

1 The Director shall determine qualifying uses and appropriate standards, and shall report to the
2 City Council at the close of the pilot program whether the pilot program should be made
3 effective for a longer time period, or provisions for active use of vacant and underused lots
4 should be made permanent additions to the Land Use Code.

5 B. Program qualification.

6 1. Eligible projects. Uses of vacant and underused lots that meet the standards of
7 Section 23.42.038 qualify for the Vacant and Underused Lot Pilot Program.
8

9 2. Enrollment. Enrollment in the Vacant and Underused Lot Pilot Program is
10 required prior to filing an application for a use permit pursuant to Section 23.42.038. The
11 enrollment period is limited to two years from the effective date of this ordinance or when 20
12 projects have successfully qualified, whichever comes first.

13 3. Application requirements. In order to qualify for the Vacant and Underused
14 Lot Pilot Program, applicants must submit an application for a Type I Master Use Permit
15 demonstrating compliance with Section 23.42.038 as determined by the Director.
16

17 4. Qualification process. A project is eligible for the Vacant and Underused Lot
18 Pilot Program upon determination by the Director that a complete project application has been
19 submitted pursuant to Section 23.76.010 and is in compliance with the application requirements
20 in Section 23.40.050.B.3.
21

22 Section 4. A new section, Section 23.42.038, is added to the Seattle Municipal Code, as
23 follows:

24 **23.42.038 Uses allowed on vacant and underused lots in certain zones**
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1 A. Permitted uses. A Master Use Permit may be issued for the following uses, pursuant
2 to the provisions of subsections 23.42.038.B through 23.42.038.E.

3 1. On any lot in a Downtown, Seattle Mixed, Highrise, Industrial or Commercial
4 zone, except for lots in landmark and special review districts, the following uses may be located
5 on a lot as a Type I Master Use Permit:

6 a. General retail sales and services in a kiosk or similar temporary
7 structure;

8 b. Mobile food or other vendors using a cart, trailer, van, or similar
9 vehicle;

10 c. Displays or installations of art;

11 d. Demonstration projects for modular structures or other structures
12 designed to be moveable or disassembled;

13 e. Entertainment uses that are outdoors;

14 f. Horticulture use; or

15 g. Any similar use or activity that is determined by the Director to have
16 the likelihood of attracting and increasing pedestrian activity in the area.
17

18 2. Principal use short-term parking is allowed as a Type I Master Use Permit in
19 Downtown, Seattle Mixed, Highrise, Industrial, and in all Commercial zones except NC1 zones,
20 and except for lots in landmark and special review districts, if the site is eligible under at least
21 one of the following circumstances:
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1 a. There is existing, legally established accessory parking on the site, and
2 the use to which the parking was accessory has been discontinued, provided that no existing
3 principal structures may be demolished to facilitate establishment of any interim use; or

4 b. The site has been cleared or otherwise prepared for construction as of
5 June 1, 2010, pursuant to an active permit authorizing construction and commencement of a new
6 use on the property; or

7 c. There is an active application as of June 1, 2010, for a Master Use
8 Permit to develop or redevelop the site.
9

10 3. The uses described in subsections 23.42.038.A.1 and 23.42.038.A.2 are
11 permitted subject to the requirements of the Vacant and Underused Lot Pilot Program in Section
12 23.40.050.
13

14 B. Requirements.

15 1. A permit for the uses permitted by subsection 23.42.038.A.1 shall be
16 authorized for a period of three years and may be renewed for one additional three-year term.

