~requirement for owner occupancy should be waived. Good cause may include job dislocation,~~
20 ~~sabbatical leave, education, or illness. Upon such showing the Director may waive the~~
21 ~~requirement for up to three (3) years; and~~



1 D. Single-family ((S))status ((U))unaffected. A single-family lot with an accessory
2 dwelling unit shall be considered a single-family residence for purposes of rezone criteria
3 (Section 23.34.011).

4 E. Reporting. DPD shall report annually to the ((Urban Development and))Planning,
5 Land Use and Neighborhoods Committee or its successor committee on city-wide ((detached and
6 attached)) accessory dwelling unit permit activity ((in the geographic area described in Section
7 23.44.041.B.1)). This annual report((ing)) shall encompass all ((include the number of))
8 attached and detached accessory dwelling unit ((applications))permits issued and all permits
9 finald since the previous annual report((s)) and shall include ((the following information:))the
10 number of permits((s))((applications,))((issued and)) issued and the number of permits finald,
11 ((since the previous annual report, and)) a map that shows the location and dispersion of ((the))
12 both types of accessory dwelling units ((that were the subject of all permit applications since the
13 previous report, indicating which have been denied, which have been issued, which have been
14 finald,)) and ((whether any)) the number of parking waivers ((were)) granted((for parking, and
15 which are still in the application stage)). For each detached accessory dwelling unit permit
16 issued, the report shall state the height, gross floor area, total square footage of the lot where the
17 detached accessory dwelling unit is located, and total lot coverage of all structures on the lot, and
18 whether any garage space is incorporated into the detached accessory dwelling unit. For each
19 permit finald, the report shall include a photograph of the detached accessory dwelling unit.
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21 The report shall be delivered to the Council by no later than January 31 of the following calendar
22 year.
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1 Section 4. A new subsection “Cottage, backyard” is added to Section 23.84A.006 “C” of
2 the Seattle Municipal Code, which was last amended by Ordinance 123046, as follows:

3 **23.84A.006 “C” – Definitions**

4 * * *

5 “Cottage, backyard.” See “detached accessory dwelling unit” under the definition of
6 “Residential use” in Section 23.84A.032.

7 * * *

8
9 Section 5. Section 23.84A.008 “D” of the Seattle Municipal Code, which Section was last
10 amended by Ordinance 122311, is amended as follows:

11 **23.84A.008 “D” – Definitions**

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14 “Dwelling unit, detached accessory.” Also known as a backyard cottage. See “detached
15 accessory dwelling unit” under the definition of “Residential use” in Section 23.84A.032.

16 * * *

17 Section 6. Section 23.84A.032 “R” of the Seattle Municipal Code, which Section was last
18 amended by Ordinance 122935, is amended as follows:

19 **23.84A.032 “R” – Definitions**

20 * * *

21
22 “Residential use” means any one ((+)) or more of the following:

23 * * *



1 7. "Detached accessory dwelling unit" means an additional room or set of rooms located
2 within an accessory structure on the same lot as an owner-occupied single-family dwelling unit,
3 meeting the standards of Section 23.44.041, and designed, arranged, occupied or intended to be
4 occupied by not more than one ~~((1))~~ household as living accommodations independent from
5 any other household. A detached accessory dwelling unit is also known as a backyard cottage.

6 * * *

7
8 13. "Single-family dwelling unit" means a detached structure having a permanent
9 foundation, containing only one ~~((1))~~ dwelling unit, except that the structure may also contain
10 an accessory dwelling unit where expressly authorized pursuant to this title. A detached
11 accessory dwelling unit, also known as a backyard cottage, is not considered a single-family
12 dwelling unit for purposes of this chapter.

13 * * *

14
15 Section 7. Section 23.90.018 of the Seattle Municipal Code, which was last amended by
16 Ordinance 122901, is amended as follows:

17 **23.90.018 Civil ~~((e))~~ Enforcement ~~((p))~~ Proceedings and ~~((p))~~ Penalties~~((r))~~**

18 A. In addition to any other remedy authorized by law or equity, any person violating
19 or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative
20 penalty of up to \$150~~((-00))~~ per day for each violation from the date the violation begins for the
21 first ten ~~((10))~~ days of noncompliance; and up to \$500 per day for each violation for each day
22 beyond ten days of noncompliance until compliance is achieved, except as provided in
23 subsection 23.90.018.B ~~((of this section))~~. In cases where the Director has issued a notice of
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1 violation, the violation will be deemed to begin for purposes of determining the number of days
2 of violation on the date compliance is required by the notice of violation. In addition to the per
3 diem penalty, a violation compliance inspection charge equal to the base fee set by Section
4 22.900B.010 shall be charged for the third inspection and all subsequent inspections until
5 compliance is achieved. The compliance inspection charges shall be deposited in the General
6 Fund.

7
8 B. Specific Violations.

9 1. Violations of Section 23.71.018 are subject to the penalty in the amount
10 specified in Section 23.71.018.H.

11 2. Violations of Section 23.44.041((€)) are subject to a civil penalty of \$5,000 ,
12 as provided in Section 23.90.019, which shall be in addition to any penalty imposed under
13 subsection A of Section 23.90.018((this section)).

14
15 * * *

16 Section 8. Subsection A of Section 23.90.019 of the Seattle Municipal Code, which
17 Section was last amended by Ordinance 122407, is amended as follows:

18 **23.90.019 Civil ((p))Penalty for ((u))Unauthorized ((d))Dwelling ((u))Units in ((s))Single-**
19 **((f))Family Zones ((structures and for unauthorized detached accessory dwelling units.))**

20
21 ((A-)) In addition to any other sanction or remedial procedure that may be available, the
22 following penalty ((ies)) applies ((y)) to unauthorized dwelling units in single-family zones in
23 violation of Section 23.44.006 ((any owner of a single family dwelling unit with one (1) or more
24 unauthorized dwelling unit(s) in the single family dwelling unit or in a detached accessory



1 structure)). An ((y)) owner of a single-family zoned lot that has more than one single-family
2 dwelling unit ~~((who is issued a notice of violation for an unauthorized dwelling unit that is not a~~
3 ~~legal noneonforming use,))~~ is subject to a civil penalty of ~~((Five Thousand Dollars-))~~ \$5,000
4 ~~(())~~ for each additional dwelling unit, unless the additional unit is an authorized dwelling unit in
5 compliance with Section 23.44.041, is a legal non-conforming use, or is approved as part of an
6 administrative conditional use permit pursuant to Section 25.09.260. Penalties for violation of
7 Sections 23.44.006 and 23.44.041 for an unauthorized detached accessory dwelling unit existing
8 on January 1, 2009 will be waived if the owner occupancy requirement of Section 23.44.041.C
9 has been met since January 1, 2010, an application for a building permit authorizing the detached
10 accessory dwelling unit is filed with the Department of Planning and Development by June 30,
11 2010, and final inspection approval for the permit authorizing the detached accessory dwelling
12 unit is obtained by December 31, 2010. ~~((This penalty shall be reduced to One Hundred Dollars~~
13 ~~(\$100) if, prior to the compliance date stated on the notice, the owner removes all unauthorized~~
14 ~~dwelling units. Any owner of a single family dwelling unit who voluntarily applies to legalize an~~
15 ~~accessory dwelling unit prior to issuance of a notice of violation for an unauthorized dwelling~~
16 ~~unit, and obtains final inspection approval for the unit within one (1) year of issuance of permit,~~
17 ~~shall not be subject to a civil penalty.))~~

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21 ~~((B. After discovery of the existence of one (1) or more unauthorized dwelling unit(s) in~~
22 ~~a single family dwelling unit or the existence of an unauthorized detached dwelling unit in a~~
23 ~~detached accessory structure, the Director may issue a notice of violation in the manner set forth~~
24 ~~in Section 23.90.006, which notice shall impose the civil penalty and notify the owner of the date~~
25



1 ~~by which action to remove or legally establish the unauthorized unit(s) must be completed to~~
2 ~~avoid additional penalty. Failure to complete the required action by the date stated shall be a~~
3 ~~further violation of Title 23, subjecting the owner to an additional penalty of up to Five Hundred~~
4 ~~Dollars (\$500.00) per day for each violation from the date the violation begins until compliance~~
5 ~~is achieved. In cases where the Director has issued a notice of violation, the violation will be~~
6 ~~deemed to begin for purposes of determining the number of days of violation on the date~~
7 ~~compliance is required by the notice of violation. Such penalties shall be collected in the manner~~
8 ~~provided in Section 23.90.018.))~~

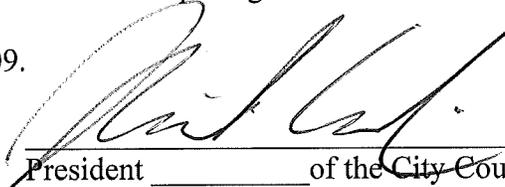
10 Section 9. Severability. The provisions of this ordinance are declared to be separate and
11 severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of
12 this ordinance, or the invalidity of the application thereof to any person or circumstance shall not
13 affect the validity of the remainder of this ordinance, or the validity of its application to other
14 persons or circumstances.

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

19 Passed by the City Council the 2nd day of November, 2009,

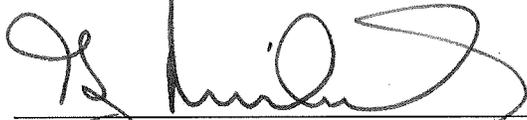
21 and signed by me in open session in authentication of its passage this

22 2nd day of November, 2009.

23 
24 President _____ of the City Council



1 Approved by me this 4th day of November, 2009.

2 

3 Gregory J. Nickels, Mayor

4
5 Filed by me this 4th day of November, 2009.

6
7 

8 City Clerk

9 (Seal)

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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Planning and Development	Andrea Petzel/615-1256	Karen Grove/684-5851

Legislation Title:

An ordinance relating to land use and housing; amending Sections 22.206.160, 23.44.014, 23.44.041, 23.84A.006, 23.84A.008, 23.84A.032, 23.90.018 and 23.90.019 of the Seattle Municipal Code to permit detached accessory dwelling units (backyard cottages) in all single-family zones and to make other changes concerning authorization and use of accessory dwelling units.

Summary of the Legislation: This legislation amends the Land Use Code to allow detached accessory dwelling units (backyard cottages) on eligible lots in all single-family zones, including establishing an annual limit of 50 permits per year, and to make other minor changes concerning authorization and use of accessory dwelling units.

The proposal also makes minor changes related to landlord-tenant relationships when occupying accessory dwelling units. Backyard cottages are currently permitted in the southeast portion of the city, and generally, the same standards are proposed for the remainder of the city.

In addition, updates and clarifications are proposed to the Land Use and the Housing and Building Maintenance codes:

- Clarify that just cause for eviction for property with accessory dwelling units applies whether it is the principal home or the accessory dwelling unit that is rented.
- Minor terminology changes are proposed and the owner occupancy requirements are re-written to clarify that owners must occupy either the accessory dwelling unit or the principal home as their permanent residence for six months or more out of each calendar year. The proposed changes also clarify that owners must sign, and DPD must record, a restrictive covenant that runs with the land and is binding on future owners. This will better inform citizens who purchase property with an accessory dwelling unit of the owner occupancy requirements, and eliminates the need for subsequent owners to file owner occupancy certificates with the City. A further provision allows for release of a recorded covenant upon removal of an accessory dwelling unit.
- Clarify that a five-foot setback from the entire side yard property line is now required for all new detached accessory dwelling units. This was Council's original intent and the existing code language is not clear.
- Civil enforcement proceedings and penalties for unauthorized accessory dwelling units are clarified to apply a civil penalty for unauthorized dwelling units in single family zones. There is no proposed increase in the civil penalty, but a provision for reduction of the penalty has been dropped, so that the way penalties are assessed is consistent with other types of Land Use Code violations.



Background: In 2006 the City Council approved Ordinance 122190 allowing backyard cottages in single-family zones in southeast Seattle (east of I-5 and south of I-90). Backyard cottages in the southeast have been permitted at a pace of approximately 9 per year (or 17 total since Ordinance 122190 became effective in August 2006), and are widely dispersed throughout the southeast. There have been relatively few zoning complaints made to DPD from surrounding neighbors.

Attached accessory dwelling units within a principal residence have been permitted in all single-family zones in Seattle since 1994. Single-family homeowners would be allowed either an attached accessory dwelling unit or a backyard cottage, but not both. The number of backyard cottages would be a portion of all accessory dwelling units permitted and built each year. The total number of both units is expected to range from 102 to 124 permits reviewed by DPD per year. No fiscal impacts are anticipated to result from adoption of this proposal.

Please check one of the following:

This legislation does not have any financial implications.

This legislation has financial implications.

Attachment 1: Director's Report

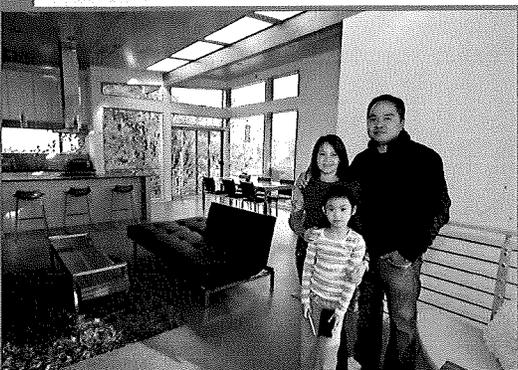


March 2009



Backyard Cottages

Director's Report



What is a Backyard Cottage?



Photo 1: Backyard cottage in Columbia City.

As one homeowner describes it, a backyard cottage is a “mother-in-law unit with a little more breathing room.”

In other words, a backyard cottage is a small dwelling unit that is on the same lot as, but physically separate from, a single-family house.

Backyard cottages offer an additional housing type to Seattle that is desirable, quiet and affordable, and compatible with the character of single-family neighborhoods. For seniors, a backyard cottage offers a way to downsize while living next to their families and staying in the same neighborhood. Others may want flexibility for their extended families or friends, a place for their children, or an opportunity to invest in their property while providing affordable housing for small households.

This report serves as the annual report to the City Council as required by Seattle Municipal Code (SMC) 23.44.041E.

Background

The Department of Planning and Development (DPD) is proposing to amend the Land Use Code to allow backyard cottages in single-family zones throughout the city.

History of Accessory Dwelling Units in Seattle

Between 1900 and the 1950s, both types of accessory dwelling units (ADUs) — attached, inside the principal structure, and backyard cottages, which are detached — were commonly allowed under single-family provisions, in some cases as domestic servant quarters. Eventually, this type of housing fell out of favor, and accessory dwelling units were no longer allowed in single-family zones.

In response to widespread concern about the escalating cost and availability of housing, in 1993 the Washington State legislature required communities to develop legislation for ADUs. As a result, in 1994 Seattle adopted legislation to allow attached ADUs in all single-family zones.

When Seattle adopted provisions allowing attached ADUs (per the state mandate), concerns were raised about the potential for a large number being developed, and that the city's single-family zones were being "duplexed." These fears turned out to be unfounded. Attached ADUs are now seen as a low-impact, viable way to increase the supply of relatively affordable housing.

At the time attached ADU legislation was passed there was some support for backyard cottages as well, but legislation to allow them was not pursued. This was in large part due to concerns specific to backyard cottages, and their perceived effect on single-family neighborhood character.

In 1998, the City Council established the Demonstration Program for Innovative Housing Design to diversify Seattle's housing supply and provide alternatives to conventional detached houses, condominiums and apartments. The Demonstration Program tested innovative residential design concepts that allowed flexibility for development types not allowed under existing regulations, including:

- Backyard cottages.
- Cottage housing.
- Smaller, single-family houses on small lots.

The program used a competitive selection process and required all selected projects to go through Design Review. A brief summary of the projects completed under the Demonstration Program can be found in the report *Evaluation of the 1998-2001 Demonstration Program for Innovative Housing Design*, available on the City of Seattle's website www.seattle.gov/dpd/BackyardCottages/RelatedDocuments/.



Photo 2: Backyard cottage in Capitol Hill, built as part of the 1998 Demonstration Program for Innovative Housing Design.

On August 7, 2006, the City Council adopted Ordinance 122190 allowing backyard cottages in southeast Seattle (south of Interstate-90 and east of Interstate-5). Due in part to the positive experience with backyard cottage construction in the southeast, DPD now proposes to allow backyard cottages throughout the city's single-family zones.

Seventeen permits for backyard cottages have been issued in the southeast, scattered throughout the area's neighborhoods. By comparison, there have been 921 attached ADU permits issued (citywide) since 1994. Map A illustrates the distribution of permits for both attached ADUs and backyard cottages.

