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CB 117898

Angela Steel/db
SDOT Omnibus ORD
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Version #10

ORDINANCE _____

AN ORDINANCE relating to street and sidewalk use; amending Chapters 15.02 and 15.04 of the Seattle Municipal Code, to correct typographical errors, correct section references, clarify regulations, and make minor amendments.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.02.010 of the Seattle Municipal Code, last amended by Ordinance 90047, is amended as follows:

15.02.010 Title((.))

((~~This subtitle~~)) Subtitle I shall constitute the "Street Use Ordinance" of the City and may be referred to as ((~~such~~)) the Street Use Ordinance.

Section 2. Section 15.02.015 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.015 Chapter headings and captions((.))

Chapter headings, tables of contents, and captions of sections are for convenient reference only and do not modify or limit the text of a section. An ordinance number and section in parenthesis following a section in the codification of ((~~this title~~)) Title 15 refers to the enacting ordinance.

Section 3. Section 15.02.020 of the Seattle Municipal Code, last amended by Ordinance 90047, is amended as follows:

15.02.020 Exercise of police power((.))

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This ((~~subtitle~~)) Street Use Ordinance is an exercise of police power of the City for the public safety, health, and welfare((~~,~~)); and its provisions shall be liberally construed ((~~for the accomplishment of~~)) to accomplish that purpose.

Section 4. Section 15.02.025 of the Seattle Municipal Code, last amended by Ordinance 109969, is amended as follows:

15.02.025 Disclaimer of City liability((~~,~~))

A. Issuance of any permit ((~~pursuant~~)) according to the Street Use Ordinance[1] does not constitute the creation of a duty by the City to any person or to indemnify any person for any wrongful acts of a ((~~permit holder~~)) permittee against any person or the public or to otherwise shift responsibility from the ((~~licensee~~)) permittee to the City.

B. Nothing contained in this ((~~subtitle~~)) Street Use Ordinance is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees, or agents((~~,~~)); for any injury ((~~or~~)), damage, causes of action, judgments, or expenses, including reasonable attorney fees resulting from the failure of a ((~~permit holder~~)) permittee or applicant for a permit, or anyone directly or indirectly employed by them, to comply with the provisions of this ((~~subtitle,~~)) Street Use Ordinance; or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this ((~~subtitle~~)) Street Use Ordinance on the part of the City by its officers, employees, or agents.

C. It is expressly the purpose of this ((~~subtitle~~)) Street Use Ordinance to provide for and promote the health, safety, and welfare of the general public((~~,~~)); and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ((~~subtitle~~)) Street Use Ordinance.

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D. It is the specific intent of this ((~~subtitle~~)) Street Use Ordinance to place the obligation of complying with its requirements upon the ((~~permit holder~~)) permittee for a permit within its scope((~~,~~)); and no provision of nor term used in this ((~~subtitle~~)) Street Use Ordinance is intended to impose any duty whatsoever upon the City or any of its officers ((~~or~~)), employees, or agents; for whom the implementation or enforcement of this ((~~subtitle~~)) Street Use Ordinance shall be discretionary and not mandatory.

((~~E. Nothing contained in this subtitle is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of a permit holder or applicant for permit to comply with the provisions of this subtitle, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this subtitle on the part of the City by its officers, employees or agents.~~))

1. Editor's Note: The Street Use Ordinance is codified in Chapters 15.02 through 15.54 ((~~of this Code~~)).

Section 5. Section 15.02.027 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.027 First Amendment rights; personal freedoms((~~,~~))

This ((~~ordinance~~)) Street Use Ordinance shall be interpreted in a manner consistent with the First and Fourteenth Amendments to the United States Constitution and Article I, Sections 3, 4, 5, and 11 of the Washington Constitution.

Section 6. Section 15.02.030 of the Seattle Municipal Code, last amended by Ordinance 90047, is amended as follows:

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15.02.030 Right to prosecute civil action((,))

Nothing in this ((~~subtitle~~)) Street Use Ordinance shall be construed to curtail or abridge the right of anyone to prosecute a civil action for damages by reason of injury to person or property resulting from the negligent use by any other person of any public place or the space above or beneath ((~~the same,~~)) any public place; nor shall ((~~the issuance of~~)) issuing a permit under this ((~~subtitle~~)) Street Use Ordinance be construed as relieving the ((~~persons~~)) permittee accepting the ((~~same,~~)) permit; or ((~~anyone,~~)) any other person or entity; from liability over to the City((~~,~~)); nor from any damages accruing to or suffered by ((~~anyone,~~)) any other person or entity; caused by the occupation, obstruction of, or encroachment on, any public place.

