

#2
CB117107

ORDINANCE

AN ORDINANCE related to land use and zoning, amending Sections 11.16.240, 15.16.040, 22.206.160, 23.41.018, 23.44.012, 23.45.510, 23.47A.012, 23.47A.013, 23.57.012, 23.84A.024, 23.84A.032, 23.86.006, and 23.86.007 of the Seattle Municipal Code to make clarifications, and correct cross-references, formatting, errors, and omissions from Ordinance 123495.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection G of Section 11.16.240 of the Seattle Municipal Code, which section was last amended by Ordinance 118409, is amended as follows:

11.16.240 Traffic Engineer—Authority—Review and recommend((:))

It shall be the function of the Traffic Engineer under the supervision of the Director of Transportation to:

* * *

G. Review and make recommendations concerning all applications for all building permits except in single-family (SF) and ((~~multi-family~~)) Lowrise 1 (LR1) zones regarding facilitation of traffic with respect to new or existing driveways;

* * *

Section 2. Subsection A of Section 15.16.040, which section was last amended by Ordinance 122824, is amended as follows:

15.16.040 Terms and conditions((:))

A. The Director of Transportation may issue a street use permit for use of a portion of the right-of-way for a sidewalk cafe if the Director determines that:



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

4 2. The proposed use for a sidewalk cafe would not unduly and unreasonably
5 impair pedestrian passage in or on the right-of-way and would allow:

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

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

15 c. a wider clear path of travel for pedestrian passage than is required in
16 subsections 15.16.040.A.2.a and 2.b when required by the Director of Transportation to facilitate
17 the use of the sidewalk by pedestrians.

18 3. The proposed sidewalk cafe would be located;

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

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

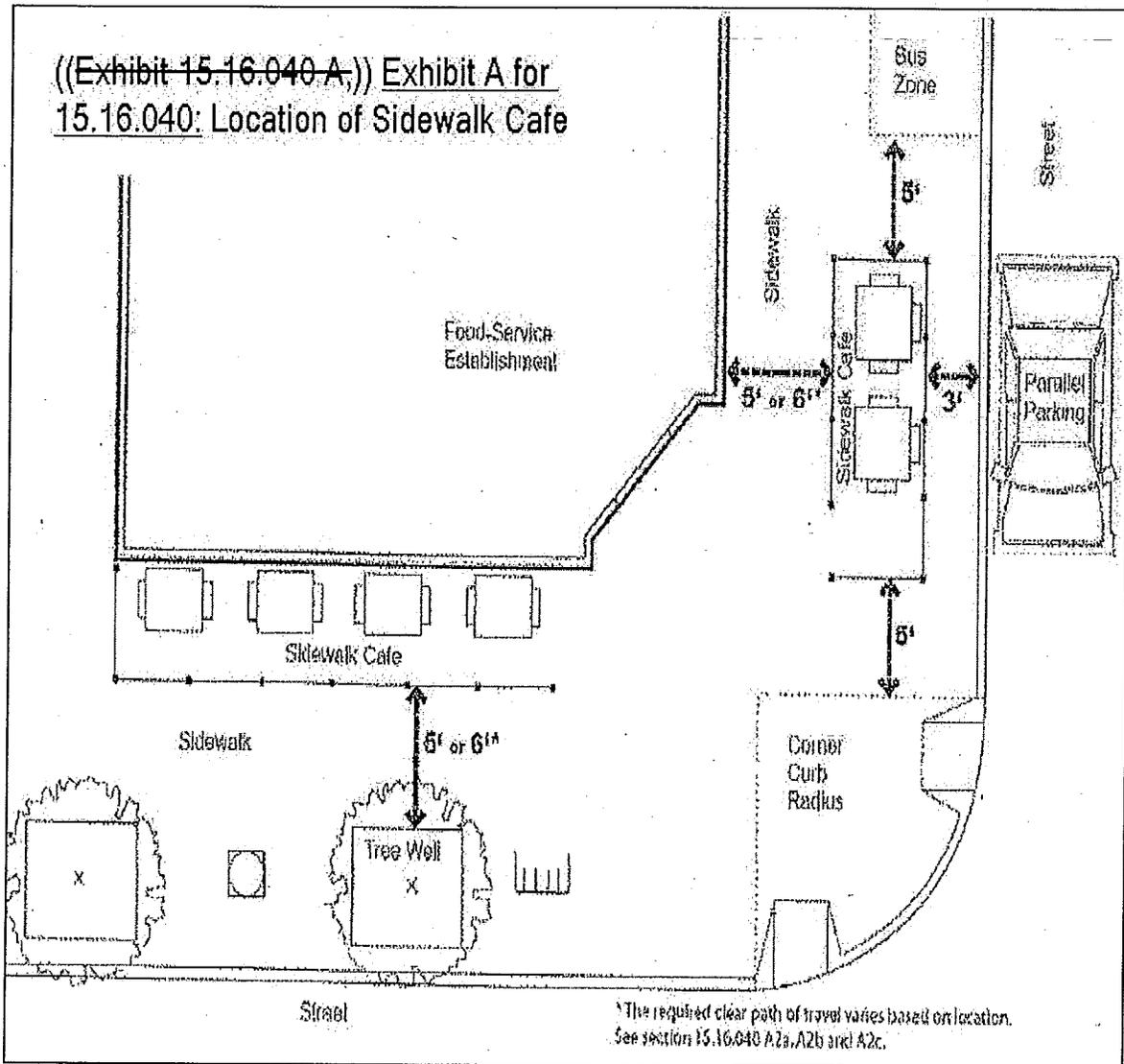
3 c. at least ((three-())3(0)) feet from the curb in order to provide access to
4 on-street parking when pedestrian passage is located between the sidewalk cafe and the food-
5 service establishment (see Exhibit A for 15.16.040 ((A, Location of Sidewalk Cafe)));

6 d. at least ((fifty-())50(0)) feet from a lot zoned RSL, SF, ((L1, L2, L3 or
7 L4)) LR1, LR2, or LR3, and that does not have an RC designation, as shown on the Official
8 Land Use Map, as these zoning designations are defined under Section 23.30.010((-))A of Title
9 23; and
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11 e. at a distance farther than that required in Section 15.16.050.A3.a, 3.b or
12 3.c, based upon the Director of Transportation's determination that such additional distance is
13 needed to facilitate the use of the sidewalk by pedestrians;
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15 **Exhibit A for 15.16.040: Location of Sidewalk Cafe**





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

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

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6. The applicant has posted a notice of the application for the street use permit for the sidewalk cafe. The notice shall be clearly visible from the adjacent sidewalk and shall state

1 that comments on the application may be sent to the Director of Transportation and will be
2 considered in reviewing the application.

3 * * *

4 Section 3. Subsection C of Section 22.206.160 of the Seattle Municipal Code, which
5 section was last amended by the Ordinance introduced as Council Bill No. 117048, is amended
6 as follows:

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8 **22.206.160 Duties of owners((=))**

9 * * *

10 C. Just Cause Eviction.

11 1. Pursuant to provisions of the state Residential Landlord-Tenant Act (RCW
12 59.18.290), owners may not evict residential tenants without a court order, which can be issued
13 by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction
14 (RCW 59.18.380). In addition, owners of housing units shall not evict or attempt to evict any
15 tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant unless the owner
16 can prove in court that just cause exists. The reasons for termination of tenancy listed below, and
17 no others, shall constitute just cause under this section 22.206.160:

18
19 a. The tenant fails to comply with a three ((3)) day notice to pay rent or
20 vacate pursuant to RCW 59.12.030(3); a ten ((10)) day notice to comply or vacate pursuant to
21 RCW 59.12.030(4); or a three ((3)) day notice to vacate for waste, nuisance (including a drug-
22 related activity nuisance pursuant to RCW Chapter 7.43) or maintenance of an unlawful business
23 or conduct pursuant to RCW 59.12.030(5);
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1 b. The tenant habitually fails to pay rent when due which causes the owner
2 to notify the tenant in writing of late rent four (~~((4))~~) or more times in a (~~((twelve-))~~)12(~~(3))~~) month
3 period;

4 c. The tenant fails to comply with a ten (~~((10))~~) day notice to comply or
5 vacate that requires compliance with a material term of the rental agreement or that requires
6 compliance with a material obligation under RCW 59.18;

7 d. The tenant habitually fails to comply with the material terms of the
8 rental agreement which causes the owner to serve a ten (~~((10))~~) day notice to comply or vacate
9 three (~~((3))~~) or more times in a (~~((twelve-))~~)12(~~(3))~~) month period;