A number of jurisdictions in the Puget Sound region allow both attached ADUs and backyard cottages in their single-family zones. They include Clyde Hill, Issaquah, Kirkland, Mercer Island, Newcastle, Redmond, parts of unincorporated King County, Woodinville, and Yarrow Point. The experience of these jurisdictions shows that attached ADUs and backyard cottages, together, tend to be produced at similar annual rates, and typically don't exceed more than 1% of the total parcels on which they are allowed to be built on.

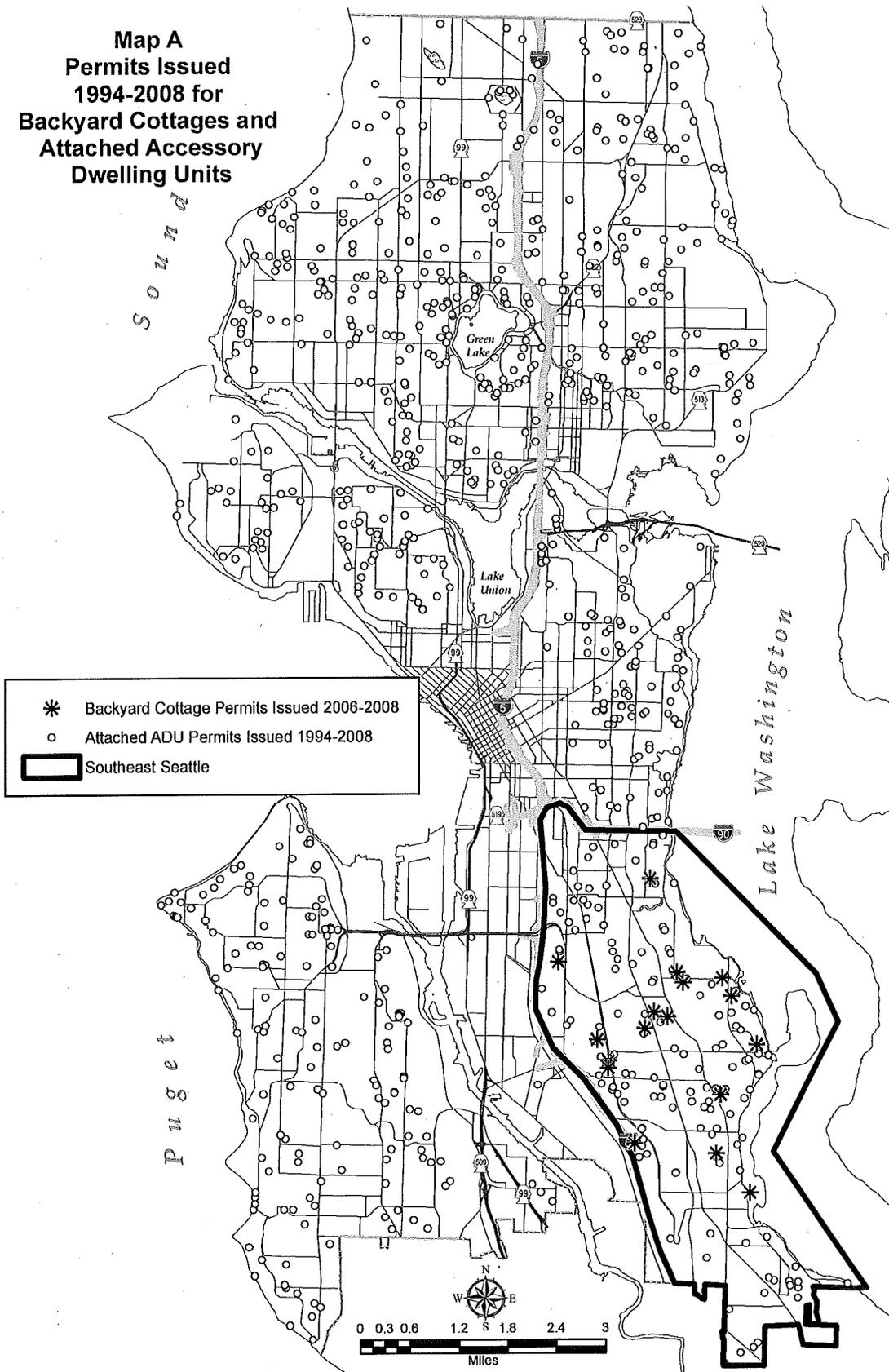
Public Process

In developing provisions for backyard cottages, which were initially intended to apply citywide, significant measures have been taken to engage the community:

- In 2003, the Seattle Planning Commission held three focus groups representing the general public, those familiar with the innovative housing concepts under consideration, and the design and development community, to discuss the broad community and development issues surrounding backyard cottages.
- After the focus groups, the Planning Commission and DPD co-hosted a public forum to present the results of the focus groups and preliminary concepts for permitting backyard cottages. The forum included panel and small group discussions relating to backyard cottages and cottage housing (another form of innovative housing evaluated as part of the Demonstration Program for Innovative Housing).
- The information presented at the forum was posted online on the City's website. DPD included an online survey form that was also distributed at the forum and mailed to Seattle's neighborhood and community councils and other groups.
- DPD staff met with the Seattle Chapter of the American Institute of Architects to discuss proposed development concepts and standards.
- In 2005 DPD staff met with southeast Seattle community organizations to present the proposed development standards.
- In November 2008, DPD staff conducted a door-to-door survey of 118 neighbors living near existing backyard cottages in southeast Seattle. For more information regarding survey results, please see the "Analysis" section of this report.
- DPD staff met with community representatives from eight neighborhoods throughout the city to discuss expanding the backyard cottage policy.
- Over the years DPD staff has received numerous inquiries and statements of support for citywide backyard cottages from both individuals and community organizations.



**Map A
Permits Issued
1994-2008 for
Backyard Cottages and
Attached Accessory
Dwelling Units**



Benefits of Backyard Cottages

Backyard cottages are a housing option comparable to a small single-family house; a home with no shared walls, a yard, and a location in a single-family residential neighborhood. In many instances backyard cottages may be more affordable due to their smaller size, and no additional land cost. As with any change to the Land Use Code, the potential benefits must be weighed against the potential effects. The potential benefits of backyard cottages include:

1. More flexibility for a homeowner by allowing them to live in their main home or in the backyard cottage.
2. Financial benefit to the homeowner that further enhances their property investment.
3. An additional housing option that is in demand, and does not increase allowed density since attached ADUs are already permitted in single-family zones.
4. Attractive and affordable housing for singles or couples, or for older citizens who may find the upkeep and costs of maintaining a single-family home and lot daunting.
5. Can often be designed more sensitively to surroundings than an addition to, or redevelopment of, an existing home.
6. Allows more people the opportunity to enjoy a single-family home without having to own a home.
7. Will not increase the permitted area of a lot that can be covered by structures because lot coverage limits would not change; both the house and the backyard cottage must fit within the current limits.

Construction of backyard cottages, like all accessory dwelling units, is dependent on factors such as Seattle's overall economic conditions and the strength of the local housing market. Several factors make it likely that fewer permit applications for backyard cottages can be expected than was experienced for attached ADUs:

- Not all lots are eligible for backyard cottages, while attached ADUs can theoretically be constructed within any single-family home.
- Not every homeowner will want to be a landlord or share their property with someone else.
- The complexity of developing of a backyard cottage.
- The increased costs of construction when building a separate structure.
- An annual maximum of 50 backyard cottages.

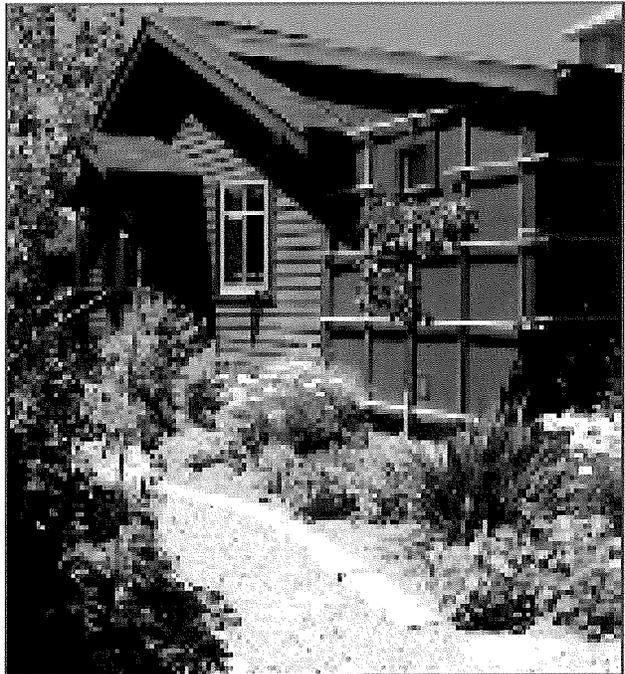


Photo 3: Pre-existing, permitted backyard cottage in Ballard.

Backyard Cottages in Southeast Seattle

In November 2008, DPD staff conducted a neighborhood survey in southeast Seattle to gauge awareness of, and reaction to, backyard cottages. Staff interviewed 118 residents of single-family homes that were in the immediate vicinity of the 14 backyard cottages that have been built. Immediate vicinity was defined as lots located either on the same block as the backyard cottage (both sides of the street), or on the block behind the backyard cottage (sometimes across an alley).

Overall, the survey results indicate mostly positive reactions to backyard cottages. Ninety-six respondents felt that owners of single-family homes should be allowed to build a backyard cottage on their property. More than half the residents living near a backyard cottage weren't actually aware that one had been built. Most neighbors who knew about the backyard cottage felt it either had a positive impact or no impact on their neighborhood.

Among those aware of a backyard cottage in their neighborhood:

- 71% said that the backyard cottage in their neighborhood fit in with the surrounding homes.
- 84% noticed no impacts on parking or traffic directly related to the cottage (though some cottages had not yet been occupied).
- 83% were supportive or strongly supportive of backyard cottages.
- 54% would consider living in a backyard cottage.
- 89% believe single-family homeowners should be allowed to build a backyard cottage on their lot.

For a complete analysis of the survey results, please go to www.seattle.gov/dpd/backyardcottages.



Columbia City

Lot: 5,156 sq. ft.

Backyard cottage: 800 sq. ft.

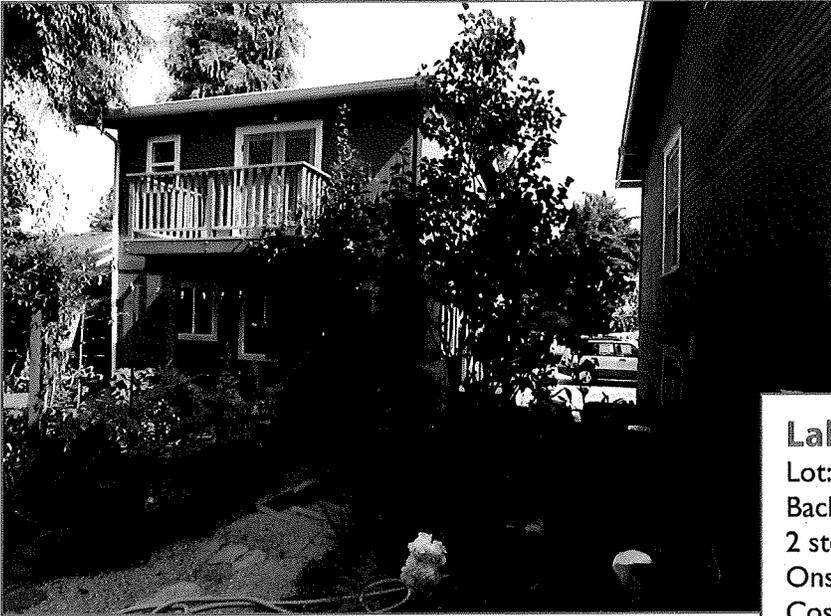
2 stories; 1 bed 1 bath

Alley access with onsite parking

Owner plans to rent

Cost to construct: \$80,865

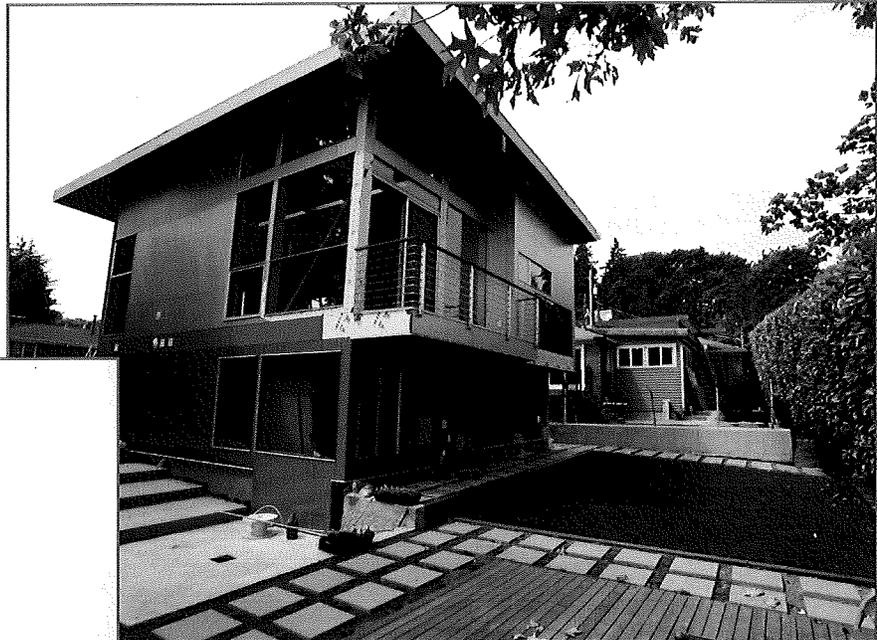
Photo 4: This is an example of a newly constructed, two-story backyard cottage on a lot with alley access. The traditional style fits in with the principal house that shares the lot.



Lakewood

Lot: 7,200 sq. ft.
 Backyard cottage: 800 sq. ft.
 2 stories; 1 bed, 1 bath
 Onsite parking
 Cost to construct: \$80,633

Photo 5: This two-story backyard cottage has a balcony overlooking the garden it shares with the principal house.



Seward Park

Lot: 11,475 sq. ft.
 Backyard cottage: 721 sq. ft.
 1 story with daylight basement;
 2 bedrooms, 2.5 baths
 Onsite parking
 Intended for family
 Cost to construct: \$142,336

Photo 6: This modern styled structure has a low profile as it is built into the gently sloping lot.



Proposal

General Provisions

Lots in single-family zones would be permitted no more than one accessory dwelling unit, either attached or detached. One of the dwelling units would need to be occupied for six or more months of each calendar year as the property owner's principal residence. The total number of people occupying both the principal and accessory dwelling unit would not be permitted to exceed eight (which is allowed as a household in general), unless all people occupying both units are related.

Current provisions for attached ADUs require that the property owner reside in either the primary residence or in the ADU. One off-street parking space must be available for the attached ADU, and all attached ADUs are limited to a maximum of 1,000 square feet in size. Some limited exceptions are allowed for both of these standards.

A maximum of 50 backyard cottages will be allowed per year. There is no annual maximum for attached ADUs.

Development Standards

Development standards for backyard cottages encourage units on wider, larger lots with alley access. Additional regulations would help "fit" backyard cottages on smaller and narrower lots to help ensure that their height, bulk, and scale are appropriate and proportional to the size of the lot.

For instance, the allowed height is based on the size of a lot (see Table A), and the gross floor area for a backyard cottage is limited to 800 square feet. Together, these standards are meant to control the scale of a new backyard

cottage. Proposed development standards also include the following:

- A minimum eligible lot area requirement ensures lots are the appropriate size to accommodate a backyard cottage.
- Maximum height limits would be based on lot width to minimize shadowing of existing homes and other visual impacts.
- A gross floor area limit to ensure backyard cottages are appropriate in size.
- Setbacks that maintain space between backyard cottages and surrounding lots.
- Parking requirements to minimize on-street parking impacts.
- Consistent with existing ADU provisions, owner occupancy requirements encourage owners to invest in their neighborhood and property upkeep.
- Conversion of existing structures would minimize construction impacts and help maintain neighborhood character.