Section 7. Section 15.02.035 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.035 "May"—"Shall((,))"

Unless the context clearly indicates otherwise, the word "may" or "is authorized to" means that the City or its official has discretion to take an action or decline to do so. The word "shall" expresses an intention that an action be taken or a requirement be met, but((,)) if the sentence is negative, "shall" is prohibitory((~~; for example, Sections 15.42.010 – 15.42.040~~)).

Section 8. Section 15.02.040 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.040 Definitions—General principles((,))

The words and phrases identified in Sections 15.02.042 through 15.02.048 shall be construed in accordance with their respective definitions or explanations, except where ((~~the~~

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~~same~~)) they shall be clearly contrary to or inconsistent with the context of ((~~this title~~)) Title 15 or the section in which the word or phrase is used.

Words in the present tense shall include the future tense, words in the masculine gender shall include the feminine and neuter genders, ((~~and~~)) words in the singular shall include the plural, and plural words shall include the singular.

Section 9. Section 15.02.042 of the Seattle Municipal Code, last amended by Ordinance123659, is amended as follows:

15.02.042 Definitions A through C

A. "Adjacent property" means and includes the property abutting the margin of and contiguous to the public places.

B. "Applicant" means the individual or entity that has applied for a permit to use the public place on their or another individual's or entity's behalf.

((~~B~~))C. "Appendix I" and "Appendix II" mean, respectively, the description of park drives and boulevards and the map at the end of ((~~this title~~)) Title 15.

((~~C~~))D. "Areaway" means a space below the level of the sidewalk or public place, covered or uncovered, affording room, access, or light to a building. An "areaway" is sometimes called a "light well."

((~~D~~))E. "Authorizing official" means the Director of the Department of Transportation, the Director of the Department of Planning and Development, the Superintendent of Parks and Recreation, or the Seattle Center Director, identified in Section 15.04.015, as the case may be.

((~~E~~))F. "Awning" means ((~~a~~)) any protective covering attached to the wall or entrance of a building.

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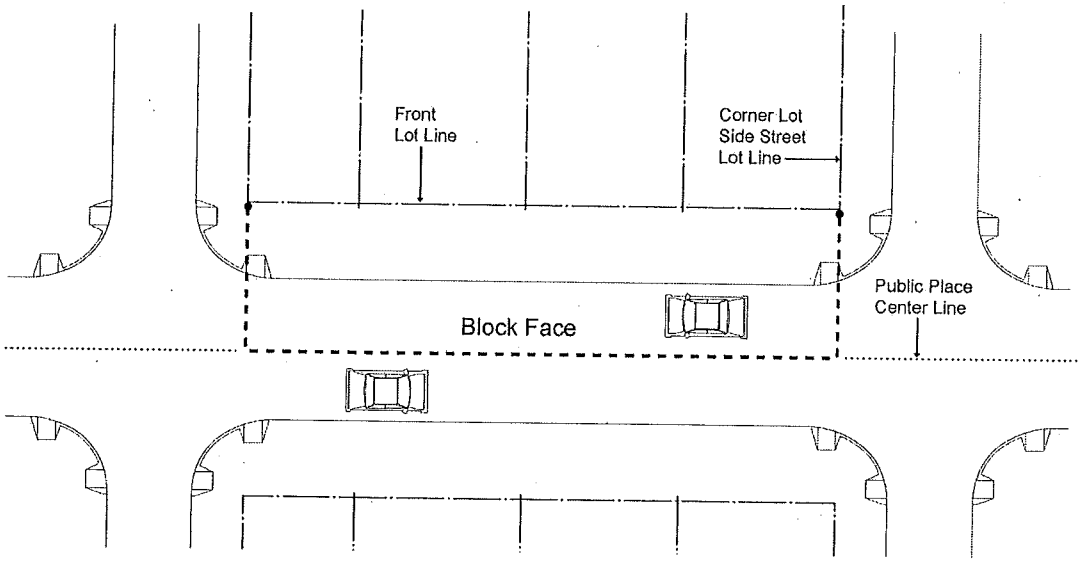
((~~F~~))G. "Banner" means any fabric or sign material hanging over or placed across any public place.