17 2. A permit for short-term principal use parking pursuant to subsection
18 23.42.038.A.2 may be issued for a period not to exceed three years. The permit for short-term
19 principal use parking pursuant to subsection 23.42.038.A.2 may not be renewed or extended and
20 a new permit to reauthorize the permit for short-term principal use parking shall not be issued.
21

22 3. Permits under Section 23.42.038 may not be issued for property that is located
23 within a riparian corridor, a shoreline habitat, a shoreline habitat buffer, a wetland, a wetland
24 buffer, a steep slope, or a steep slope buffer pursuant to the provisions of Chapter 25.09,
25 Regulations for Environmentally Critical Areas.
26



1 C. Standards. The Director may waive development standards for the uses allowed
2 pursuant to subsection 23.42.038.A, except as follows:

3 1. Measures shall be incorporated to shield vehicle lights to minimize glare on
4 nearby uses;

5 2. The uses permitted in subsection 23.42.038.A.1 shall be provided adjacent to
6 60 percent of the length of all street lot lines of a principal use short-term parking lot permitted
7 pursuant to subsection 23.42.038.A.2, subject to adjustment by the Director as determined
8 necessary, and shall occupy a minimum depth from street lot lines as determined necessary by
9 the Director.
10

11 3. Principal use short-term parking lots shall meet the following standards in
12 addition to the standards of subsections 23.42.038.C.1 and 23.42.038.C.2:

13 a. The site shall, at a minimum, be improved with a crushed rock surface;

14 b. If a barrier free parking space is required pursuant to the Washington
15 State Building Code, Chapter 11 or other applicable law, then the barrier free stall shall be
16 located adjacent to a paved sidewalk and an area of the site sufficient to accommodate the barrier
17 free space shall be paved;
18

19 c. In order to meet the landscaping requirements of the respective zone in
20 which the parking use is to be located, temporary landscaping provided in planter boxes or
21 similar containers may be substituted for required landscaping on site, as determined by the
22 Director;
23

24 d. Lighting shall be provided by light poles or an equivalent substitute for
25 light poles that are between 10 feet and 30 feet in height from finished grade, but no higher than
26



1 the height limit of the zone in which the site is located, and placed at intervals sufficient to light
2 the entire parking lot with uniformity, provided that the lighting is shielded and directed away
3 from adjacent uses.

4 D. The uses permitted by Section 23.42.038 do not interrupt any legally established
5 permanent use of a property or create, expand, or extend any nonconformity to development
6 standards by an existing use.
7

8 E. For all uses authorized by Section 23.42.038, appropriate measures shall be taken to
9 control queuing on or other blocking of an adjacent sidewalk or right-of-way.

10 Section 5. Exhibit 23.76.004 A of Section 23.76.004 of the Seattle Municipal Code,
11 which section was last amended by Ordinance 123495, is amended as follows:

12 **23.76.004 Land use decision framework((~~r~~))**

13 * * *



Table A for 23.76.004

LAND USE DECISION FRAMEWORK
DIRECTOR'S AND HEARING EXAMINER'S
DECISIONS REQUIRING MASTER USE PERMITS

TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<ul style="list-style-type: none"> • Compliance with development standards • Uses permitted outright • Temporary uses, four weeks or less • Intermittent uses • <u>Uses on vacant/underused lots per Section 23.42.038</u> • Certain street uses • Lot boundary adjustments • Modifications of features bonused under Title 24 • Determinations of significance (EIS required) except for determinations of 	<ul style="list-style-type: none"> • Temporary uses, more than four weeks, except for temporary relocation of police and fire stations • Variances • Administrative conditional uses • Shoreline decisions (*appealable to Shorelines Hearings Board along with all related environmental appeals) • Short subdivisions • Special Exceptions • Design review, except for streamlined design review pursuant to Section 23.41.018 for which no development standard departures are requested 	<ul style="list-style-type: none"> • Subdivisions (preliminary plats)



TYPE I Director's Decision (No Administrative Appeal)	TYPE II Director's Decision (Appealable to Hearing Examiner*)	TYPE III Hearing Examiner's Decision (No Administrative Appeal)
<p>significance based solely on historic and cultural preservation</p> <ul style="list-style-type: none"> • Temporary uses for relocation of police and fire stations • Exemptions from right-of-way improvement requirements • Special accommodation • Reasonable accommodation • Minor amendment to a Major Phased Development Permit • Determination of public benefit for combined lot FAR • Determination of whether an amendment to a ((p)) <u>Property</u> ((u)) <u>Use and Development Agreement</u> is major or minor • Streamlined design review, pursuant to Section 23.41.018, if no development standard departures are requested • Other Type I decisions that are identified as such in the Land Use Code 	<ul style="list-style-type: none"> • Light rail transit facilities • The following environmental determinations: <ol style="list-style-type: none"> 1. Determination of non-significance (EIS not required) 2. Determination of final EIS adequacy 3. Determinations of significance based solely on historic and cultural preservation 4. A decision by the Director to approve, condition or deny a project based on SEPA Policies 5. A decision by the Director that a project is consistent with a Planned Action Ordinance and EIS (no threshold determination or EIS required) • Major Phased Development • Downtown Planned Community Developments 	