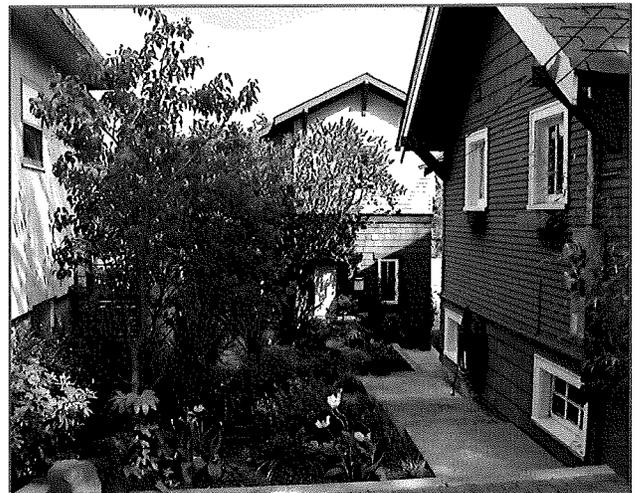


Photo 7: Backyard cottage in Green Lake, developed under the Demonstration Program for Innovative Housing.

Analysis

The most often cited concerns about impacts from backyard cottage construction are addressed in this section of the report. These are the issues generally perceived to most affect existing single-family neighborhoods. The proposed development standards for backyard cottages have been written to directly address and minimize these potential impacts.

The experience in southeast Seattle has shown that the initial fears about the impacts of backyard cottages were largely unfounded, particularly in regards to the number of units anticipated and parking concerns. As Map A shows, the 17 permitted backyard cottages are widely dispersed through southeast Seattle; they are not concentrated in any particular neighborhood. Permit data indicates that all projects have provided onsite parking and no parking waivers have been issued.

Number of Citywide Permitted Backyard Cottages

Increasing the density in existing single-family zones is a commonly raised concern. However, because attached ADUs are already allowed throughout the city, the allowed density is one single-family dwelling unit plus one accessory unit. The citywide backyard cottage proposal would not change the allowed density; property owners would be allowed to choose between an attached ADU or a backyard cottage. They would not be permitted to have both.

Permit data for backyard cottages in southeast Seattle, as well as data for attached ADUs, were used as a basis for projecting potential citywide backyard cottage activity. According to the analysis, the City can expect to issue between 102-124 new ADUs permits (including both attached ADUs and backyard cottages) per year, distributed among

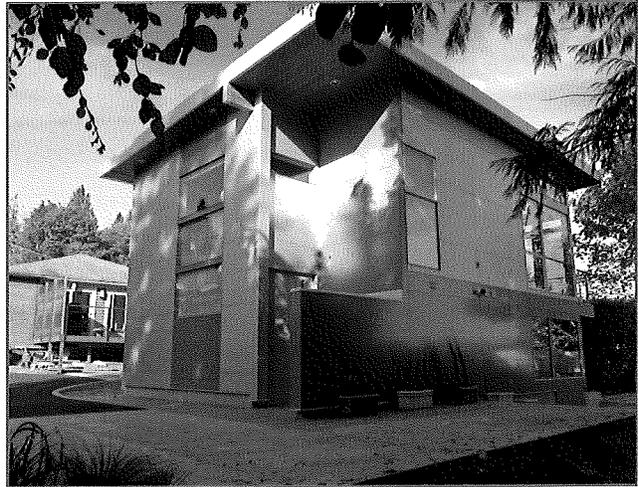


Photo 8: Backyard cottage in Seward Park.

123,610 single-family parcels. The number of lots eligible for a backyard cottage is reduced to 101,563 when factoring in existing ADU permits, lots that are below the minimum lot size eligibility requirement and lots within a Shoreline District, where they are prohibited (but attached ADUs are not).

By extrapolating the average number of backyard cottage permits in southeast Seattle, the City could expect approximately 52 backyard cottage permits to be issued yearly, citywide—or construction on approximately 0.05 percent of eligible lots. By comparison, DPD issues between 550-650 permits for new single-family units each year (0.44-0.52 percent of single-family lots).

An annual limit, or cap, of 50 backyard cottages per calendar year is proposed. Fifty is close to the number of estimated units citywide (52 units/year), and is based on the experience with backyard cottage permits in the southeast. A cap would provide for a predictable rate of development. Once a permit application has been accepted as complete by DPD, it would count toward the annual limit.

Traffic and Parking

At the neighborhood level, backyard cottages are not anticipated to produce more cars on the street because attached ADUs are already allowed in single-family dwellings. Backyard cottages help to address regional traffic congestion in the Puget Sound area by creating more housing choices in Seattle that are nearer to jobs, transit, and goods and services.

One additional off-street parking space per dwelling unit will continue to be required for new accessory dwelling units, whether detached or incorporated into the existing dwelling unit. No changes to current provisions have been proposed; exceptions for smaller lots and steep slopes will continue to apply in neighborhoods with on-street parking availability. To date, no parking waivers have been issued for backyard cottages.

Privacy

Perceptual impacts, such as a decrease in privacy, can be more difficult to address than physical ones. However, development standards have been crafted to minimize privacy impacts by taking into account lot size, lot width, and alleys. Backyard cottages are not allowed in required front yards, where they could detract from the character of single-family neighborhoods. Where backyard cottages face a street from a side or rear lot area, only one entrance may be located on each street-facing façade. Entrances may not be located on façades facing the nearest side lot line, or the rear lot line, unless either lot line abuts an alley or other public right-of-way.

Quality of Design

Development standards have been crafted to help ensure a proper fit of a backyard cottage within an existing lot and neighborhood. Experience gained from the Demonstration Program for Innovative Housing Design and in southeast Seattle reinforces the notion that one size does not necessarily fit all, and that proper fit can make backyard cottages successful. A combination of standards written to carefully control height and scale relative to lot sizes, and the Seattle Planning Commission's Design Guide (see the Design Guidance section of this report) will help applicants through the process and encourage architectural design that fits in with existing neighborhoods.

Height

Height limits are based on lot widths to minimize shadows and privacy impacts on existing homes. To ensure that backyard cottages are smaller relative to the height allowed for single-family structures (30 feet plus an additional 5 feet for a pitched roof), a maximum height of 16 feet (or up to 23 feet with a pitched roof), is proposed for lots more than 40 feet in width. This maximum height limit allows for units above garages on wider lots.

On lots between 30 and 40 feet wide, allowed heights are proportional to their width, either 14 or 15 feet, or up to 21 or 22 feet including a pitched roof. Lots less than 30 feet in width are allowed to have backyard cottages, but they must conform to existing height limits for accessory structures (12 feet or up to 15 feet with a pitched roof), and must be a minimum of 4,000 square feet.



Bulk and Scale

The bulk and scale of a backyard cottage relative to its surroundings are some of the most important factors to help a project successfully fit into a neighborhood. The minimum lot size and the gross floor area limit were developed to help ensure that the size of a backyard cottage is appropriate to the size of the lot, and blends with single-family neighborhood character. Backyard cottages are limited to 800 square feet of above-grade floor area, including attached garages and storage areas. The minimum lot size for a backyard cottage is 4,000 square feet.

Setbacks

Setbacks maintain space between backyard cottages and surrounding lots. Backyard cottages would not be allowed in the front yard area of a lot. The minimum side yard setback would be 5 feet to the property line; 10 feet on reversed corner lots. A backyard cottage must be set back 5 feet from a rear property line unless it is adjacent to an alley, in which case it may be located at the rear lot line. If the backyard cottage includes a garage with vehicle entrance that faces the alley, the garage portion of the structure may not be located closer than 12 feet of the centerline of the alley.

Converting Existing Structures

Converting existing accessory structures, such as detached garages, can result in fewer construction impacts and help maintain neighborhood character. Converting existing structures that do not comply with development standards for backyard cottages would be allowed for



Photo 9: Interior shot of a backyard cottage in Columbia City.

structures built prior to June 1, 1999, so long as the nonconformity is not increased and minimum Housing and Building Code standards are met.

Many single-family lots have small garages in a back corner at the end of a driveway. These provisions would allow them to be converted, and even added on to, although the height of the structure within the required setbacks could not be higher than what is allowed for accessory structures (12 feet with an additional three feet for a pitched roof). Any conversions that include an addition would not be allowed to exceed floor area, lot coverage, and rear yard lot coverage standards.

Clarification of Standards

In addition to allowing backyard cottages city-wide, changes to the Land Use Code and the Housing and Building Maintenance Code are proposed. These changes will clarify provisions related to all accessory dwelling units, includ-

ing landlord-tenant just cause eviction requirements, the recording of covenants concerning owner occupancy requirements, and the penalties for unauthorized dwelling units in single-family zones.

22.206.160 C — Just Cause Eviction:

Seattle's code states that if you are renting an ADU or a backyard cottage, the owner's desire to terminate your tenancy is considered sufficient basis for termination and no other "just cause" is required. Proposed changes would clarify that the just cause eviction exception for accessory dwelling units applies whether it is the principal home or the accessory dwelling unit that is rented.

23.44.041 — Accessory Dwelling Units:

Minor terminology changes are proposed and the owner occupancy requirements are re-written to clarify that owners must occupy either the accessory dwelling unit or the principal home as their permanent residence for six months or more out of each calendar year. The proposed changes also clarify that owners must sign, and DPD must record, a restrictive covenant that runs with the land and is binding on future owners. This will better inform citizens who purchase property with an accessory dwelling unit of the owner occupancy requirements, and eliminates the need for subsequent owners to file owner occupancy certificates with the City. A provision has been added for release of a recorded covenant upon removal of an accessory dwelling unit.

23.44.041 — Backyard Cottage Standards:

Clarifies that a five-foot setback from a property line is now required for all new detached accessory dwelling units. This was Council's original intent and the existing code language is not clear.

23.90.018 and 23.90.019 — Enforcement:

Civil enforcement proceedings and penalties for unauthorized accessory dwelling units are proposed to be clarified to apply a civil penalty for unauthorized dwelling units. There is no proposed increase in the civil penalty, but a provision for reduction of the penalty has been dropped, so that the way penalties are assessed is consistent with other types of Land Use Code violations.

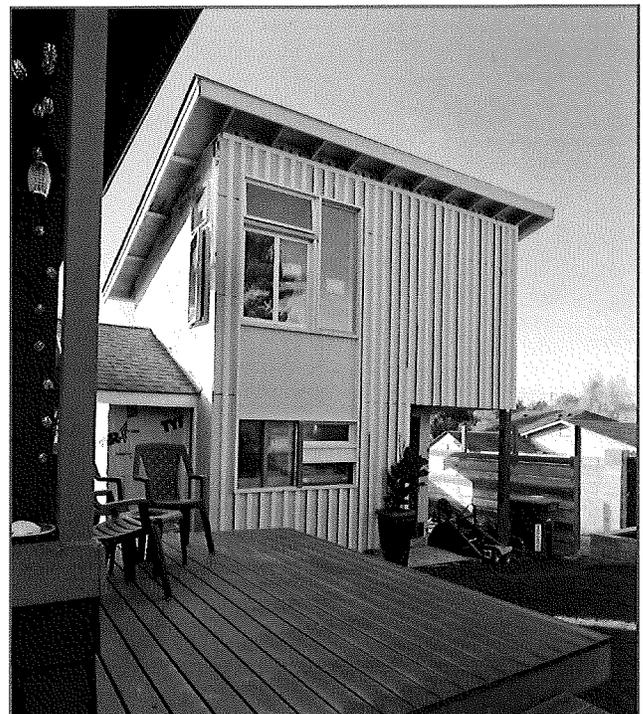


Photo 10: Backyard cottage in Rainier Beach.

The following table, excerpted and summarized from the Land Use Code, outlines the standards currently in place for southeast Seattle, and proposed for the remainder of the city's single-family zones.

Table A: Development Standards				
Minimum Lot Size	4,000 square feet			
Minimum Lot Width	25 feet			
Minimum Lot Depth	70 feet ¹			
Maximum Total Lot Coverage (Including Main Structure)	Lots less than 5,000 sq. ft: 1,000 sq. ft + 15% of lot area			
	Lots 5,000 sq. ft. or more: 35% of lot area			
Maximum Rear Yard Coverage	40% of the area required for the rear yard.			
Maximum Gross Floor Area	800 square feet, including garage or storage area. ²			
Front Yard	A detached accessory dwelling unit may not be located within the required front yard.			
Minimum Side Yard	5 feet ³			
Minimum Rear Yard	A detached accessory dwelling unit may be located within a required rear yard when it is not within 5 feet of any lot line, except where a lot line is abutting an alley, in which case a detached accessory dwelling unit may be located at the lot line. ⁴			
Location of Entry	Entrances to detached accessory dwelling units may not be located on facades facing the nearest side lot line or the rear lot line unless the nearest side lot line or rear lot line abuts an alley or other public right-of-way.			
Maximum Height Limits⁵	Lot Width (feet)			
	Less than 30	30-35	36-40	Greater than 40
Maximum Base Height (feet)	12	14	15	16
Maximum Roof Pitch Height (feet)	15	21	22	23
Maximum Shed or Butterfly Roof Pitch Height (feet)	15	18	19	20

Footnotes:

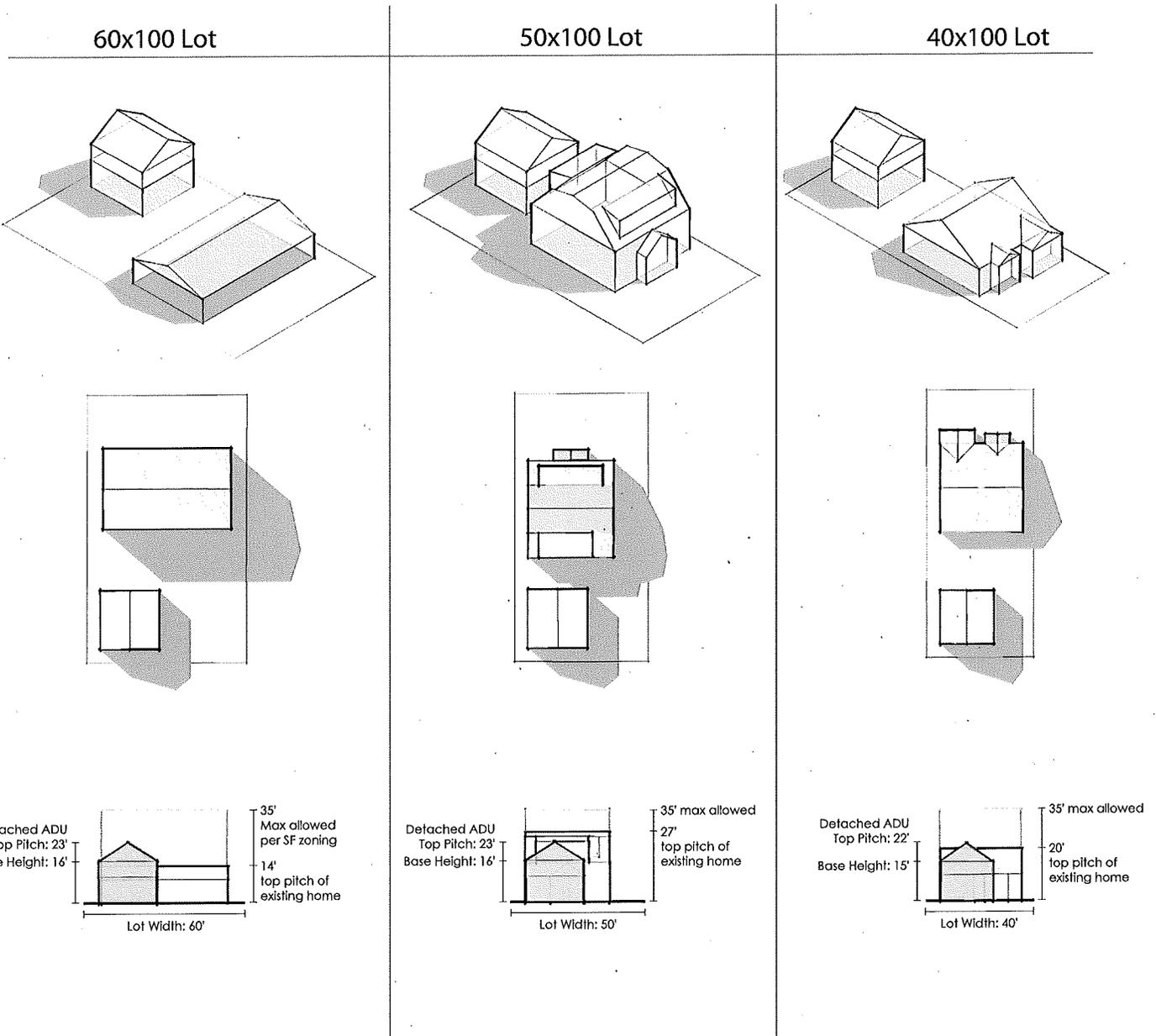
Exceptions to the standards contained in the chart are permitted pursuant to 23.44.041B2, when converting existing nonconforming structures.