10 e. The owner seeks possession so that the owner or a member of his or her
11 immediate family may occupy the unit as that person's principal residence and no substantially
12 equivalent unit is vacant and available in the same building. "Immediate family" shall include the
13 owner's domestic partner registered pursuant to Section 1 of Ordinance 117244² or the owner's
14 spouse, parents, grandparents, children, brothers and sisters of the owner, of the owner's spouse,
15 or of the owner's domestic partner. There shall be a rebuttable presumption of a violation of this
16 subsection 22.206.160C.1.a if the owner or a member of the owner's immediate family fails to
17 occupy the unit as that person's principal residence for at least (~~((sixty-))~~)60(~~(3))~~) consecutive days
18 during the (~~((ninety-))~~)90(~~(3))~~) days immediately after the tenant vacated the unit pursuant to a
19 notice of termination or eviction using this subparagraph as the cause for eviction;
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22 f. The owner elects to sell a single-family dwelling unit and gives the
23 tenant at least (~~((sixty-))~~)60(~~(3))~~) days written notice prior to the date set for vacating, which date
24 shall coincide with the end of the term of a rental agreement, or if the agreement is month to
25 month, with the last day of a monthly period. For the purposes of this section 22.206.160, an
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1 owner "elects to sell" when the owner makes reasonable attempts to sell the dwelling within
2 ((~~thirty~~)30(~~(9)~~)) days after the tenant has vacated, including, at a minimum, listing it for sale at a
3 reasonable price with a realty agency or advertising it for sale at a reasonable price in a
4 newspaper of general circulation. There shall be a rebuttable presumption that the owner did not
5 intend to sell the unit if:

6 ((~~(i)~~) 1) Within ((~~thirty~~)30(~~(9)~~)) days after the tenant has vacated,
7
8 the owner does not list the single-family dwelling unit for sale at a reasonable price with a realty
9 agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or

10 ((~~(ii)~~) 2) Within ((~~ninety~~)90(~~(9)~~)) days after the date the tenant
11 vacated or the date the property was listed for sale, whichever is later, the owner withdraws the
12 rental unit from the market, rents the unit to someone other than the former tenant, or otherwise
13 indicates that the owner does not intend to sell the unit;

14
15 g. The tenant's occupancy is conditioned upon employment on the
16 property and the employment relationship is terminated;

17 h. The owner seeks to do substantial rehabilitation in the building;
18 provided that, the owner must obtain a tenant relocation license if required by ((SMC)) Chapter
19 22.210 and at least one ((~~(1)~~)) permit necessary for the rehabilitation, other than a Master Use
20 Permit, before terminating the tenancy;

21
22 i. The owner (i) elects to demolish the building, convert it to a cooperative,
23 or convert it to a nonresidential use; provided that, the owner must obtain a tenant relocation
24 license if required by ((SMC)) Chapter 22.210 and a permit necessary to demolish or change the
25 use before terminating any tenancy, or (ii) converts the building to a condominium provided the
26 owner complies with the provisions of ((SMC)) Sections 22.903.030 and 22.903.035;



1 j. The owner seeks to discontinue use of a housing unit unauthorized by
2 Title 23 ~~((of the Seattle Municipal Code))~~ after receipt of a notice of violation thereof. The
3 owner is required to pay relocation assistance to the tenant(s) of each such unit at least two
4 ~~((2))~~ weeks prior to the date set for termination of the tenancy, at the rate of:

5 ~~((i.))~~ 1) ~~((Two Thousand Dollars))~~ \$2,000 ~~(())~~ for a tenant
6 household with an income during the past ~~((twelve))~~ 12 ~~(())~~ months at or below ~~((fifty))~~ 50 ~~(())~~
7 percent of the County median income, or

8 ~~((ii.))~~ 2) Two ~~((2))~~ months' rent for a tenant household with an
9 income during the past ~~((twelve))~~ 12 ~~(())~~ months above ~~((fifty))~~ 50 ~~(())~~ percent of the County
10 median income;

11 k. The owner seeks to reduce the number of individuals residing in a
12 dwelling unit to comply with the maximum limit of individuals allowed to occupy one ~~((1))~~
13 dwelling unit, as required by ~~((SMC))~~ Title 23, and:

14 ~~((i.))~~ 1)

15 ~~((A))~~ a) The number of such individuals was more than is
16 lawful under the current version of ~~((SMC))~~ Title 23 or Title 24 but was lawful under ~~((SMC))~~
17 Title 23 or 24 on August 10, 1994 ~~(())~~;

18 ~~((B))~~ b) That number has not increased with the
19 knowledge or consent of the owner at any time after August 10, 1994 ~~(())~~; and

20 ~~((C))~~ c) The owner is either unwilling or unable to obtain a
21 permit to allow the unit with that number of residents ~~(())~~.



1 m. The owner seeks to discontinue use of an accessory dwelling unit for
2 which a permit has been obtained pursuant to ~~((SMC))~~ Sections 23.44.041 and 23.45.545 after
3 receipt of a notice of violation of the development standards provided in ~~((that section))~~ those
4 sections. The owner is required to pay relocation assistance to the tenant household residing in
5 such a unit at least two ~~((2))~~ weeks prior to the date set for termination of the tenancy, at the
6 rate of:

7
8 ~~((i.))~~1) ~~((Two Thousand Dollars))~~\$2,000~~(())~~ for a tenant
9 household with an income during the past ~~((twelve))~~12~~(())~~ months at or below ~~((fifty))~~50~~(())~~
10 percent of the county median income, or

11 ~~((ii.))~~2) Two ~~((2))~~ months' rent for a tenant household with an
12 income during the past ~~((twelve))~~12~~(())~~ months above ~~((fifty))~~50~~(())~~ percent of the county
13 median income;

14
15 n. An emergency order requiring that the housing unit be vacated and
16 closed has been issued pursuant to ~~((SMC))~~ Section 22.206.260 and the emergency conditions
17 identified in the order have not been corrected;

18
19 o. The owner seeks to discontinue sharing with a tenant of the owner's
20 own housing unit, i.e., the unit in which the owner resides, ~~((or))~~ seeks to terminate the tenancy
21 of a tenant of an accessory dwelling unit authorized pursuant to Sections 23.44.041 and
22 23.45.545 that is accessory to the housing unit in which the owner resides, or seeks to terminate
23 the tenancy of a tenant in a single-family dwelling unit and the owner resides in an accessory
24 dwelling unit on the same lot. This subsection 22.206.160.C.1.o does not apply if the owner has
25 received a notice of violation of the development standards of Section 23.44.041. If the owner
26 has received such a notice of violation, subsection ~~((C1m of Section))~~ 22.206.160.C.1.m applies;



1 p. A tenant, or with the consent of the tenant, his or her subtenant,
2 sublessee, resident or guest, has engaged in criminal activity on the premises, or on the property
3 or public right-of-way abutting the premises, and the owner has specified in the notice of
4 termination the crime alleged to have been committed and the general facts supporting the
5 allegation, and has assured that the Department of Planning and Development has recorded
6 receipt of a copy of the notice of termination. For purposes of this subsection 22.206.160.C.1.p a
7 person has "engaged in criminal activity" if he or she:

8
9 ((i.)) 1) Engages in drug-related activity that would constitute a
10 violation of RCW Chapters 69.41, 69.50 or 69.52, or

11 ((ii.)) 2) Engages in activity that is a crime under the laws of this
12 state, but only if the activity substantially affects the health or safety of other tenants or the
13 owner.
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15 2. Any rental agreement provision which waives or purports to waive any right,
16 benefit or entitlement created by this subsection ((C)) 22.206.160.C.1.p shall be deemed void and
17 of no lawful force or effect.

18 3. With any termination notices required by law, owners terminating any tenancy
19 protected by this section 22.206.160 shall advise the affected tenant or tenants in writing of the
20 reasons for the termination and the facts in support of those reasons.
21

22 4. If a tenant who has received a notice of termination of tenancy claiming
23 subsection 22.206.160.C.1.e, C.1.f, or C.1.m ((of this section)) as the ground for termination
24 believes that the owner does not intend to carry out the stated reason for eviction and makes a
25 complaint to the Director, then the owner must, within ten ((10)) days of being notified by the
26 Director of the complaint, complete and file with the Director a certification stating the owner's
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1 intent to carry out the stated reason for the eviction. The failure of the owner to complete and file
2 such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction
3 action based on this ground.

4 5. In any action commenced to evict or to otherwise terminate the tenancy of any
5 tenant, it shall be a defense to the action that there was no just cause for such eviction or
6 termination as provided in this section 22.206.160.