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COUNCIL LAND USE DECISIONS

TYPE IV (Quasi-Judicial)	TYPE V (Legislative)
<ul style="list-style-type: none">• Amendments to the Official Land Use Map (rezones), except area-wide amendments, and adjustments pursuant to Section 23.69.023• Public project approvals• Major Institution ((m)) Master ((p)) Plans, including major amendments and renewal of a master plan's development plan component• Major amendments to Property Use and Development ((a)) Agreements• Council conditional uses	<ul style="list-style-type: none">• Land Use Code text amendments• Area-wide amendments to the Official Land Use Map• Concept approval for City facilities• Major Institution designations• Waiver or modification of development standards for City facilities• Planned Action Ordinance

Section 6. Section 23.76.006 of the Seattle Municipal Code, which Section was last amended by Ordinance 123495, is amended as follows:

23.76.006 Master Use Permits required((:))

A. Type I, II and III decisions are components of Master Use Permits. Master Use Permits are required for all projects requiring one or more of these decisions.

B. The following decisions are Type I:



- 1 1. Determination that a proposal complies with development standards;
- 2 2. Establishment or change of use for uses permitted outright, temporary uses for
3 four weeks or less not otherwise permitted in the zone, uses allowed under Section 23.42.038,
4 and temporary relocation of police and fire stations for 24 months or less;
- 5 3. The following street use approvals associated with a development proposal:
 - 6 a. Curb cut for access to parking((5));
 - 7 b. Concept approval of street improvements, such as additional on-street
8 parking, street landscaping, curbs and gutters, street drainage, sidewalks, and paving((5));
 - 9 c. Structural building overhangs((5));
 - 10 d. Areaways((5));
 - 11
 - 12
- 13 4. Lot boundary adjustments;
- 14 5. Modification of the following features bonused under Title 24:
 - 15 a. Plazas((5));
 - 16 b. Shopping plazas((5));
 - 17 c. Arcades((5));
 - 18 d. Shopping arcades((5));
 - 19 e. Voluntary building setbacks;
 - 20
- 21 6. Determinations of Significance (determination that an environmental impact
22 statement is required) for Master Use Permits and for building, demolition, grading and other
23 construction permits (supplemental procedures for environmental review are established in
24 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of
25 Significance based solely on historic and cultural preservation;
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1 7. Discretionary exceptions for certain business signs authorized by

2 ~~((S))~~subsection 23.55.042.D;

3 8. Waiver or modification of required right-of-way improvements;

4 9. Special accommodation pursuant to Section 23.44.015;

5 10. Reasonable accommodation;

6 11. Minor amendment to Major Phased Development Permit;

7 12. Determination of public benefit for combined lot development;

8 13. Streamlined design review pursuant to Section 23.41.018, if no development
9 standard departures are requested pursuant to Section 23.41.012; and
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11 14. Other Type I decisions ~~((that are identified as such in the Land Use Code))~~.