1. For lots that do not meet the lot depth requirement, but have a greater width than depth and an area greater than 5,000 square feet, a detached accessory dwelling unit is permitted, provided the detached accessory dwelling unit is not located in a required yard.
2. Areas below grade are exempt from the calculation of gross floor area.
3. In the case of a reversed corner lot, the key lot of which is in a single-family zone, the width of the side yard on the street of the reversed corner lot shall be not less than ten feet.
4. When the rear lot line is adjacent to an alley and a detached accessory dwelling unit includes a garage with a vehicle entrance that faces the alley, the garage portion of the structure may not be located within 12 feet of the centerline of the alley.
5. Features such as chimneys, antennas, and flagpoles may extend up to four feet above the maximum allowed height. The additional height for sloped lots permitted by 23.44.012B does not apply to backyard cottages.



Backyard Cottage Development Scenarios

These diagrams illustrate how the proposed development standards for backyard cottages could work on a variety of lot sizes in Seattle.



Neighborhood and Comprehensive Plan Goals

This proposal advances several of the City's Comprehensive Plan goals and policies in the Land Use, Housing, and Neighborhood Plan elements. Many neighborhood plans contain goals and policies that encourage innovative and affordable housing types, while maintaining the character of existing single-family neighborhoods. Some plans, like the following four examples, specifically call for ADUs or cottages:

Greenwood/Phinney

G/PR-P11 Support the development of Accessory Dwelling Units (ADUs) as a means to accommodate planned housing growth.

University Community Urban Center

UC-P15 Employ a variety of housing types and development strategies to effectively provide for identified needs, including existing housing preservation, code enforcement, accessory units, new ground-related housing, and mixed-use midrise residential development.

Wallingford

W-P14 Encourage the development of Accessory Dwelling Units in the community as a housing affordability strategy.

Westwood

W/HP-P21 Encourage quality design in townhouses, cottage houses, and accessory dwelling units.

Comprehensive Plan Land Use Goals:

LUG2 Foster neighborhoods in which current and future residents and business owners will

want to live, shop, work and locate their businesses. Provide for a range of housing types and commercial and industrial spaces in order to accommodate a broad range of families and individuals, income groups, and businesses.

LUG10 Provide for different intensities of single-family areas to reflect differences in the existing and desired character of single-family areas across the city. Allow development that is generally consistent with the levels of infrastructure development and environmental conditions in each area. Include opportunities for low-cost subsidized housing in single-family areas.

Comprehensive Plan goals for Single Family Areas:

LUG8 Preserve and protect low-density, single-family neighborhoods that provide opportunities for home-ownership, that are attractive to households with children and other residents, that provide residents with privacy and open spaces immediately accessible to residents, and where the amount of impervious surface can be limited.

LUG9 Preserve the character of single-family residential areas and discourage the demolition of single-family residences and displacement of residents, in a way that encourages rehabilitation and provides housing opportunities throughout the city. The character of single-family areas includes use, development, and density characteristics.



Comprehensive Plan Housing Goals:

HG1 Accommodate 47,000 additional households over the 20 years covered by the Comprehensive Plan.

HG4 Achieve a mix of housing types attractive and affordable to a diversity of ages, incomes, household types, household sizes, live/work situations and cultural backgrounds.

HG16 Achieve a distribution of household incomes in urban centers and urban villages similar to the distribution of incomes found citywide.

The proposal also supports the 2005-2008 Housing Consolidated Plan strategies by assisting homeowners with accessory dwelling units, helping to produce affordable rental housing, and encouraging private affordable rental housing.

Urban Village Element Goals:

UVG2 Respect Seattle's human scale, history, aesthetics, natural environment, and sense of community identity as the city changes.

UVG9 Use limited land resources more efficiently and pursue a development pattern that is more economically sound, by encouraging infill development on vacant and underutilized sites, particularly within urban villages.

UVG16 Encourage development of ground-related housing, which is attractive to many residents including families with children, including townhouses, duplexes, triplexes, ground-related apartments, small cottages, accessory units, and single-family homes.



Photo 11: Backyard cottage above an existing garage in Genesee.

Design Guidance

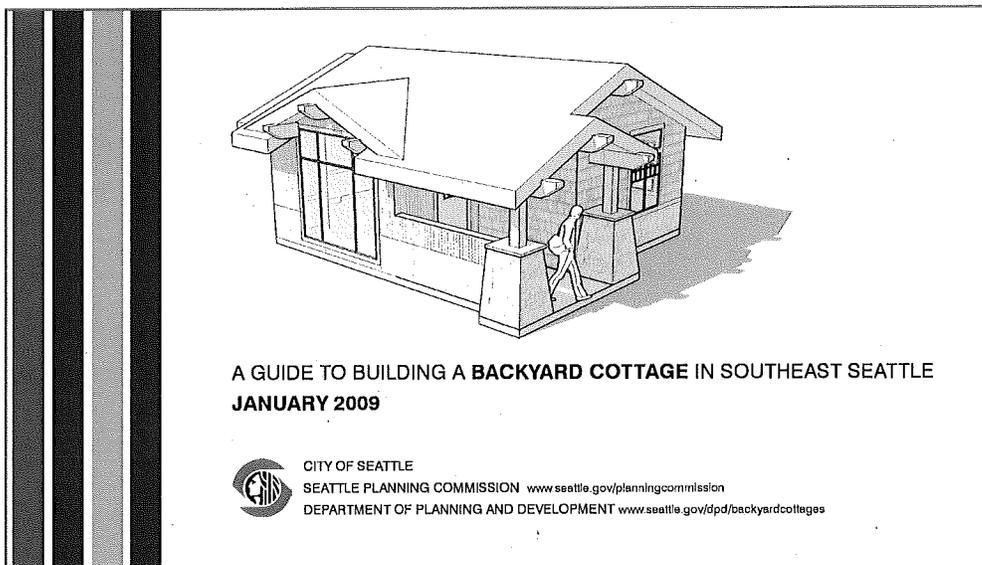
Greater ADU development, including backyard cottages, is a home ownership strategy identified in the Seattle Planning Commission's housing strategy issued in February, 2008: *Affordable Housing Action Agenda*, located at: www.seattle.gov/planningcommission.

To help homeowners decide whether developing a backyard cottage is right for them, the Seattle Planning Commission, in conjunction with DPD has developed *A Guide to Building a Backyard Cottage in Southeast Seattle*. The guide includes important design considerations to help promote attractive structures that are compatible with the houses that share their lots and the neighborhood as a whole. Topics include:

- Site Planning.
- Designing your backyard cottage, including design features such as green building and universal design¹.
- Permitting your backyard cottage.

- Tips for working with building professionals.
- Estimating costs for building a backyard cottage.
- Renting your backyard cottage.

The Seattle Planning Commission has played an important role in developing backyard cottage policy. The idea to produce a design guide grew out of a suggestion from a public focus group for the *2003 Seattle Housing Choices Report*, which recognized the need to offer a design tool for the general public to use. Once legislation has passed allowing backyard cottages citywide, the guide will be updated to cover all of Seattle. The guide will be available on-line, at DPD's Public Resource Center, and at local libraries and neighborhood service centers.



1. "Universal design" is term used to describe the concept of designing all products and the built environment to be aesthetic and usable to the greatest extent possible by everyone, regardless of their age, ability, or status in life. (The Center for Universal Design, www.design.ncsu.edu)

Notes



For more information, contact Andrea Petzel at
(206) 615-1256 or andrea.petzel@seattle.gov

www.seattle.gov/dpd/backyardcottages





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

May 5, 2009

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

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that would amend the Land Use Code to allow backyard cottages citywide. The successful 2006 ordinance allowing backyard cottages in southeast Seattle has produced 14 cottages dispersed across southeast neighborhoods. The backyard cottages that have been built have allowed some homeowners to keep their extended family close, and allowed others to help pay the cost of their mortgage through rental income. And, as the results of DPD's survey indicate, there has been minimal impact to neighbors. Other cities allowing backyard cottages include Issaquah, Kirkland, Redmond, and Portland, OR.

The legislation requires the owner to live on site. Other cities allowing backyard cottages include Issaquah, Kirkland, Redmond, and Portland, OR. Accessory dwelling units attached or within the principal home are already allowed in single-family zones. Under the proposal, owners would be allowed to have a backyard cottage or an accessory dwelling unit, not both.

In these difficult times, allowing backyard cottages to be built citywide will offer an additional housing type in Seattle that is desirable, fits into our neighborhoods and is relatively affordable. For seniors, a backyard cottage offers a way to downsize while living next to their families and staying in the same neighborhood. Others want flexibility for their extended families or friends, a place for their children, or an opportunity to invest in their property while providing affordable housing for small households.

Thank you for your consideration of this legislation. Should you have questions please contact Andrea Petzel at 615-1256.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a large, loopy flourish that extends across the signature block.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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



ORDINANCE _____

1
2 AN ORDINANCE relating to land use and housing; amending Sections 22.206.160, 23.44.014,
3 23.44.041, 23.84A.006, 23.84A.008, 23.84A.032, 23.90.018 and 23.90.019 of the Seattle
4 Municipal Code to permit detached accessory dwelling units (backyard cottages) in all
5 single-family zones and to make other changes concerning authorization and use of
6 accessory dwelling units.

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

8 Section 1. Subsection C of Section 22.206.160 of the Seattle Municipal Code, which
9 Section was last amended by Ordinance 122728, is amended as follows:

10 **22.206.160 Duties of Owners**

11 * * *

12 C. Just Cause Eviction

13 1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW
14 59.18.290), owners may not evict residential tenants without a court order, which can be issued
15 by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction
16 (RCW 59.18.380). In addition, owners of housing units shall not evict or attempt to evict any
17 tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant, unless the owner
18 can prove in court that just cause exists. The reasons for termination of tenancy listed below, and
19 no others, shall constitute just cause under this section:
20

21 * * *

22 o. The owner seeks to discontinue sharing with a tenant the owner's own
23 housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a
24 tenant of an accessory dwelling unit authorized pursuant to ((SMC)) Section 23.44.041 that is
25

1 accessory to the housing unit in which the owner resides ((,)) or seeks to terminate the tenancy of
2 a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on
3 the same lot. This subsection does not apply if ((so long as)) the owner has ((not)) received a
4 notice of violation of the development standards of ((SMC)) Section 23.44.041 ((regarding that

5 unit)). If the owner has received such a notice of violation, subsection C1m of ((this section))
6 Section 22.206.160 applies;

7 * * *

8
9 Section 2. Subsection D of Section 23.44.014 of the Seattle Municipal Code, which
10 Section was last amended by Ordinance 123046, is amended as follows:

11 **23.44.014 Yards**

12
13
14 D. Exceptions from Standard Yard Requirements. No structure shall be placed in a
15 required yard except pursuant to the following:

16 1. Garages. Garages may be located in a required yard subject to the standards of
17 Section 23.44.016.

18 2. Certain Accessory Structures in Side and Rear Yards.

19 a. Except for detached accessory dwelling units, ((A))any accessory
20 structure that complies with the requirements of Section 22.44.040 may be constructed in a side
21 yard that abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed
22 corner lot within ((five-))5((+)) feet of the key lot and not abutting the front yard of the key lot,
23

1 upon recording with the King County Department of Records and Elections an agreement to this
2 effect between the owners of record of the abutting properties.

3 b. Except for detached accessory dwelling units, ((A))any detached
4 accessory structure that complies with the requirements of Section 23.44.040 may be located in a
5 rear yard, provided that on a reversed corner lot, no accessory structure shall be located in that
6 portion of the required rear yard that abuts the required front yard of the adjoining key lot, nor
7 shall the accessory structure be located closer than 5 feet from the key lot's side lot line unless
8 the provisions of subsection 23.44.014.D.2. or 23.44.016.D.9 apply.

10
11 Section 3. Section 23.44.041 of the Seattle Municipal Code, which Section was last
12 amended by Ordinance 123001, is amended as follows:

13
14 **23.44.041 Accessory ((d)) Dwelling ((u)) Units((r))**

15 A. Accessory dwelling units, general provisions. The Director may authorize an
16 accessory dwelling unit, and that dwelling unit may be used as a residence, only under the
17 following conditions:

- 18 1. A lot with or proposed for a single-family dwelling may have no more than
19 one ~~(((1)))~~ accessory dwelling unit.
20
21 2. ~~(((One (1) of the dwelling units shall be occupied by one (1) or more owners of~~
22 ~~the property as the owner's(s') permanent and principal residence, and the owner occupant)))~~ The
23 owner(s) of the lot shall comply with the owner occupancy requirements of subsection C of
24 Section 23.44.041((,- Owner Occupancy)).

3. Any number of related persons may occupy each unit in a single-family dwelling unit with an accessory dwelling unit; provided that, if unrelated persons occupy either unit, the total number of persons occupying both units may not altogether exceed eight ~~((8))~~.

4. All accessory dwelling units ~~((must))~~ are required to meet the development standards in Table A ~~((the following))~~, unless modified in subsection B of Section 23.44.041:

Table A for 23.44.041
Development Standards for All Accessory Dwelling Units

a. Maximum Gross Floor Area	<u>Attached accessory dwelling units are limited to ((One thousand-))1,000 sq. ft. ((square feet)), including garage and storage area.¹ <u>Detached accessory dwelling units are limited to 800 sq. ft., including garage and storage area.</u></u>
b. Entrances	Only one ((one)) entrance to the structure may be located on each street-facing facade of the dwelling unit. ²
c. Parking	One ((one)) off-street parking space is required, and may be provided as tandem parking with the parking space provided for the principal dwelling unit. ³ An existing required parking space may not be eliminated to accommodate an accessory dwelling unit, unless it is replaced elsewhere on the lot.

Footnotes:

¹. The gross floor area of an attached accessory dwelling unit may exceed ~~((one thousand))~~1,000~~((square feet))~~ sq. ft. only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999, and if the entire accessory dwelling unit is located on one ~~((one))~~level.

². More than one entrance may be allowed if: a) two ~~((two))~~ entrances on the street-facing facade existed on January 1, 1993; or b) the Director determines that topography, screening or another design solution is effective in de-emphasizing the presence of a second entrance.

³. ~~((No-))~~ The off-street parking space ~~((will be))~~requirement~~((d))~~ for an accessory dwelling unit may be waived if:

a. The topography or location of existing principal or accessory structures makes provision of an off-street parking space physically infeasible; or

b. The site is located in a restricted parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than ~~((seventy-five-))~~ ~~((75))~~75~~((percent))~~ percent for on-street parking within ~~((four hundred))~~ ~~((400))~~400~~((feet))~~ feet of all property lines of the site.

c. The provisions in this footnote three ~~((3))~~ providing for exceptions to the parking requirement do not apply to sites located in either the University District Parking Overlay

Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B).

B. Accessory ~~((D))~~dwelling ~~((U))~~units, detached, additional provisions. A detached accessory dwelling unit is also known as a backyard cottage. The Director may authorize a detached accessory dwelling unit, and that unit may be used as a residence, only under the conditions set forth in subsection A of Section 23.44.041 and the following additional conditions:

1. ~~((Locations allowed. An accessory dwelling unit may be located in a structure separate from a principal single family dwelling unit in single family zones within the area bounded by I-5 to the west, I-90 to the north, Lake Washington to the east, and the Seattle corporate limits to the south.))~~ Detached accessory dwelling units are not permitted on a lot if any portion of the lot is within the Shoreline District established ~~((by))~~ pursuant to Section 23.60.010.