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8 6. It shall be a violation of this section 22.206.160 for any owner to evict or
9 attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any
10 tenant using a notice which references subsections 22.206.160.C.1.e (~~subparagraphs 1e~~), 1.f,
11 1.h, 1.k, 1.l, or 1.m (~~of this subsection C~~) as grounds for eviction or termination of tenancy
12 without fulfilling or carrying out the stated reason for or condition justifying the termination of
13 such tenancy.

14
15 7. An owner who evicts or attempts to evict a tenant or who terminates or
16 attempts to terminate the tenancy of a tenant using a notice which references (~~subparagraphs~~)
17 subsections 22.206.160.C.1.e, 1.f or 1.h (~~of this subsection C~~) as the ground for eviction or
18 termination of tenancy without fulfilling or carrying out the stated reason for or condition
19 justifying the termination of such tenancy shall be liable to such tenant in a private right for
20 action for damages up to (~~Two Thousand Dollars~~)\$2,000(~~()~~), costs of suit or arbitration and
21 reasonable attorney's fees.

22
23 Section 4. Subsection D of Section 23.41.018, which section was enacted by Ordinance
24 123495, is amended as follows:

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26 **23.41.018 Streamlined administrative design review (SDR) process**

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D. SDR decision.

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2 1. The Director shall consider public comments on the proposed project, and the
3 Director's decision shall be based on the extent to which the application meets applicable design
4 guidelines and responds to the SDR guidance report.

5 2. The Director's decision pursuant to the SDR process shall not reduce the
6 number of units allowed per square foot of lot area when such a density limit is set in Table A for
7 Section 23.45.512.

8 3. The Director may allow the adjustments listed in subsection 23.41.018.D.4, if
9 the adjustments are consistent with the SDR design guidance report and the adjustments would
10 result in a development that:
11

12 a. better meets the intent of the adopted design guidelines and/or

13 b. provides a better response to environmental and/or site conditions,
14 including but not limited to topography, the location of trees, or adjacent uses and structures.

15 4. If the criteria listed in subsection 23.41.018.D.3 are met, the Director may
16 allow adjustments to the following development standards to the extent listed for each standard:
17

18 a. Setbacks and separation requirements may be reduced by a maximum of
19 50 percent;

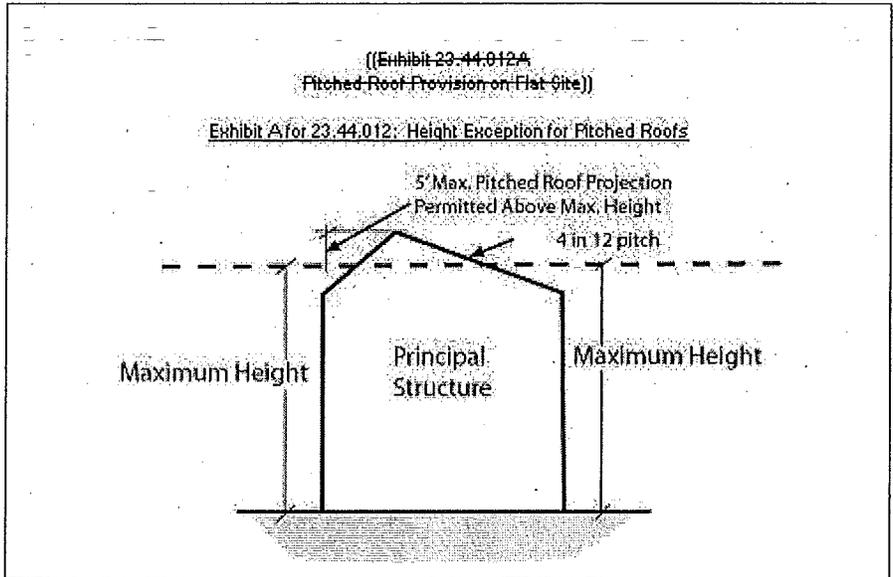
20 b. Amenity areas may be reduced by a maximum of 10 percent;

21 c. Landscaping and screening may be reduced by a maximum of 25
22 percent;

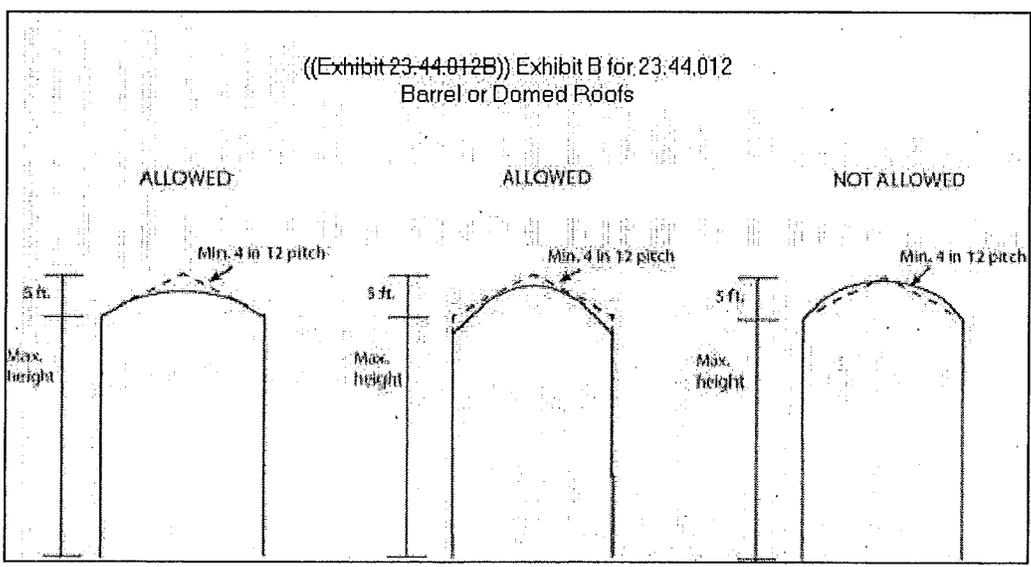
23 d. Structure width, structure depth, and façade length ((limits)) may be
24 ((reduced)) increased by a maximum of 10 percent; and
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26 e. Screening of parking may be reduced by a maximum of 25 percent.
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13 **Exhibit B for 23.44.012: Height Exceptions for Barrel or Domed Roofs**

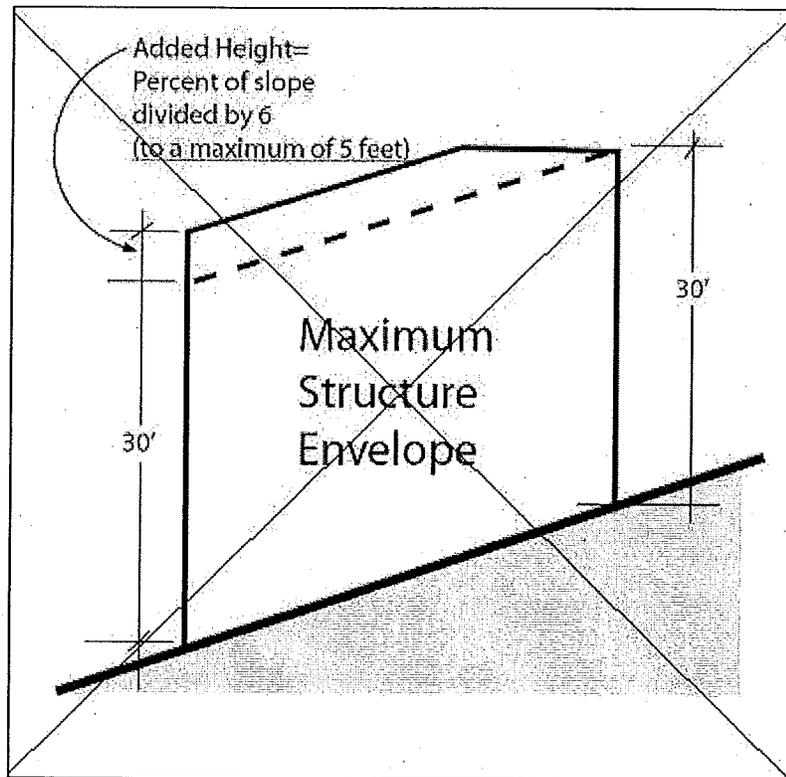


24 ((2. Sloped Lots. Except for structures containing a detached accessory dwelling
25 unit, additional height shall be permitted for sloped lots, at the rate of one (1) foot for each six
26 (6) percent of slope, to a maximum of five (5) feet. The additional height shall be permitted on
27



1 the downhill side of the structure only, as described in the measurements portion of this Land
2 Use Code (Exhibit 23.44.012 C. When the downhill portion of a sloped lot fronts on the street
3 where the required front yard exemption in Section 23.44.014 A is claimed, the permitted height
4 of the wall along the lowest elevation of the site shall be reduced one (1) foot for each foot of
5 exemption claimed. In no case shall the height of the wall be required to be less than the
6 maximum height limit, as determined under subsection A above.))