((~~G~~))H. "Block face" means the area bounded by: the continuous front lot lines abutting a public place within a block; each corner lot side street lot line as extended to the centerline of the public place abutting the front lot lines; and the centerline of the abutting public place (Exhibit A for 15.02.042: Block Face).

Exhibit A for 15.02.042: Block Face



((~~H. "Canopy" means a protective covering located at an entrance to a building.~~))

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Section 10. Section 15.02.044 of the Seattle Municipal Code, last amended by Ordinance123659, is amended as follows:

15.02.044 Definitions D through M

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A. ((~~"Director of Transportation" means the City Director of Transportation and his or her authorized representatives.~~

~~B. "Director of Construction and Land Use"~~)) "Director of the Department of Planning and Development" means the Director of the Department of Planning and Development((~~, his or her~~)) or authorized representatives.

B. "Director of Transportation" means the Director of the Seattle Department of Transportation or authorized representatives.

C. "Driveway" means ((~~that~~)) the portion of a public place ((~~which~~)) that provides vehicular access to adjacent property through a depression in the constructed curb or, when there is no constructed curb, ((~~that~~)) the area in front of ((~~such~~)) the vehicular facility ((~~as is well~~)) defined or ((~~as is~~)) designated by authorized signs or markings.

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Section 11. Section 15.02.046 of the Seattle Municipal Code, last amended by Ordinance123659, is amended as follows:

15.02.046 Definitions N through Z

A. "Newsstand" means any stand, box, structure, rack, or other device ((~~which~~)) that is designed or used for the sale ((~~and/or~~)) or distribution of newspapers, periodicals, magazines, or other publications, or any combination ((~~thereof~~)) of the above.

B. "Park drive or boulevard" means a public place under the jurisdiction of the Department of Parks and Recreation described in Appendix I or shown in the map in Appendix II or a park, administered by the Superintendent ((~~related to a park~~)).

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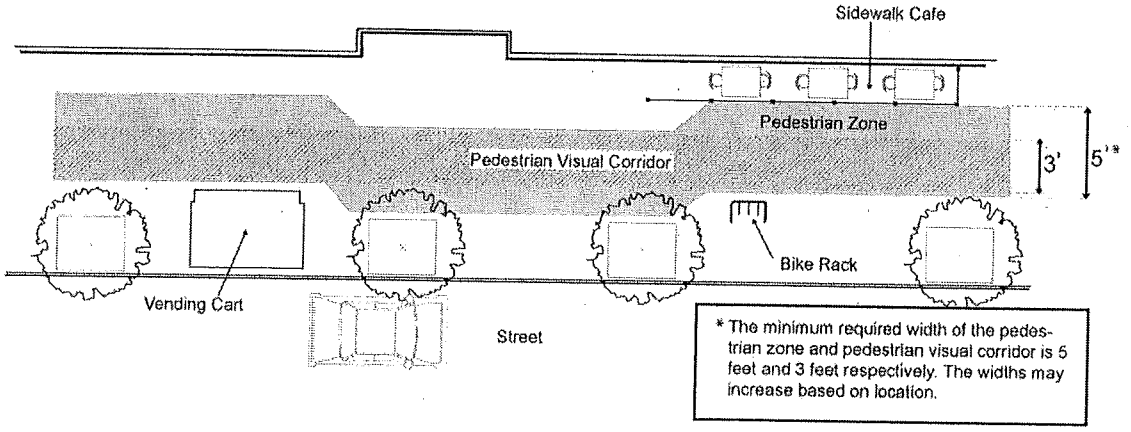
C. "Peak period" means the peak traffic periods as defined in the current edition of the City of Seattle Traffic Control Manual for In-Street Work as provided for in Chapter 11.12, Vehicles and Traffic.

D. "Pedestrian zone" means the area or space of the public place or roadway that is reserved for the exclusive use of pedestrians (Exhibit A for 15.02.046: Pedestrian Zone/Pedestrian Visual Corridor).