2. ~~((Development standards.))~~ Detached accessory dwelling units ~~((shall))~~ are required to meet the additional development standards set forth in Table B for Section 23.44.041 ((following standards and the standards of subsection A, except as modified in this subsection)):

a. Minimum Lot Size	4,000 ((square-foot)) sq. ft.
b. Minimum Lot Width	25 feet
c. Minimum Lot Depth	70 feet ²
d. Maximum Lot Coverage	The provisions of Section 23.44.010 apply.
e. Maximum Rear Yard Coverage	((The provisions of Section

Table B for 23.44.041
 Development Standards for Detached Accessory Dwelling Units¹

	23.44.014D.6.b apply.) <u>A detached accessory dwelling unit, together with any other accessory structures and other portions of the principal structure, is limited to a maximum combined coverage of 40% of the rear yard.</u>			
f. Maximum Gross Floor Area	((20% of the lot size, or) <u>Eight hundred ((800 square feet, whichever is less,)) sq. ft. including garage ((or) and storage area.</u> ³			
g. Front Yard	A detached accessory dwelling unit may not be located within the front yard required by ((S)) <u>subsection 23.44.014.A.</u>			
h. Minimum Side Yard	The provisions of ((S)) <u>subsection 23.44.014.C</u> apply.			
i. Minimum Rear Yard	A detached accessory dwelling unit may be located within a required rear yard ((when)) <u>if it is not within 5 feet of any ((the rear)) lot line, unless the ((rear)) lot line is adjacent to an alley, in which case a detached accessory dwelling unit may be located at that ((the rear)) lot line.</u> ^{4,5}			
j. Location of Entry	Entrances to detached accessory dwelling units may not be located on facades facing the nearest side lot line or the rear lot line unless the nearest side lot line or rear lot line abuts an alley or other public right-of-way.			
k. Maximum Height Limits ⁶	Lot Width (feet)			
	Less than 30	30-35	36-40	41 or greater
(1) Maximum Structure Height (feet)	12	14	15	16
(2) Maximum Structure Height with Pitched Roof	15	21	22	23

DEVELOPMENT IS NOT ADOPTED
 THIS SECTION IS NOT ADOPTED

Table B for 23.44.041
 Development Standards for Detached Accessory Dwelling Units¹

(feet)				
(3) Maximum Structure Height with Shed or Butterfly Roof (feet); see Exhibit A for 23.44.041(B).	15	18	19	20
<u>I. Minimum Separation from Principal Structure</u>	<u>5 feet</u>			

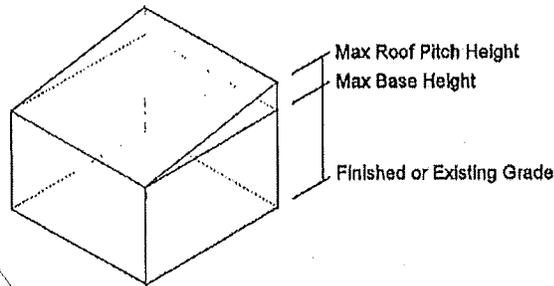
Footnotes:

1. ~~((Exceptions to the standards contained in subsections a through j are permitted))~~ The Director may allow an exception to standards a-f, h, i and j pursuant to Section 23.44.041.B.3 ((2)), ((when converting)) for converting existing ((noneonforming)) accessory structures.
2. For lots that do not meet the lot depth requirement, but have a greater width than depth and an area greater than ~~((five thousand 5,000 (0) square feet))~~ sq. ft., a detached accessory dwelling unit is permitted, provided the detached accessory dwelling unit is not located in a required yard.
3. Areas below grade are exempt from the calculation of gross floor area.
4. ~~((When))~~ If the ((rear-))lot line is adjacent to an alley and a detached accessory dwelling unit includes a garage with a vehicle entrance that faces the alley, the garage portion of the structure may not be located within ((twelve-)) 12 ((0)) feet of the centerline of the alley.
5. On a reversed corner lot, no detached accessory dwelling unit shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot.
6. Features such as chimneys, antennas, and flagpoles may extend up to ~~((four-))~~ 4 ((0)) feet above the maximum allowed height. The additional height for sloped lots permitted by Section 23.44.012.B does not apply.

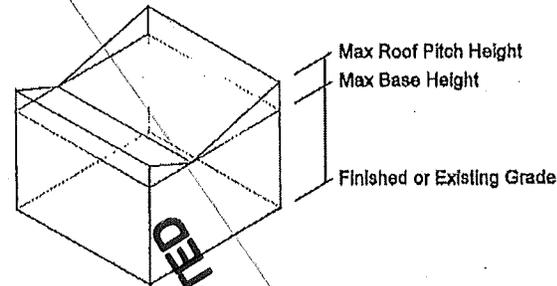
THIS VERSION IS NOW FORWARDED

1 Exhibit A for 23.44.041 ((B)): Explanation of Terms for Shed and Butterfly Roofs for
2 Detached Accessory Dwelling Units.

3 Shed Roof Example



4 Butterfly Roof Example



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15 3. Conversion of accessory structure. An existing accessory structure that is not
16 located in a required front yard may be converted into a detached accessory dwelling unit if ((:
17 a.) the ((accessory)) structure complies with the minimum standards set
18 forth in Sections 22.206.010 through 22.206.140 of the Housing and Building Maintenance Code
19 ((, SMC chapter 22.206; and)). The Director may allow an exception to one or more of the
20 ((b. nonconformity with the)) development standards for accessory
21 dwelling units contained in ((S)) subsections 23.((θ))44.041.A.4 and standards a-f, h, i and j listed
22 in Table B for 23.044.041, ((B.((1))2, is not increased; and)) provided the conversion does not
23 increase the structure's nonconformity with the standard and
24
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1 ((e-)) the applicant can demonstrate that the accessory structure was
2 constructed prior to June 1, 1999.

3 4. Number of backyard cottages. The number of new citywide backyard cottage
4 building permits is limited to 50 per calendar year, including conversions. A backyard cottage
5 will count towards the annual cap of 50 permits at the time the building permit application is
6 deemed complete by DPD.

7
8 C. Owner ((Ø))occupancy.

9 1. Requirement. An owner with at least a 50 percent interest in ((øf)) the property
10 must occupy either the principal dwelling unit or the accessory dwelling unit for ((more than))
11 six ((6)) or more months of each calendar year as the owner's permanent residence. The
12 Director may waive this requirement for up to three years if a letter is submitted that provides
13 evidence to the Director showing good cause why the requirement for owner occupancy should
14 be waived. Good cause may include job dislocation, sabbatical leave, education, or illness.

15
16 2. Violation. If an owner is unable or unwilling to fulfill the ((there is a violation
17 of the)) requirements of subsection 23.44.041.C.1, the owner shall remove those features of the
18 accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation
19 of this Title and the owner will

20
21 ~~((a. Re-occupy the structure; or~~
22 ~~b. Remove the accessory dwelling unit; or~~
23 ~~c. Submit evidence to the Director showing good cause why the~~
24 ~~requirement for owner occupancy should be waived. Good cause may include job dislocation,~~
25

1 sabbatical leave, education, or illness. Upon such showing the Director may waive the
2 requirement for up to three (3) years; and

3 ~~d. B))~~ be subject to ~~((the))~~ penalties ~~((provided in))~~ pursuant to Sections
4 23.90.018, 23.90.019 and 23.90.020.

5 3. ~~((Deed Restriction))~~. Covenant recording. Prior to issuance of a permit
6 establishing an accessory dwelling unit, the owner(s) shall sign under oath, and the Department
7 of Planning and Development shall record in the King County Office of Records and Elections, a
8 ~~((n agreement by the owner(s))~~ covenant ~~((that is binding on subsequent))~~ by the owner(s) to the
9 City of Seattle stating that the owner(s) ((in a form prescribed by the Director,)) agree
10 ~~((agreeing))~~ to((: a.)) restrict use of the principal and accessory dwelling units in compliance
11 ~~((Comply))~~ with the requirements of this subsection 23.44.041.C((:)) and
12 ~~((b. N))~~ notify all prospective purchasers of ((the)) those requirements ((of
13 this subsection C)).

14 The covenant shall run with the land and be binding upon the property owner, his/her heirs and
15 assigns, and upon any parties subsequently acquiring any right, title or interest in the property.

16 The covenant shall be in a form prescribed by the Director that includes the legal description of
17 the principal use lot.

18 4. Covenant release. At the request of a property owner and after an inspection
19 finding that an accessory dwelling unit has been removed from the owner's property, the
20 Department of Planning and Development shall record a release of any previously recorded
21 covenant for that accessory dwelling unit.

1 D. Single-family ((S))status ((U))unaffected. A single-family lot with an accessory
2 dwelling unit shall be considered a single-family residence for purposes of rezone criteria
3 (Section 23.34.011).

4 E. Reporting. DPD shall report annually to the ((Urban Development and))Planning,
5 Land Use and Neighborhoods Committee or its successor committee on city-wide ((detached and
6 attached)) accessory dwelling unit permit activity ((in the geographic area described in Section
7 23.44.041.B.1)). This annual report((ing)) shall encompass all ((include the number of))
8 attached and detached accessory dwelling unit applications filed since the previous annual report,
9 and include the following information: the number of permit((s)) applications, ((issued and)) the
10 number of permits finaled, ((since the previous annual report, and)) the location and dispersion
11 of ((the)) both types of accessory dwelling units ((that were the subject of all permit applications
12 since the previous report, indicating which have been denied, which have been issued, which
13 have been finaled,)) and ((whether any)) the number of parking waivers ((were)) granted((for
14 parking, and which are still in the application stage)).

17 Section 4. A new subsection "Cottage, backyard" is added to Section 23.84A.006 "C" of
18 the Seattle Municipal Code, which was last amended by Ordinance 123046, as follows:

19 **23.84A.006 "C" – Definitions**

20 * * *

21
22 "Cottage, backyard." See "detached accessory dwelling unit" under the definition of
23 "Residential use" in Section 23.84A.032.

24 * * *

1 Section 5. Section 23.84A.008 “D” of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 122311, is amended as follows:

3 **23.84A.008 “D” – Definitions**

4 * * *

5 "Dwelling unit, detached accessory." Also known as a backyard cottage. See “detached
6 accessory dwelling unit” under the definition of “Residential use” in Section 23.84A.032.

7 * * *

8
9 Section 6. Section 23.84A.032 “R” of the Seattle Municipal Code, which Section was last
10 amended by Ordinance 122935, is amended as follows:

11 **23.84A.032 “R” – Definitions**

12 * * *

13 "Residential use" means any one ((1)) or more of the following:

14
15
16 7. "Detached accessory dwelling unit" means an additional room or set of rooms located
17 within an accessory structure on the same lot as an owner-occupied single-family dwelling unit,
18 meeting the standards of Section 23.44.041, and designed, arranged, occupied or intended to be
19 occupied by not more than one ((1)) household as living accommodations independent from
20 any other household. A detached accessory dwelling unit is also known as a backyard cottage.

21 * * *

22
23 13. "Single-family dwelling unit" means a detached structure having a permanent
24 foundation, containing only one ((1)) dwelling unit, except that the structure may also contain

1 an accessory dwelling unit where expressly authorized pursuant to this title. A detached
2 accessory dwelling unit, also known as a backyard cottage, is not considered a single-family
3 dwelling unit for purposes of this chapter.

4 * * *

5 Section 7. Section 23.90.018 of the Seattle Municipal Code, which was last amended by
6 Ordinance 122901, is amended as follows:

7 **23.90.018 Civil ~~((e))~~ Enforcement ~~((p))~~ Proceedings and ~~((p))~~ Penalties~~((r))~~**

8
9 A. In addition to any other remedy authorized by law or equity, any person violating
10 or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative
11 penalty of up to \$150~~((-00))~~ per day for each violation from the date the violation begins for the
12 first ten ~~((10))~~ days of noncompliance; and up to \$500 per day for each violation for each day
13 beyond ten days of noncompliance until compliance is achieved, except as provided in
14 subsection 23.90.018.B ~~((of this section))~~. In cases where the Director has issued a notice of
15 violation, the violation will be deemed to begin for purposes of determining the number of days
16 of violation on the date compliance is required by the notice of violation. In addition to the per
17 diem penalty, a violation compliance inspection charge equal to the base fee set by Section
18 22.900B.010 shall be charged for the third inspection and all subsequent inspections until
19 compliance is achieved. The compliance inspection charges shall be deposited in the General
20 Fund.
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B. Specific Violations.

1
2 1. Violations of Section 23.71.018 are subject to the penalty in the amount
3 specified in Section 23.71.018.H.

4 2. Violations of Section 23.44.041((C)) are subject to a civil penalty of \$5,000 ,
5 as provided in Section 23.90.019, which shall be in addition to any penalty imposed under
6 subsection A of Section 23.90.018((this section)).

7
8 * * *

9 Section 8. Subsection A of Section 23.90.019 of the Seattle Municipal Code, which
10 Section was last amended by Ordinance 122407, is amended as follows:

11 **23.90.019 Civil ((p))Penalty for ((u))Unauthorized ((d))Dwelling ((u))Units in ((s))Single-**
12 **((f))Family Zones ~~((structures and for unauthorized detached accessory dwelling units.))~~**

13
14 ((A)) In addition to any other sanction or remedial procedure that may be available, the
15 following penalty ~~((ies))~~ applies ~~((y))~~ to unauthorized dwelling units in single-family zones in
16 violation of Section 23.44.006 ~~((any owner of a single family dwelling unit with one (1) or more~~
17 ~~unauthorized dwelling unit(s) in the single family dwelling unit or in a detached accessory~~
18 ~~structure)). An ((y)) owner of a single-family zoned lot ~~that~~ has more than one single-family~~
19 ~~dwelling unit ((who is issued a notice of violation for an unauthorized dwelling unit that is not a~~
20 ~~legal nonconforming use,)) is subject to a civil penalty of ~~((Five Thousand Dollars (-))~~ \$5,000
21 ~~((-))~~ for each additional dwelling unit, unless the additional unit is an authorized dwelling unit in
22 compliance with Section 23.44.041, is a legal non-conforming use, or is approved as part of an
23 administrative conditional use permit pursuant to Section 25.09.260. ~~((This penalty shall be~~
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1 reduced to One Hundred Dollars (\$100) if, prior to the compliance date stated on the notice, the
2 owner removes all unauthorized dwelling units. Any owner of a single family dwelling unit who
3 voluntarily applies to legalize an accessory dwelling unit prior to issuance of a notice of violation
4 for an unauthorized dwelling unit, and obtains final inspection approval for the unit within one
5 (1) year of issuance of permit, shall not be subject to a civil penalty.))

6 ((B. After discovery of the existence of one (1) or more unauthorized dwelling unit(s) in
7 a single family dwelling unit or the existence of an unauthorized detached dwelling unit in a
8 detached accessory structure, the Director may issue a notice of violation in the manner set forth
9 in Section 23.90.006, which notice shall impose the civil penalty and notify the owner of the date
10 by which action to remove or legally establish the unauthorized unit(s) must be completed to
11 avoid additional penalty. Failure to complete the required action by the date stated shall be a
12 further violation of Title 23, subjecting the owner to an additional penalty of up to Five Hundred
13 Dollars (\$500.00) per day for each violation from the date the violation begins until compliance
14 is achieved. In cases where the Director has issued a notice of violation, the violation will be
15 deemed to begin for purposes of determining the number of days of violation on the date
16 compliance is required by the notice of violation. Such penalties shall be collected in the manner
17 provided in Section 23.90.018.))

18 Section 9. Severability. The provisions of this ordinance are declared to be separate and
19 severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of
20 this ordinance, or the invalidity of the application thereof to any person or circumstance shall not
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1 affect the validity of the remainder of this ordinance, or the validity of its application to other
2 persons or circumstances.

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

6 Passed by the City Council the ____ day of _____, 2009,
7 and signed by me in open session in authentication of its passage this
8 ____ day of _____, 2009.

9
10 _____
11 President _____ of the City Council

12 Approved by me this ____ day of _____, 2009.

13
14 _____
15 Gregory J. Nickels, Mayor

16 Filed by me this ____ day of _____, 2009.

17
18 _____
19 City Clerk

20 (Seal)

21
22
23
24
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27
28
THIS VERSION IS NOT ADOPTED

ORDINANCE _____

1
2 AN ORDINANCE relating to land use and housing; amending Sections 22.206.160, 23.44.014,
3 23.44.041, 23.84A.006, 23.84A.008, 23.84A.032, 23.90.018 and 23.90.019 of the Seattle
4 Municipal Code to permit detached accessory dwelling units (backyard cottages) in all
5 single-family zones and to make other changes concerning authorization and use of
6 accessory dwelling units.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

7 Section 1. Subsection C of Section 22.206.160 of the Seattle Municipal Code, which
8 Section was last amended by Ordinance 122728, is amended as follows:

9 **22.206.160 Duties of Owners**

10 * * *

11 C. Just Cause Eviction

12 1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW
13 59.18.290), owners may not evict residential tenants without a court order, which can be issued
14 by a court only after the tenant has an opportunity to a show cause hearing to contest the eviction
15 (RCW 59.18.380). In addition, owners of housing units shall not evict or attempt to evict any
16 tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant, unless the owner
17 can prove in court that just cause exists. The reasons for termination of tenancy listed below, and
18 no others, shall constitute just cause under this section:
19
20

21 * * *

22 o. The owner seeks to discontinue sharing with a tenant the owner's own
23 housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a
24 tenant of an accessory dwelling unit authorized pursuant to ((SMC)) Section 23.44.041 that is
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27
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1 accessory to the housing unit in which the owner resides ((;)) or seeks to terminate the tenancy of
2 a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on
3 the same lot. This subsection does not apply if ((so long as)) the owner has ((not)) received a
4 notice of violation of the development standards of ((SMC)) Section 23.44.041 ((regarding that

5 unit)). If the owner has received such a notice of violation, subsection C1m of ((this section))
6 Section 22.206.160 applies;

7
8 * * *

9 Section 2. Subsection D of Section 23.44.014 of the Seattle Municipal Code, which
10 Section was last amended by Ordinance 122823, is amended as follows:

11 **23.44.014 Yards**

12 * * *

13
14 D. Exceptions from Standard Yard Requirements. No structure shall be placed in a
15 required yard except pursuant to the following subsections:

16 1. Garages. Garages may be located in required yards subject to the standards of
17 23.44.016.