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8 ((Exhibit 23.44.012.C Height Limits on Sloped Sites))



23 Section 6. Subsections C and E of Section 12.45.510 of the Seattle Municipal Code,
24 which section was last amended by Ordinance 123495, are amended as follows:

25 **23.45.510 Floor area ratio (FAR) limits**

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27 * * *

1 C. In LR zones, in order to qualify for the higher FAR limit shown in Table A for
2 23.45.510, the following standards shall be met:

3 1. Applicants shall make a commitment that the structure will meet green
4 building performance standards by earning a Leadership in Energy and Environmental Design
5 (LEED) Silver rating or a Built Green 4-star rating of the Master Builders Association of King
6 and Snohomish Counties, except that an applicant who is applying for funding from the
7 Washington State Housing Trust Fund and/or the Seattle Office of Housing to develop new
8 affordable housing, may elect to meet green building performance standards by meeting the
9 Washington Evergreen Sustainable Development Standards (ESDS). The standards referred to
10 in this subsection 23.45.510.C.1 are those identified in Section 23.45.526, and that section shall
11 apply as if the application were for new development gaining extra residential floor area.
12

13 2. For all categories of residential use, if the lot abuts an alley and the alley is
14 used for access, improvements to the alley shall be required as provided in subsections
15 23.53.030.E and F, except that the alley shall be paved rather than improved with crushed rock,
16 even for lots containing fewer than ten dwelling units.
17

18 3. Parking location if parking is provided.

19 a. For rowhouse and townhouse developments, parking shall be ~~((located~~
20 ~~in an enclosed area that is below grade or that projects a maximum of 4 feet above finished~~
21 ~~grade,)) totally enclosed within the same structure as the residential use, located in a structure or~~
22 portion of a structure that meets the requirements of subsection 23.45.510.E.5, or located in a
23 parking area or structure at the rear of the lot.
24

25 b. For apartments, parking may either:
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1) be (~~located in an enclosed area that is below grade or that projects a maximum of 4 feet above finished grade~~) totally enclosed within the same structure as the residential use; or

2) on lots located outside of Urban Centers, Urban Villages, and the Station Area Overlay District, be located off an alley at the rear of the lot, provided that all surface parking is limited to a single row of spaces along the alley and access to each surface parking space is taken directly from the alley.

4. Access to parking if parking is provided.

a. Access to required barrier-free parking spaces may be from either a street or an alley. Subsections 23.45.510.C.4.b, c, and d do not apply to required barrier-free parking spaces.

b. If the lot abuts an alley, access to parking shall be from the alley, unless one or more of the conditions in subsection 23.45.536.C.2 are met.

c. If access cannot be provided from an alley, access shall be from a street if the following conditions are met:

1) on corner lots, the driveway shall abut and run parallel to the rear lot line of the lot or a side lot line that is not a street lot line.

2) on a non-corner lot, there is no more than one driveway per 160 feet of street frontage.

d. if access to parking does not meet one of the standards in this subsection 23.45.510.C.4, or if an exception is granted that allows parking access from both an alley and a street pursuant to subsection 23.45.536.C, the lower FAR limit on Table A for 23.45.510 applies.



* * *

E. The following floor area is exempt from FAR limits:

1. All underground stories.

2. The floor area contained in a landmark structure subject to controls and incentives imposed by a designating ordinance, if the owner of the landmark has executed and recorded an agreement acceptable in form and content to the Landmarks Preservation Board, providing for the restoration and maintenance of the historically significant features of the structure, except that this exemption does not apply to a lot from which a transfer of development potential has been made under Chapter 23.58A, and does not apply for purposes of determining TDP available for transfer under Chapter 23.58A.

3. ~~((Structures))~~ The floor area contained in structures built prior to January 1, 1982 as single-family dwelling units that will remain in residential use, provided that:

a. ~~no ((new)) principal structure is located between ((that structure))~~ the existing single-family dwelling unit and ((a)) the street lot line along at least one street frontage((, and)). If the single-family dwelling unit is moved on the lot, the floor area of the dwelling remains exempt if it continues to meet this provision; and

b. the exemption is limited to the gross square footage in the ~~((structure))~~ single-family dwelling unit as of January 1, 1982.

4. ~~((For apartments in LR zones that qualify for the higher FAR limit shown in Table A for 23.45.510, and for all multifamily structures in MR and HR zones, portions of a story that extend no more than 4 feet above existing or finished grade, whichever is lower. See Exhibit A for 23.45.510.))~~ Portions of a story that extend no more than 4 feet above existing or



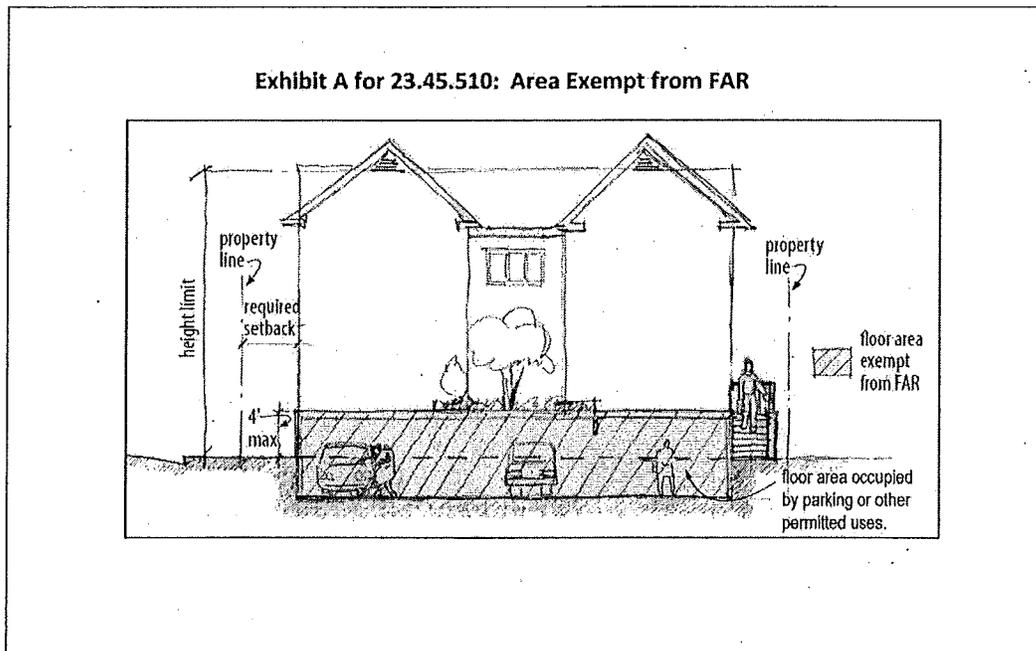
1 finished grade, whichever is lower, excluding access, (see Exhibit A for 23.45.510), in the
2 following circumstances:

3 a. apartments in LR zones that qualify for the higher FAR limit shown in
4 Table A for 23.45.510;

5 b. rowhouse developments in LR zones located on lots that have a lot
6 depth of 100 feet or less, do not have alley access, and that qualify for the higher FAR limit
7 shown in Table A for 23.45.510, provided that parking access is located at the rear of the
8 rowhouse development; and

9 c. all multifamily structures in MR and HR zones.

10 **Exhibit A for 23.45.510: Area Exempt from FAR**



24 5. For rowhouse and townhouse developments and apartments that qualify for the
25 higher FAR limit shown in Table A for 23.45.510, floor area within a structure or portion of a
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1 structure that is partially above grade and has no additional stories above, if the following
2 conditions are met:

3 a. The average height of the exterior walls enclosing the floor area does
4 not exceed 4 feet, measured from existing or finished grade, whichever is lower;

5 b. The roof area above the exempt floor area is predominantly flat, is used
6 as amenity area, and meets the standards for amenity area at ground level in Section 23.45.522;
7

8 c. At least 25 percent of the perimeter of the amenity area on the roof
9 above the floor area is not enclosed by the walls of the structure; and

10 d. The amenity area is no more than 4 feet above the grade at a point
11 where pedestrian access is provided to the lot.

12 6. Enclosed common amenity area in Highrise zones.