12 C. The following are Type II decisions:

13 1. The following procedural environmental decisions for Master Use Permits and
14 for building, demolition, grading and other construction permits are subject to appeal to the
15 Hearing Examiner and are not subject to further appeal to the City Council (supplemental
16 procedures for environmental review are established in ~~((SMC))~~ Chapter 25.05, Environmental
17 Policies and Procedures):
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19 a. Determinations of Nonsignificance (DNS~~((s)))~~, including mitigated
20 DNS~~((s))~~;
21

22 b. Determination that a final environmental impact statement (EIS) is
23 adequate; and
24

25 c. Determination of Significance based solely on historic and cultural
26 preservation.
27



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

5 a. Establishment or change of use for temporary uses more than four
6 weeks not otherwise permitted in the zone or not meeting development standards, including the
7 establishment of temporary uses and facilities to construct a light rail transit system for so long
8 as is necessary to construct the system as provided in ((Section))subsection 23.42.040.F, but
9 excepting temporary relocation of police and fire stations for 24 months or less;

11 b. Short subdivisions;

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

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

16 e. Design review, including streamlined design review pursuant to
17 Section 23.41.018 if development standard departures are requested pursuant to Section
18 23.41.012;

19 f. Administrative conditional uses; provided that, administrative
20 conditional uses sought as part of a Type IV decision may be approved by the Council pursuant
21 to Section 23.76.036;

22 g. The following shoreline decisions (supplemental procedures for
23 shoreline decisions are established in Chapter 23.60):
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1 ((f))1) Shoreline substantial development permits((s));

2 ((f))2) Shoreline variances((s));

3 ((f))3) Shoreline conditional uses;

4 h. Major Phased Development;

5 i. Determination of project consistency with a planned action ordinance
6 and EIS;

7 j. Establishment of light rail transit facilities necessary to operate and
8 maintain a light rail transit system, in accordance with the provisions of Section 23.80.004;

9 k. Establishment of monorail transit facilities necessary to operate and
10 maintain a monorail transit system, in accordance with the provisions of Section 23.80.004 and
11 Section 15.54.020; and

12 l. Downtown planned community developments.

13 ***

14 Section 7. Section 23.76.032. A of the Seattle Municipal Code, which section was last
15 amended by Ordinance 123176, is amended as follows:

16 **23.76.032 Expiration and renewal of Type I and II Master Use Permits**

17 A. Expiration.

18 1. An issued Type I or II Master Use Permit expires three years from the date a
19 permit is approved for issuance as described in Section 23.76.028, except as follows:

20 a. A Master Use Permit with a shoreline component expires pursuant to
21 WAC 173-27-090.

22 b. A variance component of a Master Use Permit expires as follows:



1 ((f))1) Variances for access, yards, setback, open space, or lot
2 area minimums granted as part of a short plat or a lot boundary adjustment run with the land in
3 perpetuity as recorded with the Director of the King County Department of Records and
4 Elections.

5 ((f))2) Variances granted as separate Master Use Permits pursuant
6 to subsection 23.76.004.G expire three years from the date the permit is approved for issuance as
7 described in Section 23.76.028 or on the effective date of any text amendment making more
8 stringent the development standard from which the variance was granted, whichever is sooner. If
9 a Master Use Permit to establish the use is granted within this period, the variance's expiration
10 date shall be extended until the expiration date established for the use approval.

11 c. The time during which litigation is pending related to the Master Use
12 Permit or the property subject to the permit made it reasonable not to submit an application for a
13 building permit, or to establish a use if a building permit is not required, is not included in
14 determining the expiration date of the Master Use Permit.

15 d. Master Use Permits with a Major Phased Development or Planned
16 Community Development component under Section 23.47A.007, ((23.50.015-0f)) 23.49.036, or
17 23.50.015 expire as follows:

18 ((f))1) For the first phase, three years from the date the permit is
19 approved for issuance;

20 ((f))2) For subsequent phases, expiration shall be determined at
21 the time of permit issuance.



1 e. Permits for uses allowed under Section 23.42.038, and ((F))temporary
2 or intermittent use permits issued pursuant to Section 23.42.040, expire on the date stated in the
3 permit.