Exhibit A for 15.02.046
Pedestrian Zone / Pedestrian Visual Corridor



E. "Pedestrian visual corridor" means a continuous and straight corridor within the designated pedestrian zone that provides pedestrians with a clear visual indication of the location of the path of travel along a block face (Exhibit A for 15.02.046: Pedestrian Zone/Pedestrian Visual Corridor). Street furniture, plantings, and other obstructions shall not protrude into this corridor.

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F. "Permittee" means a person or entity that has received a permit to use the public place.

G. "Public place" means ((~~and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting strips, squares, triangles, plazas, and~~)) public right-of-way ((~~for public use~~)) and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles, and plazas that are not privately owned.

((~~G~~))H. "Publisher" means the owner or distributor of a newspaper or other publication distributed through a newsstand.

((~~H~~))I. "RCW" is an abbreviation for Revised Code of Washington.

((~~I~~))J. "Shoreline street ends" means the land portions of street segments that provide or could provide if improved, the public with visual or physical access to a body of water and its shoreline that are listed on Exhibit A to Resolution 29370 that adopted policies guiding the development of public access improvements to shoreline street ends.

((~~J~~))K. "Sidewalk café" means a portion of the public place in which tables and chairs are placed for the use of patrons consuming food or beverages((~~,~~)) including alcoholic beverages that is operated by a food service business located on abutting property.

((~~K~~))L. "Sign" means any medium, including its structure and component parts that is used or intended to be used out of doors to attract attention to the subject matter for advertising, identification, or informative purposes.

((~~L~~))M. "SMC" is an abbreviation for Seattle Municipal Code.

((~~M~~))N. "Superintendent" or "Superintendent of Parks and Recreation" means the City Superintendent of Parks and Recreation ((~~and his or her~~)) or authorized representatives.

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((~~N~~))O. "Vend or vending" means to sell, offer for sale, solicit orders, display, rent, lease, or otherwise peddle any good, ticket, thing, or service of any kind; to the public from a public place; as authorized or prohibited in Chapters 15.14 or 15.17.

((~~O~~))P. "Vending cart" means a movable cart that is used to serve, vend, or provide food, nonalcoholic beverages, or flowers.

Section 12. Section 15.02.048 of the Seattle Municipal Code, last amended by Ordinance123659, is amended as follows:

15.02.048 Definitions—Use((~~,~~))

A. "Use" means ((~~the exercise of~~)) exercising dominion or control over, or ((~~occupation of;~~)) occupying all or part of; a public place((~~;~~)) with or without the right to do so. ((~~It~~)) Use includes constructing, storing, erecting, placing upon, maintaining, or operating; any inanimate thing or object; in, upon, over, or under any public place. It includes, but is not limited to, any of the following:

((~~*~~))1. Any areaway, marquee, awning ((~~or canopy~~)), clock, newsstand, sign, banner, billboard, sidewalk elevator or door, fuel opening, sidewalk ((~~cafe~~)) café, or other structure;

((~~*~~))2. Fencing, staging, scaffolding, an elevator or other structure or material, machinery or tools used or to be used in connection with ((~~the erection, alteration, demolition, repair~~)) excavating, erecting, altering, demolishing, repairing, maintaining, or painting ((~~of~~)) any building((~~, or an excavation in connection therewith~~));

((~~* The moving of~~))3. Moving any building along or across any public place;

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((~~* The storage or placement of~~))4. Storing or placing any material, equipment, inanimate object, or thing((~~, provided that~~)) in any public place. But "use" shall not include ((~~the placement of~~)) placing an inanimate object in ((~~such~~)) a location and for ((~~such~~)) a limited duration of time that, under the circumstances, no reasonable person could conclude that the public's right to use or enjoy the public place, in whole or in part, has been or potentially could be interfered with;

((~~*~~))5. Raising or lowering any safes, machinery, or other heavy articles;

((~~* Kindling, making~~))6. Making or having any fire on any public place;

((~~*~~))7. Opening, excavating, or in any manner disturbing or breaking the surface or foundation of any permanent pavement((~~,~~)); or altering the established grade of any ((~~street,~~)) public place; or disturbing the surface of, digging up, cutting, excavating, or filling in any public place;

((~~*~~))8. Constructing, reconstructing, repairing, or removing any driveway, curb, ((~~or~~)) curb setback, sidewalk, ((~~or~~)) crosswalk, pavement, sewers, water mains, grading, street lighting, street utilities, or appurtenances ((~~thereto,~~)); or doing any work in, or erecting any structure under, along, or over any public place; except when permitted by ordinance((~~, or doing any work in, or erecting any structure under, along, or over any public place~~));

((~~*~~))9. Vending of any good, ticket, thing, or service of any kind, other than publications regulated under Chapter 15.14;

((~~* Use of~~))10. Using sound amplifying equipment, other than aids for the disabled((~~, in speaking at voice level~~)); or

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((*))11. Closing or altering the appearance of streets ((~~for~~)); including filming, block parties, or street fairs((~~,~~)).