13 7. As an allowance for mechanical equipment, in any structure more than 85 feet
14 in height, 3.5 percent of the gross floor area that is not exempt under this subsection 23.45.510.E.
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16 8. In HR zones, ground floor commercial uses meeting the requirements of
17 Section 23.45.532, if the street level of the structure containing the commercial uses has a
18 minimum floor to floor height of 13 feet and a minimum depth of 15 feet.
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20 * * *

21 Section 7. Section 23.47A.012 of the Seattle Municipal Code, which section was last
22 amended by Ordinance 122738, is amended as follows:

23 **23.47A.012 Structure height**

24 A. The height limit for structures in NC zones or C zones is 30 feet, 40 feet, 65 feet, 85
25 feet, 125 feet, or 160 feet, as designated on the Official Land Use Map, Chapter 23.32. Structures
26 may not exceed the applicable height limit, except as otherwise provided in this ((section))
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1 Section 23.47A.012. Within the South Lake Union Urban Center, any modifications or
2 exceptions to maximum structure height are allowed solely according to the provisions of the
3 Seattle Mixed Zone, subsections 23.48.010.B.1, 23.48.010.B.2, ~~((and))~~ 23.48.010.B.3,
4 23.48.010.D and 23.48.010.E, and not according to the provisions of this ~~((section))~~ Section
5 23.47A.012.

6 1. In zones with a 30 foot or 40 foot mapped height limit:

7 a. the height of a structure may exceed the otherwise applicable limit by
8 up to 4 feet, subject to subsection 23.47A.012.A.1.c, provided the following conditions are met:

9 1) Either

10 i. A floor-to-floor height of 13 feet or more is provided for
11 nonresidential uses at street level; or

12 ii. A residential use is located on a street-level, street-facing
13 facade, and the first floor of the structure at or above grade is at least 4 feet above sidewalk
14 grade; and

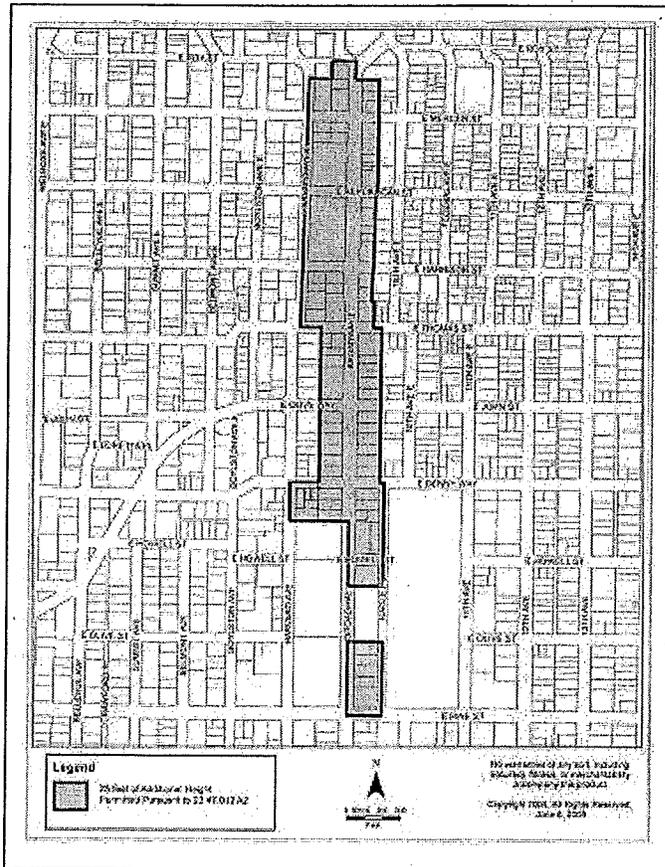
15 2) The additional height allowed for the structure will not allow an
16 additional story beyond the number that could be built under the otherwise applicable height
17 limit.

18 b. The height of a structure may exceed the otherwise applicable limit by
19 up to 7 feet, subject to subsection 23.47A.012.A.1.c, provided all of the following conditions are
20 met:

21 1) Residential and multipurpose retail sales uses are located in the
22 same structure;



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3. Monorail transit facilities may exceed the height limit of the zone according to the provisions of Section 23.80.004 or Section 15.54.020.

4. Within the South Lake Union Urban Center, maximum structure height shall be determined according to the provisions of the Seattle Mixed Zone, Section 23.48.010.

5. Within the Station Area Overlay District within the University District Northwest Urban Center Village, maximum structure height may be increased to 125 feet when all of the following are met:

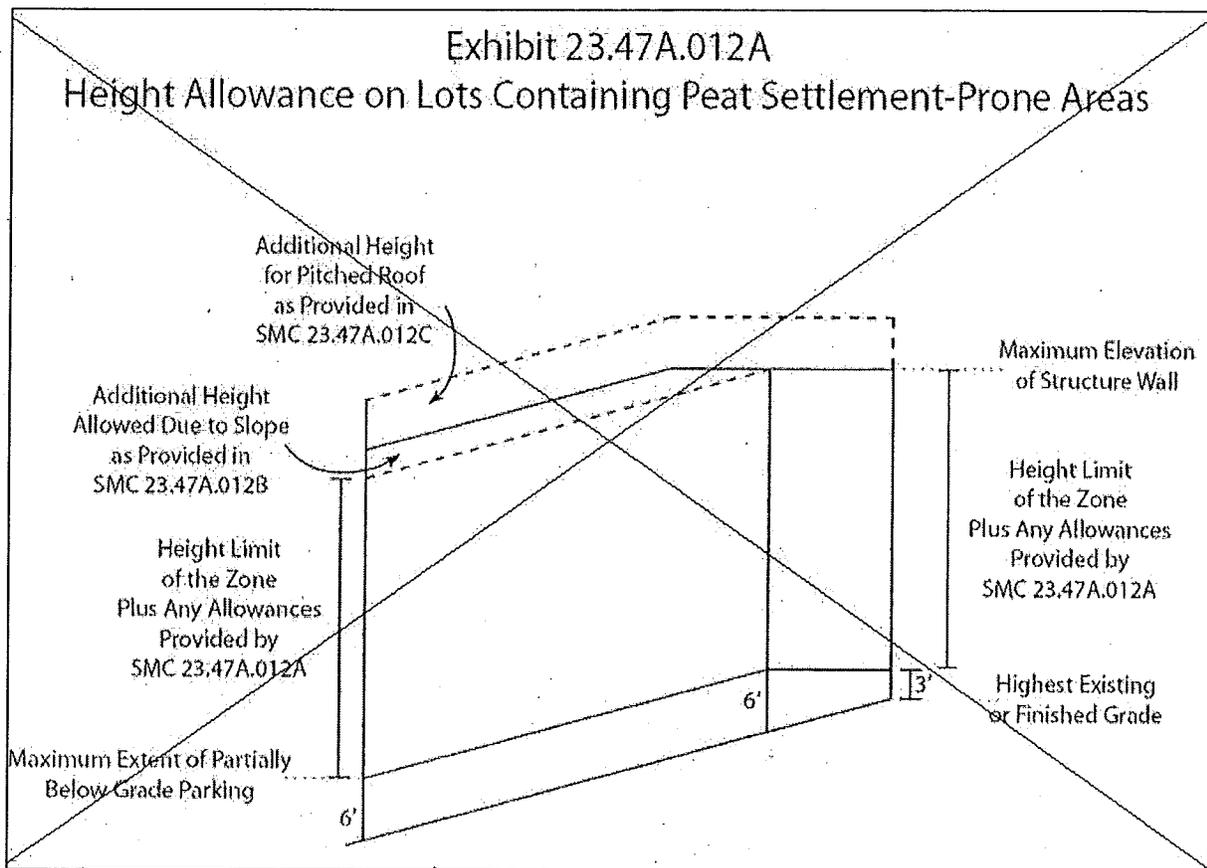
- a. The lot is within two blocks of a planned or existing light rail station;



1 finished grade along the structure footprint, whichever is lower, as measured to the finished floor
2 level above; and

3 c. Other than the additional story of parking allowed pursuant to this
4 subsection 23.47A.012.A.6, the additional height allowed for the structure by subsection
5 23.47A.012.A.6 will not allow an additional story beyond the number of stories that could be
6 built under the otherwise applicable height limit.