4 * * *



1 Section 8. Subsections 23.42.038.A.2, 23.42.038.A.3, and 23.42.038.B.2, which
2 subsections are added by this Council Bill 117046, expire on December 31, 2012.
3 Notwithstanding the expiration of subsections 23.42.038.A.2, 23.42.038.A.3, and 23.42.038.B.2
4 on December 31, 2012, a permit for short term principal use parking that is issued or approved
5 for issuance prior to December 31, 2012, expires as provided in subsection 23.76.032.A.1.e.
6

7 Section 9. This ordinance shall take effect and be in force 30 days from and after
8 its approval by the Mayor, but if not approved and returned by the Mayor within ten days after
9 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

10 Passed by the City Council the ____ day of _____, 2011, and signed by
11 me in open session in authentication of its passage this
12 ____ day of _____, 2011.
13

14
15 _____
16 President _____ of the City Council

17 Approved by me this ____ day of _____, 2011.
18

19
20 _____
21 Michael McGinn, Mayor

22 Filed by me this ____ day of _____, 2011.
23

24
25 _____
26 City Clerk

27 (Seal)
28



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Bill Mills/4-8738	Joe Regis/4-8894

Legislation Title:

AN ORDINANCE relating to land use and zoning, amending Sections 23.42.040, 23.76.004, 23.76.006, and 23.76.032 of the Seattle Municipal Code, and adding new Sections 23.40.050 and 23.42.038 to establish a pilot program to revitalize vacant and underused lots in zones including Downtown, Seattle Mixed, Highrise, Industrial, and Commercial Zones, except landmark and special review districts; and providing for waiver of development standards.

Summary of the Legislation: The Department of Planning and Development (DPD) is proposing to amend the Land Use Code to establish a pilot program to put vacant and underused lots to better use. Highlights of the pilot program include:

- Up to 20 permits for active uses would have a term of one year, and would not be renewable, but a new permit could be applied for each year to extend the use;
- Active uses would be required adjacent to the street lot lines of any parking permitted under the pilot;
- Customer parking would be permitted for a term of 3 years without renewal (the longer term would recognize the higher cost of improvements including lighting, landscaping and screening);
- The DPD Director would have discretionary authority to adjust certain standards and to approve active uses not listed in the Code that are similar and meet the intent to provide for interesting and active streetscapes;
- Lots within a special review district or landmark district would not be eligible, in order to protect the sensitive nature of these areas; and
- The results of the pilot program would be evaluated to inform future possible Code amendments for permanent provisions for active uses.

Background: A number of vacant and underused lots are currently sprinkled around the city. The economic recession has introduced uncertainty into the development process and limited prospects for new development in the near-term. Many development proposals are now awaiting the return of the capital markets and local demand. When project planning and construction is halted on a site for economic and financial reasons, the result can be a vacant lot or a hole in the ground. These may pose a safety hazard as well as create an unsightly condition. Vacant or underused property can be particularly troublesome in business districts or otherwise high-activity areas such as downtown and Center City neighborhoods.

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.)





City of Seattle
Office of the Mayor

September 21, 2010

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 establish a pilot program to put vacant and underused lots to better use and address issues of safety, improve the appearance of neighborhoods and promote more active streets. The results of the pilot program would be evaluated to inform future possible Code amendments for permanent provisions for active uses.

The pilot would promote the following:

- Make it easier to allow active uses, such as food vendors and retail kiosks, on lots in commercial and mixed-use areas such as downtown and neighborhood business districts; and
- Require accompanying active uses when allowing short-term parking (parking for business customers) on lots where construction projects are stalled in areas where this type of parking is currently restricted.

For many property owners the economic recession has introduced uncertainty into the development process. When project planning and construction is halted on a site for economic and financial reasons, the result is often a vacant lot or a hole in the ground. These conditions pose both a safety hazard and an unsightly condition for neighboring properties. Vacant or underused property can be particularly troublesome in business districts struggling to remain vital or otherwise high-activity areas such as downtown and other center city communities.

Please join me in supporting this pilot program to assist property owners who are seeking creative ways to turn unproductive property into an asset in the community, while allowing them an economic return in this down economy. Expanding economic opportunities in the short-term is an important step toward returning to the robust business climate that I know Seattle will enjoy again. Thank you for your consideration of this proposed legislation. Should you have questions, please contact Bill Mills at 684-8738.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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