18 2. Certain Accessory Structures. Except for detached accessory dwelling units,
19 ((A)) any accessory structure may be constructed in a side yard which abuts the rear or side yard
20 of another lot, or in that portion of the rear yard of a reversed corner lot within ((five-())5(())) feet
21 of the key lot and not abutting the front yard of the key lot, upon recording with the King County
22 Department of Records and Elections an agreement to this effect between the owners of record of
23 the abutting properties. Garages may be located in that portion of a side yard which is either
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1 within ~~((thirty-five (35)))~~ 35 feet of the centerline of an alley or within ~~((twenty-five (25)))~~
2 feet of any rear lot line which is not an alley lot line, without providing an agreement as provided
3 in Section 23.44.016.

4 * * *

5 Section 3. Section 23.44.041 of the Seattle Municipal Code, which Section was last
6 amended by Ordinance 122190, is amended as follows:

7 **23.44.041 Accessory ~~((d))~~ Dwelling ~~((u))~~ Units~~((r))~~**

8 A. Accessory dwelling units, general provisions. The Director may authorize an
9 accessory dwelling unit, and that dwelling unit may be used as a residence, only under the
10 following conditions:
11

12 1. A lot with or proposed for a single-family dwelling may have no more than
13 one ~~((1))~~ accessory dwelling unit.

14 2. ~~((One (1) of the dwelling units shall be occupied by one (1) or more owners of
15 the property as the owner's(s') permanent and principal residence, and the owner-occupant))~~ The
16 owner(s) of the lot shall comply with the owner occupancy requirements of subsection C of
17 Section 23.44.041~~((, Owner Occupancy))~~.
18

19 3. Any number of related persons may occupy each unit in a single-family
20 dwelling unit with an accessory dwelling unit; provided that, if unrelated persons occupy either
21 unit, the total number of persons occupying both units may not altogether exceed eight ~~((8))~~.
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THIS VERSION IS NOT ADOPTED



4. All accessory dwelling units (~~((must))~~) are required to meet the development standards in Table A (~~((the following))~~), unless modified in subsection B of Section 23.44.041:

Table A for 23.44.041
Development Standards for All Accessory Dwelling Units

a. Maximum Gross Floor Area	One thousand (((1,000))) sq. ft. (((square feet))), including garage and storage area. ¹ <u>Detached accessory dwelling units are limited to 800 sq. ft., including garage or storage area.</u>
b. Entrances	Only one (((1))) entrance to the structure may be located on each street-facing facade of the dwelling unit. ²
c. Parking	One (((1))) off-street parking space is required, and may be provided as tandem parking with the parking space provided for the principal dwelling unit. ³ An existing required parking space may not be eliminated to accommodate an accessory dwelling unit, unless it is replaced elsewhere on the lot.

Footnotes:

¹. The gross floor area of an accessory dwelling unit may exceed (~~((one thousand (1,000))~~) ~~((square feet))~~) sq. ft. only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999, and if the entire accessory dwelling unit is located on one (~~((1))~~) level.

². More than one entrance may be allowed if: a) ~~((2))~~ entrances on the street-facing facade existed on January 1, 1993; or b) the Director determines that topography, screening or another design solution is effective in de-emphasizing the presence of a second entrance.

³. (~~((No))~~) The off-street parking space (~~((will be))~~) requirement (~~((d))~~) for an accessory dwelling unit may be waived if:

a. The topography or location of existing principal or accessory structures makes provision of an off-street parking space physically infeasible; or

b. The site is located in a residential parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than (~~((seventy-five))~~) (~~((75))~~) percent for on-street parking within (~~((four hundred))~~) (~~((400))~~) feet of all property lines of the site.

c. The provisions in this footnote three (~~((3))~~) providing for exceptions to the parking requirement do not apply to sites located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B).



1 B. Accessory ~~((D))~~dwelling ~~((U))~~units, detached, additional provisions. A detached
2 accessory dwelling unit is also known as a backyard cottage. The Directory may authorize a
3 detached accessory dwelling unit, and that unit may be used as a residence, only under the
4 conditions set forth in subsection A of Section 23.44.041 and the following additional
5 conditions:

6
7 1. ~~((Locations allowed. An accessory dwelling unit may be located in a structure~~
8 ~~separate from a principal single family dwelling unit in single family zones within the area~~
9 ~~bounded by I-5 to the west, I-90 to the north, Lake Washington to the east, and the Seattle~~
10 ~~corporate limits to the south.))~~ Detached accessory dwelling units are not permitted on a lot if any
11 portion of the lot is within the Shoreline District established ~~((by))~~ pursuant to Section 23.60.010.

12
13 2. ~~((Development standards.))~~ Detached accessory dwelling units ~~((shall))~~ are
14 required to meet the additional development standards set forth in Table B for Section 23.44.041
15 ((following standards and the standards of subsection A, except as modified in this subsection)):

16
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Table B for 23.44.041 Development Standards for Detached Accessory Dwelling Units ¹	
18 a. Minimum Lot Size	4,000 (square feet) sq. ft.
19 b. Minimum Lot Width	25 feet
20 c. Minimum Lot Depth	70 feet ²
21 d. Maximum Lot Coverage	The provisions of Section 23.44.010 apply.
22 e. Maximum Rear Yard Coverage	((The provisions of Section 23.44.014D.6.b apply.)) <u>A detached accessory dwelling unit, together with any other accessory structures and other portions of the principal structure, is limited to a maximum combined coverage of 40% of the rear yard.</u>

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Table B for 23.44.041
 Development Standards for Detached Accessory Dwelling Units¹

f. Maximum Gross Floor Area	((20% of the lot size, or)) <u>Eight hundred</u> ((800-square feet, whichever is less,)) <u>sq. ft.</u> including garage or storage area. ³			
g. Front Yard	A detached accessory dwelling unit may not be located within the front yard required by ((S)) <u>subsection 23.44.014.A.</u>			
h. Minimum Side Yard	The provisions of ((S)) <u>subsection 23.44.014.C</u> apply.			
i. Minimum Rear Yard	A detached accessory dwelling unit may be located within a required rear yard ((when)) <u>if</u> it is not within 5 feet of <u>any</u> ((the rear)) lot line, unless the ((rear)) lot line is adjacent to an alley, in which case a detached accessory dwelling unit may be located at <u>that</u> ((the rear)) lot line. ^{4, 5}			
j. Location of Entry	Entrances to detached accessory dwelling units may not be located on facades facing the nearest side lot line or the rear lot line unless the nearest side lot line or rear lot line abuts an alley or other public right-of-way.			
k. Maximum Height Limits ⁶	Lot Width (feet)			
	Less than 30	30-35	36-40	41 or greater
(1) Maximum Structure Height (feet)		14	15	16
(2) Maximum Structure Height with Pitched Roof (feet)	15	21	22	23
(3) Maximum Structure Height with Shed or Butterfly Roof (feet); see Exhibit A for 23.44.041((B)).	15	18	19	20

THIS VERSION IS NOT ADOPTED



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Table B for 23.44.041
Development Standards for Detached Accessory Dwelling Units¹

1. Minimum Separation from Principal Structure

5 feet

Footnotes:

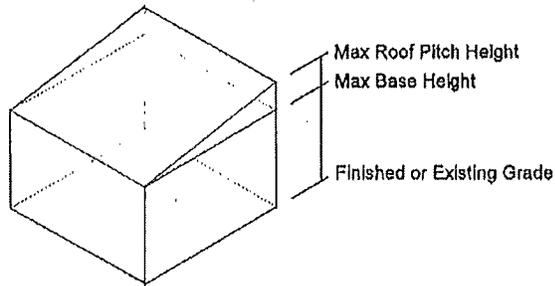
1. ~~((Exceptions to the standards contained in subsections a through j are permitted))~~ The Director may allow an exception to standards a-j pursuant to Section 23.44.041_B.3 ((2)), ((when converting)) for converting existing ((noneonforming)) accessory structures.
2. For lots that do not meet the lot depth requirement, but have a greater width than depth and an area greater than ~~((five thousand ())) 5,000 ((square feet))~~ sq. ft., a detached accessory dwelling unit is permitted, provided the detached accessory dwelling unit is not located in a required yard.
3. Areas below grade are exempt from the calculation of gross floor area.
4. ~~((When))~~ If the ((rear)) lot line is adjacent to an alley and a detached accessory dwelling unit includes a garage with a vehicle entrance that faces the alley, the garage portion of the structure may not be located within ((twelve ())) 12 (()) feet of the centerline of the alley.
5. On a reversed corner lot, no detached accessory dwelling unit shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot.
6. Features such as chimneys, antennas, and flagpoles may extend up to ~~((four ())) 4 (())~~ feet above the maximum allowed height. ~~The additional height for sloped lots permitted by Section 23.44.012_B does not apply.~~

THIS VERSION IS NOT ADOPTED

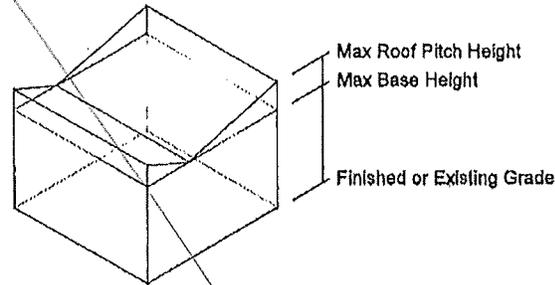


1 Exhibit A for 23.44.041 ((B)): Explanation of Terms for Shed and Butterfly Roofs for
2 Detached Accessory Dwelling Units.

3 Shed Roof Example



9 Butterfly Roof Example



15 3. Conversion of accessory structures. An existing accessory structure that is not
16 located in a required front yard may be converted into a detached accessory dwelling unit if ((:
17 a.) the ((accessory)) structure complies with the minimum standards set
18 forth in Sections 22.206.010 through 22.206.140 of the Housing and Building Maintenance Code
19 ((, SMC chapter 22.206; and)). The Director may allow an exception to one or more of the
20 ((b. nonconformity with the)) development standards for accessory
21 dwelling units contained in ((S))subsections 23.((0))44.041_A.4 and 23.044.041_B.((1))2, ((is not
22 increased; and)) provided the conversion does not increase the structure's nonconformity with the
23 standard and
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1 ((e-)) the applicant can demonstrate that the accessory structure was
2 constructed prior to June 1, 1999.

3 4. Number of backyard cottages. The number of new citywide backyard cottage
4 permits is limited to 50 per calendar year, including conversions. A backyard cottage will count
5 towards the annual cap of 50 permits at the time the application is deemed complete by DPD.

6
7 C. Owner ((Θ))occupancy.

8 1. Requirement. An owner with at least a 50 percent interest in ((ef)) the property
9 must occupy either the principal dwelling unit or the accessory dwelling unit for ((more than))
10 six (((6))) or more months of each calendar year as the owner's permanent residence. The
11 Director may waive this requirement for up to three years if a letter is submitted that provides
12 evidence to the Director showing good cause why the requirement for owner occupancy should
13 be waived. Good cause may include job dislocation, sabbatical leave, education, or illness.

14
15 2. Violation. If an owner is unable or unwilling to fulfill the ((there is a violation
16 of the)) requirements of subsection 23.44.041.C.1, the owner shall remove those features of the
17 accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation
18 of this Title and the owner will

- 19
20 ((a. Re-occupy the structure; or
21 b. Remove the accessory dwelling unit; or
22 e. Submit evidence to the Director showing good cause why the
23 requirement for owner occupancy should be waived. Good cause may include job dislocation,
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THIS RESOLUTION IS NOT ADOPTED



1 sabbatical leave, education, or illness. Upon such showing the Director may waive the
2 requirement for up to three (3) years; and

3 ~~d. B)~~ be subject to ~~((the))~~ penalties ~~((provided in))~~ pursuant to Sections
4 23.90.018, 23.90.019 and 23.90.020.

5 3. ~~((Deed Restriction))~~. Covenant recording. Prior to issuance of a permit
6 establishing an accessory dwelling unit, the owner(s) shall sign under oath, and the Department
7 of Planning and Development shall record in the King County Office of Records and Elections, a
8 ~~((n agreement by the owner(s))~~ covenant ~~((that is binding on subsequent))~~ by the owner(s) to the
9 City of Seattle stating that the owner(s) ((in a form prescribed by the Director,)) agree
10 ~~((agreeing))~~ to ~~((+a.))~~ restrict use of the principal and accessory dwelling units in compliance
11 ~~((Comply))~~ with the requirements of this subsection 23.44.041.C(;) and

12 ~~((b. N))~~ notify all prospective purchasers of ((the)) those requirements ((of
13 this subsection C)).

14 The covenant shall run with the land and be binding upon the property owner, his/her heirs and
15 assigns, and upon any parties subsequently acquiring any right, title or interest in the property.

16 The covenant shall be in a form prescribed by the Director that includes the legal description of
17 the principal use lot.

18 4. Covenant release. At the request of a property owner and after an inspection finding
19 that an accessory dwelling unit has been removed from the owner's property, the Department of
20 Planning and Development shall record a release of any previously recorded covenant for that
21 accessory dwelling unit.

THIS VERSION IS NOT ADOPTED



1 D. Single-family ((S))status ((U))unaffected. A single-family lot with an accessory
2 dwelling unit shall be considered a single-family residence for purposes of rezone criteria
3 (Section 23.34.011).

4 E. Reporting. DPD shall report annually to the Urban Development and Planning
5 Committee or its successor committee on city-wide ((detached and attached)) accessory dwelling
6 unit permit activity ((in the geographic area described in Section 23.44.041.B.1)). This annual
7 report((ing)) shall encompass all ((include the number of)) attached and detached accessory
8 dwelling unit applications filed since the previous annual report, and include the following
9 information: the number of permit((s)) applications, ((issued and)) the number of permits
10 finaled, ((since the previous annual report, and)) the location and dispersion of ((the)) both types
11 of accessory dwelling units ((that were the subject of all permit applications since the previous
12 report, indicating which have been denied, which have been issued, which have been finaled,))
13 and ((whether any)) the number of parking waivers ((were) granted((for parking, and which are
14 still in the application stage)).
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18 Section 4. A new subsection "Cottage, backyard" is added to Section 23.84A.006 "C" of
19 the Seattle Municipal Code, which was last amended by Ordinance 122411, as follows:

20 **23.84A.006 "C" - Definitions**

21 * * *

22 "Cottage, backyard." See "detached accessory dwelling unit" under the definition of
23 "Residential use" in Section 23.84A.032.
24

25 * * *

THIS VERSION IS NOT ADAPTED FOR ELECTIONS



1 Section 5. Section 23.84A.008 "D" of the Seattle Municipal Code, which Section was last
2 amended by Ordinance 122311, is amended as follows:

3 **23.84A.008 "D" – Definitions**

4 * * *

5 "Dwelling unit, detached accessory." Also known as a backyard cottage. See "detached
6 accessory dwelling unit" under the definition of "Residential use" in Section 23.84A.032.

7 * * *

8
9 Section 6. Section 23.84A.032 "R" of the Seattle Municipal Code, which Section was last
10 amended by Ordinance 122311, is amended as follows:

11 **23.84A.032 "R" – Definitions**

12 * * *

13
14 "Residential use" means any one (((1))) or more of the following:

15
16 7. "Detached accessory dwelling unit" means an additional room or set of rooms located
17 within an accessory structure on the same lot as an owner-occupied single-family dwelling unit,
18 meeting the standards of Section 23.44.041, and designed, arranged, occupied or intended to be
19 occupied by not more than one (((1))) household as living accommodations independent from
20 any other household. A detached accessory dwelling unit is also known as a backyard cottage.

21 * * *

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24 13. "Single-family dwelling unit" means a detached structure having a permanent
25 foundation, containing only one (((1))) dwelling unit, except that the structure may also contain
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1 an accessory dwelling unit where expressly authorized pursuant to this title. A detached
2 accessory dwelling unit, also known as a backyard cottage, is not considered a single-family
3 dwelling unit for purposes of this chapter.