7
8 **((Exhibit 23.47A.012A Height Allowance on Lots Containing Peat Settlement-Prone
9 Areas))**

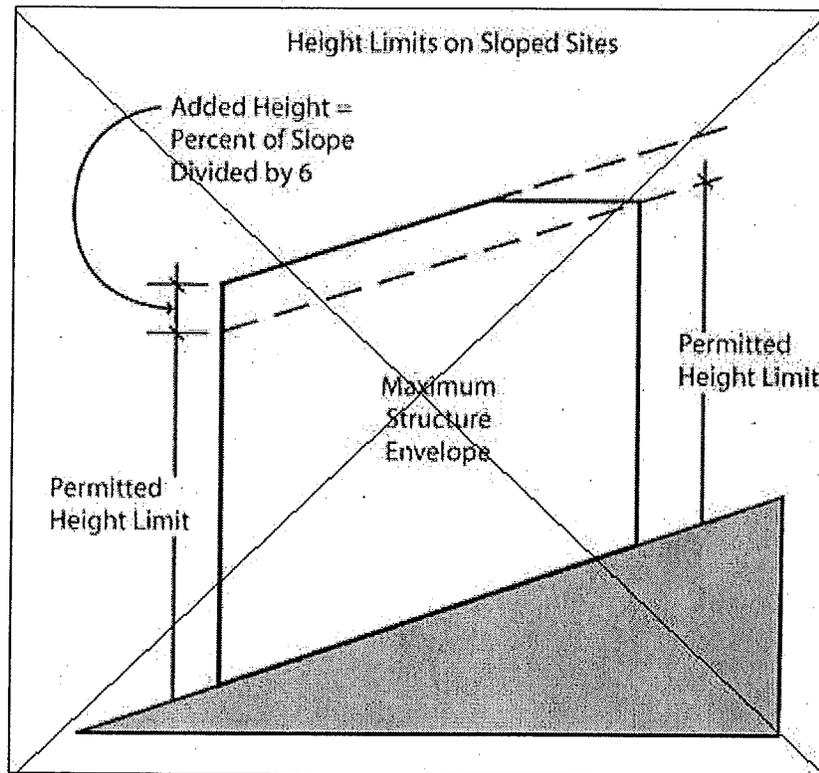


24 7. In zones with a 65 foot mapped height limit or with a 40 foot mapped height
25 limit with provisions allowing for additional height up to 65 feet pursuant to subsection
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1 23.47A.012.A.2 that are located within the Pike/Pine Conservation Overlay District, the
2 provisions of Section 23.73.010 apply.

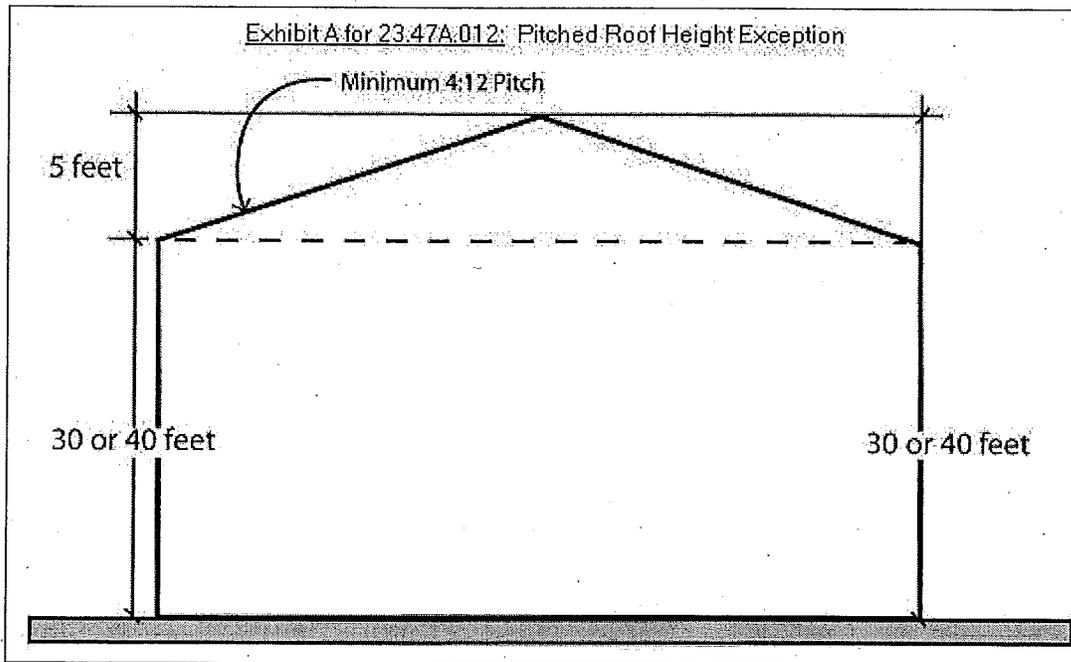
3 ((B. On sloped lots, except in the South Lake Union Urban Center, additional height is
4 permitted along the lower elevation of the structure footprint, at the rate of 1 foot for each 6
5 percent of slope, to a maximum additional height of 5 feet (see Exhibit B for 23.47A.012) above
6 the otherwise applicable height limit.))

7
8 ((Exhibit B for 23.47A.012))



22 ((C)) B. The ridge of a pitched roof, other than a shed roof or butterfly roof, may extend
23 up to 5 feet above the otherwise applicable height limit in zones with height limits of 30 or 40
24 feet, if all parts of the roof above the otherwise applicable height limit are pitched at a rate of not
25 less than 4:12 (Exhibit ((C)) A for 23.47A.012).

Exhibit A for 23.47A.012: Pitched Roof Height Exception



(D) C. Rooftop Features.

1. Smokestacks, chimneys, flagpoles, and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of 10 feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, solariums, parapets and firewalls may extend as high as the highest ridge of a pitched roof permitted by subsection 23.47A.012.**(C) B** or up to 4 feet above the otherwise applicable height limit, whichever is higher.

3. Solar Collectors.

a. In zones with mapped height limits of 30 or 40 feet, solar collectors may extend up to 4 feet above the otherwise applicable height limit, with unlimited rooftop coverage.

1 b. In zones with height limits of 65 feet or more, solar collectors may
2 extend up to 7 feet above the otherwise applicable height limit, with unlimited rooftop coverage.

3 4. Except as provided below, the following rooftop features may extend up to 15
4 feet above the applicable height limit, as long as the combined total coverage of all features
5 gaining additional height listed in this subsection 23.47A.012.((D))C.4 does not exceed 20
6 percent of the roof area, or 25 percent of the roof area if the total includes stair or elevator
7 penthouses or screened mechanical equipment:
8

- 9 a. Solar collectors;
- 10 b. Mechanical equipment;
- 11 c. Play equipment and open-mesh fencing that encloses it, as long as the
12 fencing is at least 15 feet from the roof edge;
- 13 d. Wind-driven power generators;
- 14 e. Minor communication utilities and accessory communication devices,
15 except that height is regulated according to the provisions of Section 23.57.012; and

16 f. Stair and elevator penthouses may extend above the applicable height
17 limit up to 16 feet. When additional height is needed to accommodate energy-efficient elevators
18 in zones with height limits of 125 feet or greater, elevator penthouses may extend the minimum
19 amount necessary to accommodate energy-efficient elevators, up to 25 feet above the applicable
20 height limit. Energy-efficient elevators shall be defined by Director's Rule. When additional
21 height is allowed for an energy-efficient elevator, stair penthouses may be granted the same
22 additional height if they are co-located with the elevator penthouse.
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1 5. Within the South Lake Union Urban Center, the combined total coverage of all
2 features listed in subsection 23.47A.012.~~(D)~~C.4 may be increased to 65 percent of the roof
3 area, provided that the following are satisfied:

4 a. The additional rooftop coverage allowed by this subsection
5 23.47A.012.~~(D)~~C.5 is used to accommodate mechanical equipment that is accessory to a
6 research and development laboratory; and

7 b. All mechanical equipment is screened; and

8 c. No rooftop features other than wind-driven power generators are located
9 closer than 10 feet from the roof edge.
10

11 6. Greenhouses that are dedicated to food production are permitted to extend 15
12 feet above the applicable height limit if the combined total coverage of all features gaining
13 additional height listed in this subsection 23.47A.012.~~(D)~~C does not exceed 50 percent of the
14 roof area, and the greenhouse adheres to the setback requirements in subsection
15 23.47A.012.~~(D)~~C.7.
16

17 7. The rooftop features listed in this subsection 23.47.A.012.~~(D)~~C.7 shall be
18 located at least 10 feet from the north edge of the roof unless a shadow diagram is provided that
19 demonstrates that locating such features within 10 feet of the north edge of the roof would not
20 shade property to the north on January 21st at noon more than would a structure built to
21 maximum permitted height and FAR:
22

23 a. Solar collectors;

24 b. Planters;

25 c. Clerestories;

26 d. Greenhouses and solariums;
27
28



1 e. Minor communication utilities and accessory communication devices,
2 permitted pursuant to the provisions of Section 23.57.012;

3 f. Non-firewall parapets;

4 g. Play equipment.

5 8. Structures existing prior to May 10, 1986 may add new or replace existing
6 mechanical equipment up to 15 feet above the roof elevation of the structure and shall comply
7 with the noise standards of Section 23.47A.018.

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

10 ((E))D. Solar Retrofits. The Director may permit the retrofitting of solar collectors on
11 conforming or nonconforming structures existing on June 9, 1986 as a special exception pursuant
12 to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions. Such a
13 retrofit may be permitted to exceed established height limits, if the following conditions are met:

14 1. There is no feasible alternative solution to placing the collector(s) on the roof;

15 2. The positioning of such collector(s) minimizes view blockage and shading of
16 property to the north, while still providing adequate solar access for the collectors; and
17

18 3. Such collector(s) meet minimum energy standards administered by the
19

20 Director.

21 ((F))E. Height Exceptions for Public Schools.

22 1. For new public school construction on new public school sites, the maximum
23 permitted height shall be the maximum height permitted in the zone.
24

25 2. For new public school construction on existing public school sites, the
26 maximum permitted height shall be the maximum height permitted in the zone or ((thirty-five
27



1 ~~()~~35(~~()~~) feet plus (~~(fifteen-)~~)15(~~()~~) feet for a pitched roof complying with subsection (~~(F5)~~)
2 23.47A.012.E.5, whichever is greater.

3 3. For additions to existing public schools on existing public school sites, the
4 maximum height permitted shall be the maximum height permitted in the zone, the height of the
5 existing school, or (~~(thirty-five-)~~)35(~~()~~) feet plus (~~(fifteen-)~~)15(~~()~~) feet for a pitched roof
6 complying with subsection (~~(F5)~~) 23.47A.012.E.5, whichever is greater.
7

8 4. Development standard departure for structure height may be granted pursuant
9 to the procedures and criteria set forth in Chapter 23.79. For construction of new structures on
10 new and existing public school sites to the extent not otherwise permitted outright, maximum
11 height that may be granted as a development standard departure in zones with height limits of
12 (~~(thirty-)~~)30(~~()~~) or (~~(forty-)~~)40(~~()~~) feet shall be (~~(thirty-five-)~~)35(~~()~~) feet plus (~~(fifteen~~
13 ~~()~~)15(~~()~~) feet for a pitched roof complying with subsection (~~(F5)~~) 23.47A.012.E.5 for elementary
14 schools and (~~(sixty-)~~)60(~~()~~) feet plus (~~(fifteen-)~~)15(~~()~~) feet for a pitched roof complying with
15 subsection (~~(F5)~~) 23.47A.012.E.5 for secondary schools. All height maximums may be waived
16 by the Director when waiver would contribute to the demolition of fewer residential structures.
17

18 5. To qualify for additional height for a pitched roof under this subsection (~~(F)~~)
19 23.47A.012.E, all parts of the roof above the height otherwise allowed must be pitched at a rate
20 of not less than (~~(three to twelve-)~~)3:12(~~()~~) and the roof must not be a shed roof or butterfly
21 roof.
22

23 Section 8. Subsection D of Section 23.47A.013 of the Seattle Municipal Code, which
24 section was last amended by Ordinance 122738, is amended as follows:
25

26 **23.47A.013 Floor area ratio**

27 * * *



D. The following gross floor area is not counted toward FAR:

1
2 1. Gross floor area below grade;
3
4 2. Gross floor area of a transit station, including all floor area open to the general
5 public during normal hours of station operation but excluding retail or service establishments to
6 which public access is limited to customers or clients, even where such establishments are
7 primarily intended to serve transit riders;

8 3. Within the South Lake Union Urban Center, gross floor area occupied by
9 mechanical equipment located on the roof of a structure;

10 4. Within the South Lake Union Urban Center, mechanical equipment that is
11 accessory to a research and development laboratory, up to 15 percent of the gross floor area of a
12 structure. The allowance is calculated on the gross floor area of the structure after all space
13 exempt under this subsection is deducted; and

14
15 5. Within the First Hill Urban Center Village, on lots zoned NC3, with a 160 foot
16 height limit, all gross floor area occupied by a residential use.

17 6. On a lot containing a peat settlement-prone environmentally critical area,
18 above-grade parking within or covered by a structure or portion of a structure where the Director
19 finds that locating a story of parking below grade is infeasible due to physical site conditions
20 such as a high water table, if either:

21
22 a. the above-grade parking extends no more that ~~((six (6)))~~ 6 feet above
23 existing or finished grade and no more than ~~((three (3)))~~ 3 feet above the highest existing or
24 finished grade along the structure footprint, whichever is lower, as measured to the finished floor
25 level or roof above, ~~((as depicted in Exhibit))~~ pursuant to subsection 23.47A.012.A.6; or
26

27 b. all of the following conditions are met:
28



1 ((\))1) no above-grade parking is exempted by subsection

2 23.47A.013.D.6.a

3 ((\))2) the parking is accessory to a residential use on the lot;

4 ((\))3) total parking on the lot does not exceed 1 space for each
5 residential dwelling unit plus the number of spaces required by this Code for non-residential
6 uses; and

7
8 ((\))4) the amount of gross floor area exempted by this subsection
9 23.47A.013.D.6.b does not exceed ((~~twenty-five (25)~~)) 25 percent of the area of the lot in zones
10 with a height limit less than ((~~sixty-five (65)~~)) 65 feet, or ((~~fifty (50)~~)) 50 percent of the area of
11 the lot in zones with a height limit ((~~sixty-five (65)~~)) 65 feet or greater.

12 * * *

13
14 Section 9. Subsection C of Section 23.57.012 of the Seattle Municipal Code, which
15 section was last amended by Ordinance 123495, is amended as follows:

16 **23.57.012 Commercial zones((\))**

17 * * *

18 C. Development Standards.

19
20 1. Location and Height. Facilities in special review, historic, and landmark
21 districts are subject to the standards of Section 23.57.014. On sites that are not in special review,
22 historic, or landmark districts, antennas may be located on the rooftops of buildings, including
23 sides of parapets and equipment penthouses above the roofline, subject to the height limits in
24 ((~~Paragraphs 1.a and 1.b~~)) subsections 23.57.012.C.1.a and C.1.b, as limited by ((~~Paragraph 1.e~~))
25 subsection 23.57.012.C.1.c below:
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1 a. Utilities and devices located on a rooftop of a building nonconforming
2 as to height may extend up to ~~((fifteen-))15((+))~~ feet above the height of the building legally
3 existing as of the effective date of Ordinance 120928.

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

7 c. Any height above the underlying zone height limit permitted under
8 subsections 23.57.012.C.1.a and C.1.b, shall be allowed only if the combined total coverage by
9 communication utilities and accessory communication devices, in addition to the roof area
10 occupied by rooftop features listed in Section ~~((23.47A.012D4))~~ 23.47A.012.C.4, does not
11 exceed ~~((twenty percent-))20((%))~~ percent of the total rooftop area, or ~~((twenty-five percent~~
12 ~~))25((%))~~ percent of the rooftop area when mechanical equipment is screened.

13 d. The following rooftop areas shall not be counted towards residential
14 amenity area requirements:

15 ~~((i))1~~ The area ~~((eight-))8((+))~~ feet from and in front of a
16 directional antenna and the area ~~((two-))2((+))~~ feet from and in back of a directional antenna.

17 ~~((ii))2~~ The area within ~~((eight-))8((+))~~ feet in any direction from
18 an omnidirectional antenna.

19 ~~((iii))3~~ Such other areas in the vicinity of paging facilities as
20 determined by the Seattle-King County Health Department after review of the Non-Ionizing
21 Electromagnetic Radiation (NIER) report.

22 2. Access and Signage. Access to minor communication utilities and transmitting
23 accessory communication devices shall be restricted to authorized personnel by fencing or other
24



1 means of security. Warning signs at every point of access to the rooftop or common area shall be
2 posted with information on the existence of radiofrequency radiation.