4 * * *

5 Section 7. Section 23.90.018 of the Seattle Municipal Code, which was last amended by
6 Ordinance 122611, is amended as follows:
7

8 **23.90.018 Civil ~~((e))~~ Enforcement ~~((p))~~ Proceedings and ~~((p))~~ Penalties~~((r))~~**

9 A. In addition to any other remedy authorized by law or equity, any person violating or
10 failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty
11 of up to ~~((One Hundred Fifty Dollars (\$) \$150((-00)))~~ per day for each violation from the date
12 the violation begins for the first ten ~~((10))~~ days of noncompliance; and up to ~~((Five Hundred~~
13 ~~Dollars (-)) \$500 ((-))~~ per day for each violation for each day beyond ten ~~((10))~~ days of
14 noncompliance until compliance is achieved, ~~except as provided in subsection 23.90.018.B ((of~~
15 ~~this section))~~. In cases where the Director has issued a notice of violation, the violation will be
16 deemed to begin for purposes of determining the number of days of violation on the date
17 compliance is required by the notice of violation.
18

19 B. Specific Violations.

20 1. Violations of Section 23.71.018 are subject to the penalty in the amount
21 specified in Section 23.71.018.H.
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1 2. Violations of Section 23.44.041((C)) are subject to a civil penalty of ((Five
2 ~~Thousand Dollars (C))~~ \$5,000 ((C)), as provided in Section 23.90.019, which shall be in addition to
3 any penalty imposed under subsection A of Section 23.90.018((this section)).

4 * * *

5 Section 8. Subsection A of Section 23.90.019 of the Seattle Municipal Code, which
6 Section was last amended by Ordinance 122407, is amended as follows:

7 **23.90.019 Civil ((p))Penalty for ((u))Unauthorized ((d))Dwelling ((u))Units in ((s))Single-**
8 **((f))Family Zones ((structures and for unauthorized detached accessory dwelling units.))**

9 ((A-)) In addition to any other sanction or remedial procedure that may be available, the
10 following penalty ((ies)) applies ((y)) to unauthorized dwelling units in single-family zones in
11 violation of Section 23.44.006 ((any owner of a single family dwelling unit with one (1) or more
12 unauthorized dwelling unit(s) in the single family dwelling unit or in a detached accessory
13 structure)). An ((y)) owner of a single-family zoned lot that has more than one single-family
14 dwelling unit ((who is issued a notice of violation for an unauthorized dwelling unit that is not a
15 legal nonconforming use,)) is subject to a civil penalty of ((Five Thousand Dollars (C)) \$5,000
16 ((C)) for each additional dwelling unit, unless the additional unit is an authorized dwelling unit in
17 compliance with Section 23.44.041, is a legal non-conforming use, or is approved as part of an
18 administrative conditional use permit pursuant to Section 25.09.260. ((This penalty shall be
19 reduced to One Hundred Dollars (\$100) if, prior to the compliance date stated on the notice, the
20 owner removes all unauthorized dwelling units. Any owner of a single family dwelling unit who
21 voluntarily applies to legalize an accessory dwelling unit prior to issuance of a notice of violation

REJECTED FOR ADOPTION



1 for an unauthorized dwelling unit, and obtains final inspection approval for the unit within one
2 (1) year of issuance of permit, shall not be subject to a civil penalty.))

3 ((B. After discovery of the existence of one (1) or more unauthorized dwelling unit(s) in
4 a single family dwelling unit or the existence of an unauthorized detached dwelling unit in a
5 detached accessory structure, the Director may issue a notice of violation in the manner set forth
6 in Section 23.90.006, which notice shall impose the civil penalty and notify the owner of the date
7 by which action to remove or legally establish the unauthorized unit(s) must be completed to
8 avoid additional penalty. Failure to complete the required action by the date stated shall be a
9 further violation of Title 23, subjecting the owner to an additional penalty of up to Five Hundred
10 Dollars (\$500.00) per day for each violation from the date the violation begins until compliance
11 is achieved. In cases where the Director has issued a notice of violation, the violation will be
12 deemed to begin for purposes of determining the number of days of violation on the date
13 compliance is required by the notice of violation. Such penalties shall be collected in the manner
14 provided in Section 23.90.018.))

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18 Section 9. Severability. The provisions of this ordinance are declared to be separate and
19 severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of
20 this ordinance, or the invalidity of the application thereof to any person or circumstance shall not
21 affect the validity of the remainder of this ordinance, or the validity of its application to other
22 persons or circumstances.
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1 Section 10. This ordinance shall take effect and be in force thirty (30) days from and
2 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
3 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2009,
5 and signed by me in open session in authentication of its passage this
6 ____ day of _____, 2009.

8 _____
9 President _____ of the City Council

10 Approved by me this ____ day of _____, 2009.

11 _____
12 Gregory J. Nickels, Mayor

13 _____
14 Filed by me this ____ day of _____, 2009.

15 _____
16 City Clerk

17
18
19 (Seal)

THIS VERSION IS NOT ADOPTED



STATE OF WASHINGTON – KING COUNTY

--SS.

246924
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 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

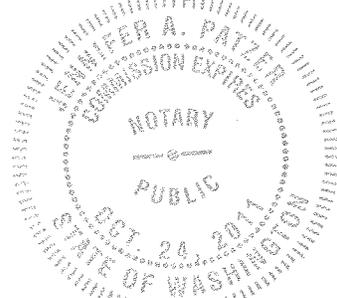
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 123141

was published on

11/10/09

The amount of the fee charged for the foregoing publication is the sum of \$2,076.00, which amount has been paid in full.



Affidavit of Publication

Phil

Subscribed and sworn to before me on
11/10/09 *George Patzer*

Notary public for the State of Washington,
residing in Seattle

not apply to sites located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B):)

ORDINANCE 123141

AN ORDINANCE relating to land use and housing; amending Sections 22.206.160, 23.44.014, 23.44.041, 23.84A.006, 23.84A.008, 23.84A.032, 23.90.018 and 23.90.019 of the Seattle Municipal Code to permit detached accessory dwelling units (backyard cottages) in all single-family zones and to make other changes concerning authorization and use of accessory dwelling units.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection C of Section 22.206.160 of the Seattle Municipal Code, which Section was last amended by Ordinance 122728, is amended as follows:

22.206.160 Duties of Owners

C. Just Cause Eviction

1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW 59.18.290), owners may not evict residential tenants without a court order, which can be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction (RCW 59.18.380). In addition, owners of housing units shall not evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant, unless the owner can prove in court that just cause exists. The reasons for termination of tenancy listed below, and no others, shall constitute just cause under this section:

o. The owner seeks to discontinue sharing with a tenant the owner's own housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a tenant of an accessory dwelling unit authorized pursuant to ((SMC)) Section 23.44.041 that is accessory to the housing unit in which the owner resides ((S)) or seeks to terminate the tenancy of a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on the same lot. This subsection does not apply if ((so long as)) the owner has ((not)) received a notice of violation of the development standards of ((SMC)) Section 23.44.041 ((regarding that unit)). If the owner has received such a notice of violation, subsection C1m of ((this section)) Section 22.206.160 applies;

Section 2. Subsection D of Section 23.44.014 of the Seattle Municipal Code, which Section was last amended by Ordinance 123046, is amended as follows:

23.44.014 Yards

D. Exceptions from Standard Yard Requirements. No structure shall be placed in a required yard except pursuant to the following:

1. Garages. Garages may be located in a required yard subject to the standards of Section 23.44.016.

2. Certain Accessory Structures in Side and Rear Yards.

a. Except for detached accessory dwelling units, ((A))any accessory structure that complies with the requirements of Section 22.44.040 may be constructed in a side yard that abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed corner lot within ((five-))5((0)) feet of the key lot and not abutting the front yard of the key lot, upon recording with the King County Department of Records and Elections an agreement to this effect between the owners of record of the abutting properties.

5. Except on lots located within areas that are defined as either an urban center or urban village in the City's Comprehensive Plan, one off-street parking space is required for the accessory dwelling unit and may be provided as tandem parking with the parking space provided for the principal dwelling unit. An existing required parking space may not be eliminated to accommodate an accessory dwelling unit unless it is replaced elsewhere on the lot. Except for lots located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B), the Director may waive the off-street parking space requirement for an accessory dwelling unit if:

a. The topography or location of existing principal or accessory structures on the lot makes provision of an off-street parking space physically infeasible; or

b. The lot is located in a restricted parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than 75 percent for on-street parking within 400 feet of all property lines of the site.

B. Accessory ((D))dwelling ((U))units, detached, additional provisions. A detached accessory dwelling unit is also known as a backyard cottage. The Director may authorize a detached accessory dwelling unit, and that unit may be used as a residence, only under the conditions set forth in subsection A of Section 23.44.041 and the following additional conditions:

1. ((Locations allowed. An accessory dwelling unit may be located in a structure separate from a principal single-family dwelling unit in single-family zones within the area bounded by I-5 to the west, I-90 to the north, Lake Washington to the east, and the Seattle corporate limits to the south.)) Detached accessory dwelling units are not permitted on a lot if any portion of the lot is within the Shoreline District established ((by)) pursuant to Section 23.60.010.

2. ((Development standards.)) Detached accessory dwelling units ((shall)) be required to meet the additional development standards set forth in Table B for Section 23.44.041 ((following standards and the standards of subsection A, except as modified in this subsection)):

Table B for 23.44.041 Development Standards for Detached Accessory Dwelling Units ¹	
a. Minimum Lot Size	4,000 ((square-foot)) sq. ft.
b. Minimum Lot Width	25 feet
c. Minimum Lot Depth	70 feet ²
d. Maximum Lot Coverage	The provisions of Section 23.44.010 apply.
e. Maximum Rear Yard Coverage	((The provisions of Section 23.44.014D.6.b apply.)) A detached accessory dwelling unit together with any other accessory structures and other portions of the principal structure, is limited to a maximum combined coverage of 40% of the rear yard.
f. Maximum Gross Floor Area	((20% of the lot size, or)) Eight hundred ((800 square feet, whichever is less,)) sq. ft. including garage ((or)) and storage area but excluding areas below grade, measured as set forth in Section 23.86.007.((³))
g. Front Yard	A detached accessory dwelling unit may not be located within the front yard required by ((S))subsection 23.44.014.A.
h. Minimum Side Yard	The provisions of ((S))subsection 23.44.014.C

Table B for 23.44.041 Development Standards for Detached Accessory Dwelling Units ¹	
	apply.
	A detached accessory dwelling unit may be located within a required rear yard ((when)) if it is located within 5 feet of any ((the rear)) lot line unless

can prove in court that just cause exists. The reasons for termination of tenancy listed below, and no others, shall constitute just cause under this section:

o. The owner seeks to discontinue sharing with a tenant the owner's own housing unit, i.e., the unit in which the owner resides, or seeks to terminate the tenancy of a tenant of an accessory dwelling unit authorized pursuant to ((SMC)) Section 23.44.041 that is accessory to the housing unit in which the owner resides ((s)) or seeks to terminate the tenancy of a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit on the same lot. This subsection does not apply if ((se-long-as)) the owner has ((not)) received a notice of violation of the development standards of ((SMC)) Section 23.44.041 ((regarding-that-unit)). If the owner has received such a notice of violation, subsection C1m of ((this-section)) Section 22.206.160 applies;

Section 2. Subsection D of Section 23.44.014 of the Seattle Municipal Code, which Section was last amended by Ordinance 123046, is amended as follows:

23.44.014 Yards

D. Exceptions from Standard Yard Requirements. No structure shall be placed in a required yard except pursuant to the following:

1. Garages. Garages may be located in a required yard subject to the standards of Section 23.44.016.

2. Certain Accessory Structures in Side and Rear Yards.

a. Except for detached accessory dwelling units, ((A)) any accessory structure that complies with the requirements of Section 22.44.040 may be constructed in a side yard that abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed corner lot within ((five-))5((3)) feet of the key lot and not abutting the front yard of the key lot, upon recording with the King County Department of Records and Elections an agreement to this effect between the owners of record of the abutting properties.

b. Except for detached accessory dwelling units, ((A)) any detached accessory structure that complies with the requirements of Section 23.44.040 may be located in a rear yard, provided that on a reversed corner lot, no accessory structure shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot, nor shall the accessory structure be located closer than 5 feet from the key lot's side lot line unless the provisions of subsection 23.44.014.D.2.a or 23.44.016.D.9 apply.

Section 3. Section 23.44.041 of the Seattle Municipal Code, which Section was last amended by Ordinance 123001, is amended as follows:

23.44.041 Accessory ((d)) Dwelling ((s)) Units((c))

A. Accessory dwelling units, general provisions. The Director may authorize an accessory dwelling unit, and that dwelling unit may be used as a residence, only under the following conditions:

1. A lot with or proposed for a single-family dwelling may have no more than one ((1)) accessory dwelling unit.

2. ((One (1) of the dwelling units shall be occupied by one (1) or more owners of the property as the owner's((s)) permanent and principal residence, and the owner-occupant)) The owner(s) of the lot shall comply with the owner occupancy requirements of subsection C of Section 23.44.041 ((-Owner-Occupancy)).

not apply to sites located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B);

5. Except on lots located within areas that are defined as either an urban center or urban village in the City's Comprehensive Plan, one off-street parking space is required for the accessory dwelling unit and may be provided as tandem parking with the parking space provided for the principal dwelling unit. An existing required parking space may not be eliminated to accommodate an accessory dwelling unit unless it is replaced elsewhere on the lot. Except for lots located in either the University District Parking Overlay Area (Exhibit for Chart A, Section 23.54.015, Map A) or the Alki Area Parking Overlay (Exhibit for Chart A, Section 23.54.015, Map B), the Director may waive the off-street parking space requirement for an accessory dwelling unit if:

a. The topography or location of existing principal or accessory structures on the lot makes provision of an off-street parking space physically infeasible; or

b. The lot is located in a restricted parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than 75 percent for on-street parking within 400 feet of all property lines of the site.

B. Accessory ((D))dwelling ((U))units, detached, additional provisions. A detached accessory dwelling unit is also known as a backyard cottage. The Director may authorize a detached accessory dwelling unit, and that unit may be used as a residence, only under the conditions set forth in subsection A of Section 23.44.041 and the following additional conditions:

conditions set forth in subsection A of Section 23.44.041 and the following additional conditions:

1. ((Locations allowed. An accessory dwelling unit may be located in a structure separate from a principal single-family dwelling unit in single-family zones within the area bounded by I-5 to the west, I-90 to the north, Lake Washington to the east, and the Seattle corporate limits to the south.)) Detached accessory dwelling units are not permitted on a lot if any portion of the lot is within the Shoreline District established ((by)) pursuant to Section 23.60.010.