3 3. Height of Amateur Radio Tower. The maximum height of an amateur radio
4 tower shall be no more than ~~((fifty-))~~50(()) feet above grade in zones where the maximum
5 height limit is ~~((fifty-))~~50(()) feet or less. Cages and antennas may extend to a maximum
6 additional ~~((fifteen-))~~15(()) feet. In zones with a maximum permitted height over ~~((fifty
7))~~50(()) feet, the height above grade of the amateur radio tower shall not exceed the maximum
8 height limit of the zone.
9

10 4. Visual Impacts. All minor communication utilities and accessory
11 communication devices, except for facilities located on buildings designated by the Seattle
12 Landmarks Preservation Board, facilities governed by Section 23.57.014, and amateur radio
13 towers, shall meet the standards set forth in Section 23.57.016.
14

15 5. Reception Window Obstruction. When, in the case of an accessory
16 communications device or minor communications utility that would otherwise comply with this
17 section 23.57.012, the strict adherence to all development standards would result in reception
18 window obstruction in all permissible locations on the subject lot, the Director may grant a
19 waiver from the development standards of this section 23.57.012 and Section 23.57.016, subject
20 to the following criteria:
21

22 a. The applicant shall demonstrate that ~~((obsturation))~~ obstruction of the
23 reception window is due to factors beyond the control of the property owner, taking into account
24 potential permitted development on adjacent and neighboring lots with regard to reception
25 window obstruction.
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1 garage)); (c) each dwelling unit is attached along at least one common wall to at least one other
2 dwelling unit, or abuts another dwelling unit on a common lot line; (d) the front of each dwelling
3 unit faces a street lot line; (e) each dwelling unit provides pedestrian access directly to the street
4 that it faces; and (f) ~~((there is no intervening principal structure between any dwelling unit and~~
5 ~~the street, or between any dwelling unit and a lot line))~~ no portion of any other dwelling unit is
6 located between any dwelling unit and the street faced by the front of that unit.
7

8 ((20-)) 19. "Single-family dwelling unit" means a detached structure having a
9 permanent foundation, containing one dwelling unit, except that the structure may also contain
10 an accessory dwelling unit where expressly authorized pursuant to this Title 23. A detached
11 accessory dwelling unit is not considered a single-family dwelling unit for purposes of this
12 Chapter 23.84A.
13

14 ((21-)) 20. "Townhouse Development" means a multifamily residential use that is
15 not a rowhouse development, and in which: (a) each dwelling unit occupies the space from the
16 ground to the roof of the structure in which it is located; (b) no portion of a dwelling unit
17 occupies space above or below another dwelling unit, except for dwelling units constructed over
18 a shared parking garage; and (c) each dwelling unit is attached along at least one common wall to
19 at least one other dwelling unit, or abuts another dwelling unit on a common lot line.
20

21 * * *

22 Section 12. Subsection A of Section 23.86.006 of the Seattle Municipal Code, which
23 section was last amended by Ordinance 123495, is amended as follows:

24 **23.86.006 Structure height measurement**

25 A. In all zones except downtown zones and zones within the South Lake Union Urban
26 Center, and except for the Living Building Pilot Program authorized by Section 23.40.060,
27



1 unless otherwise specified, the height of structures shall be measured according to this subsection

2 23.86.006.A.

3 1. General rule. Except as otherwise specified, the height of a structure is the
4 difference between the elevation of the highest point of the structure not excepted from
5 applicable height limits and the average grade level. In this subsection 23.86.006.A, "average
6 grade level" means the average of the elevation of existing lot grades. Except as provided in
7 subsection 23.86.006.A.2, average grade level is calculated, at the discretion of the applicant, as
8 follows:

9
10 a. at the midpoint((s)), measured horizontally, of each exterior wall((s)) of
11 the structure, or

12 b. at the midpoint of each side of the smallest rectangle that can be drawn
13 to enclose the structure. ((except as provided in subsection 23.86.006.A.2.))

14
15 2. ~~((Height measurement on sloping lots. a.))~~ Option for calculating average
16 grade level to measure height. The calculation of structure height in subsection 23.86.006.A.1
17 may be modified, at the discretion of the applicant, ~~((on sloping lots for which the elevation at~~
18 ~~the higher corner of at least one exterior wall is at least 20 feet higher than the elevation at the~~
19 ~~lower corner of that wall.~~

20
21 b. ~~If the condition of subsection 23.86.006.A.2.a is satisfied, then the~~
22 ~~height measurement method may be modified))~~ as follows to permit the structure to respond to
23 the topography of the lot:

24 ~~((1))~~ a. Draw the smallest rectangle that encloses the principal
25 structure.
26



1 1. determine the elevation 4 feet ((above)) below the finished floor of the story
2 next above the partially below-grade story, or 4 foot ((above)) below the roof surface if there is
3 no next floor above the partially below-grade story;

4 2. determine the points along the exterior wall of the story where the elevation
5 determined in step 23.86.007.B.1 above intersects the abutting corresponding existing or finished
6 grade elevation, whichever is lower;

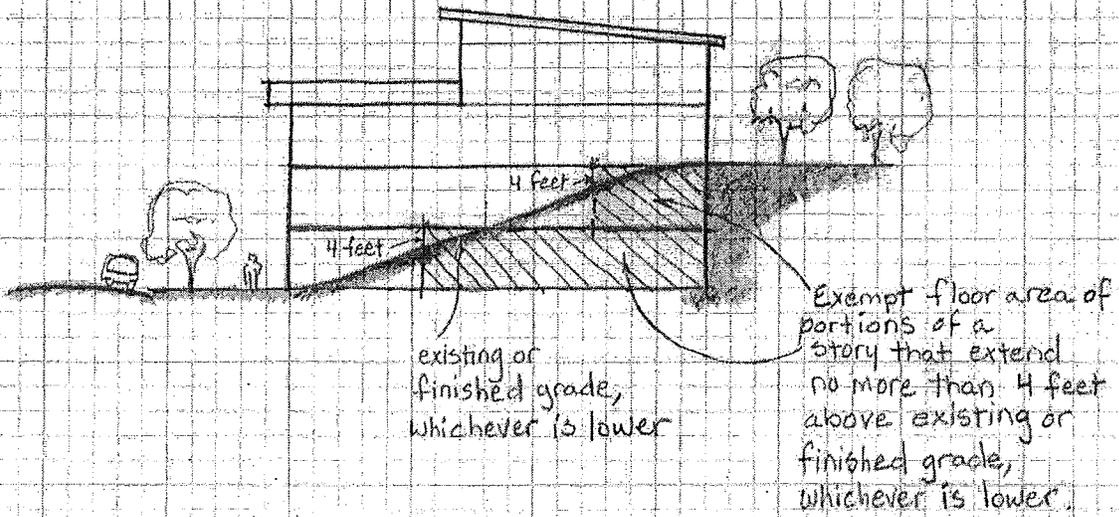
7 3. draw a straight line across the story connecting the two points on the exterior
8 walls;

9 4. the gross floor area of the partially below-grade story or portion of a partially
10 below-grade story is the area of the story that is at or below the straight line drawn in step
11 23.86.007.B.3 above, excluding openings required by the Building Code for egress. (See Exhibit
12 B for 23.86.007).
13
14

15 **Exhibit B for 23.86.007: Floor Area for Partially Below Grade Stories for Certain**
16 **Structures in Multifamily Zones**



Exhibit B for 23.86.007:
Floor Area for Partially Below Grade Stories for Certain Structures in Multifamily Zones



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1 Section 14: This ordinance shall take effect and be in force 30 days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
3 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the ____ day of _____, 2011, and
5 signed by me in open session in authentication of its passage this
6 ____ day of _____, 2011.

7
8
9 _____
10 President _____ of the City Council

11 Approved by me this ____ day of _____, 2011.

12
13
14 _____
15 Michael McGinn, Mayor

16 Filed by me this ____ day of _____, 2011.

17
18
19 _____
20 City Clerk

(Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Rebecca Herzfeld, 684-8148	Not applicable

Legislation Title:

AN ORDINANCE related to land use and zoning, amending Sections 11.16.240, 15.16.040, 22.206.160, 23.41.018, 23.44.012, 23.45.510, 23.47A.012, 23.47A.013, 23.57.012, 23.84A.024, 23.84A.032, 23.86.006, and 23.86.007 of the Seattle Municipal Code to make clarifications, and correct cross-references, formatting, errors, and omissions from Ordinance 123495.

Summary of the Legislation:

Background: On December 13, 2010, the City Council adopted Ordinance 123495. This ordinance establishes new development standards for lowrise zones, a new administrative design review process for townhouse development, and other standards that apply in various zoning designations. In preparing to administer the legislation, DPD staff has discovered the need for corrections and clarifications that would facilitate use of the new provisions, in keeping with Council's intent. Most of the amendments are minor technical changes (e.g. correcting outdated formatting and subsection references). The proposed ordinance also contains amendments that are clarifications to provisions or corrections of errors or omissions.

Please check one of the following:

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

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