2. ((Development standards.)) Detached accessory dwelling units ((shall)) are required to meet the additional development standards set forth in Table B for Section 23.44.041 ((following standards and the standards of subsection A, except as modified in this subsection)):

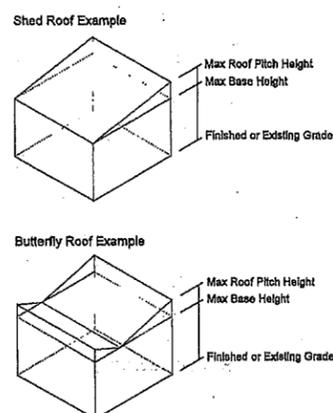
a. Minimum Lot Size	4,000 ((square-feet)) sq. ft.
b. Minimum Lot Width	25 feet
c. Minimum Lot Depth	70 feet ²
d. Maximum Lot Coverage	The provisions of Section 23.44.010 apply.
e. Maximum Rear Yard Coverage	((The provisions of Section 23.44.014D.6.b apply.)) A detached accessory dwelling unit, together with any other accessory structures and other portions of the principal structure, is limited to a maximum combined coverage of 40% of the rear yard.
f. Maximum Gross Floor Area	((20% of the lot size, or)) Eight hundred ((800 square feet, whichever is less;)) sq. ft. including garage ((or)) and storage area but excluding areas below grade, measured as set forth in Section 23.86.007.((3))
g. Front Yard	A detached accessory dwelling unit may not be located within the front yard required by ((S))subsection 23.44.014.A.
h. Minimum Side Yard	The provisions of ((S))subsection 23.44.014.C

	apply.				
i. Minimum Rear Yard	A detached accessory dwelling unit may be located within a required rear yard ((when)) if it is not within 5 feet of any ((the-rear)) lot line, unless the ((rear)) lot line is adjacent to an alley, in which case a detached accessory dwelling unit may be located at that ((the-rear)) lot line. ^{2,4((6-5))}				
j. Location of Entry	Entrances to detached accessory dwelling units may not be located on facades facing the nearest side lot line or the rear lot line unless the nearest side lot line or rear lot line abuts an alley or other public right-of-way.				
k. Maximum Height Limits ⁽⁽⁶⁾⁾ⁱ	The roof peak of the detached accessory dwelling unit may not extend more than 15 feet above the roof peak of the principal dwelling unit and must comply with the height limits set forth in the table below. ((Lot Width (feet)))				
	Lot Width (feet)				
	Less than 30	30((-)) or greater up to 35	36((-)) or greater up to 40	41 or greater up to 50	50 or greater ⁶
(1) Maximum Structure Height (feet)	12	14	15	16	16
(2) Maximum Structure Height with Pitched Roof (feet)	15	21	22	22((3))	23
(3) Maximum Structure Height with Shed or Butterfly Roof (feet); see Exhibit A for 23.44.041((B)).	15	18	19	20	20
l. Minimum Separation from Principal Structure	5 feet				

Footnotes:					
1. ((Exceptions to the standards contained in subsections a through j are permitted)) The Director may allow an exception to standards a-f, h, i and j pursuant to Section 23.44.041.B.3 ((2)), ((when-converting)) for converting existing ((nonconforming)) accessory structures.					
2. For lots that do not meet the lot depth requirement, but have a greater width than depth and an area greater than ((five-thousand-)) 5,000 ((3 square feet)) sq. ft., a detached accessory dwelling unit is permitted, provided the detached accessory dwelling unit is not located in a required yard.					
3. ((Areas below grade are exempt from the calculation of gross floor area.))					
4-)((When)) If the ((rear)) lot line is adjacent to an alley and a detached accessory dwelling unit includes a garage with a vehicle entrance that faces the alley, the garage portion of the structure may not be located within ((twelve-)) 12 ((3)) feet of the centerline of the alley.					
4((5-)) On a reversed corner lot, no detached accessory dwelling unit shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot.					
5((6-)) Features such as chimneys, antennas, and flagpoles may extend up to ((four-)) 4 ((3)) feet above the maximum allowed height. The additional height for sloped lots permitted by Section 23.44.012.B does not apply.					
6. Detached accessory dwelling units may also be built to the maximum height limits listed in this column if both of the following conditions are met: a) the detached accessory dwelling unit is located on a lot with a rear lot line that is adjacent to an alley; and b) the width of the lot is 40 feet or greater.					

Exhibit A for 23.44.041 ((B)): Explanation of Terms for Shed and Butterfly Roofs for

Detached Accessory Dwelling Units.



3. Conversion of accessory structures. An existing accessory structure that is not located in a required front yard may be converted into a detached accessory dwelling unit if ((e)) the ((accessory)) structure complies with the minimum standards set forth in Sections 22.206.010 through 22.206.140 of the Housing and Building Maintenance Code and with the Seattle Residential Code, if work requiring a permit thereunder is performed on the structure or has previously been performed without a permit ((SMC chapter 22.206; and)). The Director may allow an exception to one or more of the ((b. nonconformity with the)) development standards for accessory dwelling units contained in ((S)) subsections 23.44.041.A.4 and standards a-f, h, i and j listed in Table B for 23.044.041.1, ((B. (1) 2 is not increased; and)) provided the conversion does not increase the structure's nonconformity with the standard and ((e)) the applicant can demonstrate that the accessory structure was constructed prior to June 1, 1999, as an accessory structure.

C. Owner ((E)) occupancy.

1. Requirement. An owner with at least a 50 percent interest in ((E)) the property must occupy either the principal dwelling unit or the accessory dwelling unit for ((more than)) six ((E)) or more months of each calendar year as the owner's permanent residence. The Director may waive this requirement for up to three years if a letter is submitted that provides evidence to the Director showing good cause why the requirement for owner occupancy should be waived. Good cause may include job dislocation, sabbatical leave, education, or illness.

2. Violation. If an owner is unable or unwilling to fulfill the ((there is a violation of the)) requirements of subsection 23.44.041.C.1, the owner shall remove those features of the accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation of this Title and the owner will

- (a. Re-occupy the structure; or
- b. Remove the accessory dwelling unit; or
- c. Submit evidence to the Director showing good cause why the requirement for owner occupancy should be waived. Good cause may include job dislocation, sabbatical leave, education, or illness. Upon such showing the Director may waive the requirement for up to three (3) years; and

d. B) be subject to ((the)) penalties ((provided in)) pursuant to Sections 23.90.018, 23.90.019 and 23.90.020.

3. ((Deed Restriction)). Covenant recording. Prior to issuance of a permit establishing an accessory dwelling unit, the owner(s) shall sign under oath((s)) and ((the Department of Planning and Development shall)) record in the King County Office of Records and Elections((s)) a ((an agreement by the owner(s)) covenant ((that is binding on subsequent)) by the owner(s) to the City of Seattle stating that the owner(s) ((in a form prescribed by the Director,)) agree ((agreeing)) to((+a.)) restrict use of the principal and accessory dwelling units in compliance ((Comply)) with the requirements of this subsection 23.44.041.C((s)) and

((b. N)) notify all prospective purchasers of ((the)) those requirements ((of this subsection C)).

The covenant shall run with the land and be binding upon the property owner, his/her heirs and assigns, and upon any parties subsequently acquiring any right, title or interest in the property.

23.84A.032 "R" - Definitions

"Residential use" means any one ((+)) or more of the following:

7. "Detached accessory dwelling unit" means an additional room or set of rooms located within an accessory structure on the same lot as an owner-occupied single-family dwelling unit, meeting the standards of Section 23.44.041, and designed, arranged, occupied or intended to be occupied by not more than one ((+)) household as living accommodations independent from any other household. A detached accessory dwelling unit is also known as a backyard cottage.

13. "Single-family dwelling unit" means a detached structure having a permanent foundation, containing only one ((+)) dwelling unit, except that the structure may also contain an accessory dwelling unit where expressly authorized pursuant to this title. A detached accessory dwelling unit, also known as a backyard cottage, is not considered a single-family dwelling unit for purposes of this chapter.

Section 7. Section 23.90.018 of the Seattle Municipal Code, which was last amended by Ordinance 122901, is amended as follows:

23.90.018 Civil ((e)) Enforcement ((p)) Proceedings and ((p)) Penalties((s))

A. In addition to any other remedy authorized by law or equity, any person violating or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty of up to \$150((.00)) per day for each violation from the date the violation begins for the first ten ((+)) days of noncompliance; and up to \$500 per day for each violation for each day beyond ten days of noncompliance until compliance is achieved, except as provided in subsection 23.90.018.B ((of this section)). In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on the date compliance is required by the notice of violation. In addition to the per diem penalty, a violation compliance inspection charge equal to the base fee set by Section 22.900B.010 shall be charged for the third inspection and all subsequent inspections until compliance is achieved. The compliance inspection charges shall be deposited in the General Fund.

B. Specific Violations.

1. Violations of Section 23.71.018 are subject to the penalty in the amount specified in Section 23.71.018.H.

2. Violations of Section 23.44.041((C)) are subject to a civil penalty of \$5,000, as provided in Section 23.90.019, which shall be in addition to any penalty imposed under subsection A of Section 23.90.018((this section)).

Section 8. Subsection A of Section 23.90.019 of the Seattle Municipal Code, which Section was last amended by Ordinance 122407, is amended as follows:

23.90.019 Civil ((p)) Penalty for ((s)) Unauthorized ((d)) Dwelling ((s)) Units in ((s)) Single-((f)) Family Zones ((structures and for unauthorized detached accessory dwelling units))

((A.)) In addition to any other sanction or remedial procedure that may be available, the following penalty ((es)) applies ((y)) to unauthorized dwelling units in single-family zones in

2. Violation. If an owner is unable or unwilling to fulfill the ~~((there is a violation of the))~~ requirements of subsection 23.44.041.C.1, the owner shall remove those features of the accessory dwelling unit that make it a dwelling unit. Failure to do so will constitute a violation of this Title and the owner will

~~((a. Re-occupy the structure; or~~

~~b. Remove the accessory dwelling unit; or~~

~~e. Submit evidence to the Director showing good cause why the~~

~~requirement for owner occupancy should be waived. Good cause may include job dislocation, sabbatical leave, education, or illness. Upon such showing the Director may waive the requirement for up to three (3) years; and~~

~~d. B)) be subject to ((the)) penalties ((provided in)) pursuant to Sections 23.90.018, 23.90.019 and 23.90.020.~~

3. ~~((Deed Restriction)).~~ Covenant recording. Prior to issuance of a permit establishing an accessory dwelling unit, the owner(s) shall sign under oath((s)) and ~~((the Department of Planning and Development shall))~~ record in the King County Office of Records and Elections((s)) a ~~((an agreement by the owner(s))~~ covenant ~~((that is binding on subsequent))~~ by the owner(s) to the City of Seattle stating that the owner(s) ~~((in a form prescribed by the Director,))~~ agree ~~((agreeing))~~ to ~~((a.))~~ restrict use of the principal and accessory dwelling units in compliance ~~((Comply))~~ with the requirements of this subsection 23.44.041.C((i)) and ~~((b. N))~~ notify all prospective purchasers of ~~((the))~~ those requirements ~~((of this subsection C)).~~

The covenant shall run with the land and be binding upon the property owner, his/her heirs and assigns, and upon any parties subsequently acquiring any right, title or interest in the property. The covenant shall be in a form prescribed by the Director that includes the legal description of the principal use lot. The property owner(s) shall return the original covenant with recording stamp to the Department of Planning and Development before the building permit for the accessory dwelling unit is issued.

4. Covenant release. At the request of a property owner and after an inspection finding that an accessory dwelling unit has been removed from the owner's property, the Department of Planning and Development shall record a release of any previously recorded covenant for that accessory dwelling unit.

D. Single-family ~~((S))~~ status ~~((U))~~ unaffected. A single-family lot with an accessory dwelling unit shall be considered a single-family residence for purposes of rezone criteria (Section 23.34.011).

E. Reporting. DPD shall report annually to the ~~((Urban Development and))~~ Planning, Land Use and Neighborhoods Committee or its successor committee on city-wide ~~((detached and attached))~~ accessory dwelling unit permit activity ~~((in the geographic area described in Section 23.44.041.B.1)).~~ This annual report~~((ing))~~ shall encompass all ~~((include the number of))~~ attached and detached accessory dwelling unit ~~((applications))~~ permits issued and all permits ~~finald~~ since the previous annual report~~((s))~~ and shall include ~~((the following information:))~~ the number of permits~~((s))~~~~((applications,))~~~~((issued and))~~ issued and the number of permits ~~finald~~, ~~((since the previous annual report, and))~~ a map that shows the location and dispersion of ~~((the))~~ both types of accessory dwelling units ~~((that were the subject of all permit applications since the previous report, indicating which have been denied, which have been issued, which have been finald,))~~ and ~~((whether any))~~ the number of parking waivers ~~((were))~~ granted ~~((for parking, and which are still in the application stage)).~~ For each detached accessory dwelling unit permit issued, the report shall state the height, gross floor area, total square footage of the lot where the detached accessory dwelling unit is located, and total lot coverage of all structures on the lot, and whether any garage space is incorporated into the detached accessory dwelling unit. For each permit ~~finald~~, the report shall include a photograph of the detached accessory dwelling unit. The report shall be delivered to the Council by no later than January 31 of the following calendar year.

Section 4. A new subsection "Cottage, backyard" is added to Section 23.84A.006 "C" of the Seattle Municipal Code, which was last amended by Ordinance 123046, as follows:

23.84A.006 "C" – Definitions

"Cottage, backyard." See "detached accessory dwelling unit" under the definition of "Residential use" in Section 23.84A.032.

Section 5. Section 23.84A.008 "D" of the Seattle Municipal Code, which Section was last amended by Ordinance 122311, is amended as follows:

23.84A.008 "D" – Definitions

"Dwelling unit, detached accessory." Also known as a backyard cottage. See "detached accessory dwelling unit" under the definition of "Residential use" in Section 23.84A.032.

Section 6. Section 23.84A.032 "R" of the Seattle Municipal Code, which Section was last amended by Ordinance 122935, is amended as follows:

or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty of up to \$150~~((,000))~~ per day for each violation from the date the violation begins for the first ten ~~((10))~~ days of noncompliance; and up to \$500 per day for each violation for each day beyond ten days of noncompliance until compliance is achieved, except as provided in subsection 23.90.018.B ~~((of this section))~~. In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on the date compliance is required by the notice of violation. In addition to the per diem penalty, a violation compliance inspection charge equal to the base fee set by Section 22.900B.010 shall be charged for the third inspection and all subsequent inspections until compliance is achieved. The compliance inspection charges shall be deposited in the General Fund.

B. Specific Violations.

1. Violations of Section 23.71.018 are subject to the penalty in the amount specified in Section 23.71.018.H.

2. Violations of Section 23.44.041~~((C))~~ are subject to a civil penalty of \$5,000, as provided in Section 23.90.019, which shall be in addition to any penalty imposed under subsection A of Section 23.90.018~~((this section))~~.

Section 8. Subsection A of Section 23.90.019 of the Seattle Municipal Code, which Section was last amended by Ordinance 122407, is amended as follows:

23.90.019 Civil ~~((P))~~ Penalty for ~~((U))~~ Unauthorized ~~((D))~~ Dwelling ~~((U))~~ Units in ~~((S))~~ Single-~~((F))~~ Family Zones ~~((structures and for unauthorized detached accessory dwelling units)).~~

~~((A.))~~ In addition to any other sanction or remedial procedure that may be available, the following penalty ~~((ies))~~ applies ~~((y))~~ to ~~unauthorized~~ dwelling units in single-family zones in violation of Section 23.44.006 ~~((any owner of a single-family dwelling unit with one (1) or more unauthorized dwelling unit(s) in the single-family dwelling unit or in a detached accessory structure)).~~ An ~~((s))~~ owner of a single-family zoned lot that has more than one single-family dwelling unit ~~((who is issued a notice of violation for an unauthorized dwelling unit that is not a legal nonconforming use,))~~ is subject to a civil penalty of ~~((Five Thousand Dollars-))~~ \$5,000 ~~((s))~~ for each additional dwelling unit, unless the additional unit is an authorized dwelling unit in compliance with Section 23.44.041, is a legal non-conforming use, or is approved as part of an administrative conditional use permit pursuant to Section 25.09.260. Penalties for violation of Sections 23.44.006 and 23.44.041 for an unauthorized detached accessory dwelling unit existing on January 1, 2009 will be waived if the owner occupancy requirement of Section 23.44.041.C has been met since January 1, 2010, an application for a building permit authorizing the detached accessory dwelling unit is filed with the Department of Planning and Development by June 30, 2010, and final inspection approval for the permit authorizing the detached accessory dwelling unit is obtained by December 31, 2010. ~~((This penalty shall be reduced to One Hundred Dollars (\$100) if, prior to the compliance date stated on the notice, the owner removes all unauthorized dwelling units. Any owner of a single-family dwelling unit who voluntarily applies to legalize an accessory dwelling unit prior to issuance of a notice of violation for an unauthorized dwelling unit, and obtains final inspection approval for the unit within one (1) year of issuance of permit, shall not be subject to a civil penalty.))~~

~~((B. After discovery of the existence of one (1) or more unauthorized dwelling unit(s) in a single-family dwelling unit or the existence of an unauthorized detached dwelling unit in a detached accessory structure, the Director may issue a notice of violation in the manner set forth in Section 23.90.006, which notice shall impose the civil penalty and notify the owner of the date by which action to remove or legally establish the unauthorized unit(s) must be completed to avoid additional penalty. Failure to complete the required action by the date stated shall be a further violation of Title 23, subjecting the owner to an additional penalty of up to Five Hundred Dollars (\$500.00) per day for each violation from the date the violation begins until compliance is achieved. In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on the date compliance is required by the notice of violation. Such penalties shall be collected in the manner provided in Section 23.90.018.))~~

Section 9. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 10. 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 2nd day of November, 2009, and signed by me in open session in authentication of its passage this 2nd day of November, 2009.
RICHARD CONLIN,
President of the City Council.
Approved by me this 4th day of November, 2009.
GREGORY J. NICKELS,
Mayor.
Filed by me this 4th day of November, 2009.
(Seal) JUDITH E. PIPPIN,
City Clerk
Date of publication in the Seattle Daily Journal of Commerce, November 10, 2009.
11/10(246924)