((~~*Regular usage by trucks and other vehicles of an adjoining owner or occupant as an integral part of activities on adjoining property whenever the only practical access to the public place is through the adjoining property.~~))

B. With respect to trees and plantings, "use" means planting, removing, injuring, destroying, topping, or major pruning of any tree in any public place((~~,~~)); cutting or pruning of any tree planted or maintained by the City((~~,~~)); and removing, injuring, or destroying any flower, plant, or shrub in any public place. "Use" excludes cutting grass, trimming shrubs, planting flowers, seeding, weeding, edging, and other gardening activities for the care of planting strips commonly performed by or for an owner or occupant of property adjacent to a ((~~street~~)) public place; and it excludes berry-picking and recreational activities that may have an incidental adverse impact upon grass or shrubbery.

C. "Use" excludes ((~~temporary placement~~)) temporarily placing by a customer ((~~of~~)) garbage and recyclables for curbside/alley collection in compliance with ((~~SMC~~)) Section 21.36.080; ((~~removal of~~)) removing snow and ice; ((~~and~~)) sweeping sidewalks; and ((~~removal of~~)) removing leaves and debris.

Section 13. Section 15.02.050 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.050 Safety Code, Building Code, and Washington Clean Air Act Compliance((~~,~~))

All work to be done under the authority of ((~~this title~~)) Title 15 shall be accomplished in compliance with the Seattle Building Code,[1] the technical requirements and standards published

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by the City of Seattle, the Washington Industrial Safety and Health Act, and the Washington Clean Air Act; and rules and regulations implementing them((;)); and shall diligently proceed without undue delay or inconvenience to the public.

1. Editor's Note: The Building Code is codified in Title 22 ((~~of this Code~~)).

Section 14. Section 15.02.060 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.060 Scope of authorization((.))

A. A permit is an authorization to proceed under ((~~this ordinance~~)) the Street Use Ordinance with activities ((~~only~~)) in a public place((~~. A permit under this ordinance is~~)); subject to compliance with ((~~other City ordinances, with~~)):

1. All terms and conditions of the permit to use the public place; and

2. All applicable City, state, and federal laws and regulations ((~~, and with the laws and regulations of the United States~~)).

B. The issuance of a permit under ((~~this ordinance~~)) the Street Use Ordinance does not authorize ((~~the~~)) taking ((~~of~~)) an action that conflicts with another City ordinance or with other state or federal laws. ((~~An applicant~~))

C. The permittee is responsible for ascertaining and complying with other applicable laws.

D. A permit under ((~~this ordinance~~)) the Street Use Ordinance does not authorize the damaging of privately-owned property that is lawfully within the public place unless the permit expressly states otherwise and identifies the property involved. ((~~An applicant~~)) The permittee has the responsibility for: identifying the limits of the public place, ((~~for~~)) locating and

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protecting underground utilities ((~~pursuant to~~)) as provided for in RCW Chapter 19.122, ((~~for~~)) avoiding unnecessary interference with surface and overhead uses, ((~~for~~)) preserving trees, and ((~~for~~)) preventing damage to ((~~such~~)) privately-owned property. When a permit authorizes displacement of privately-owned property in the public place, the ((~~permit holder~~)) permittee shall first give notice to the property owner, if known, and allow the property owner an opportunity to remove ((~~it~~)) the property in the public place.

Section 15. Section 15.02.070 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.070 Nearest equivalent((~~.~~))

A. When an activity combines elements ((~~which~~)) that come within two (((~~2~~))) or more chapters of ((~~this title~~)) Title 15, the provisions of each chapter shall apply to each element to the extent practical; where two (((~~2~~))) provisions of ((~~this chapter~~)) Title 15 are overlapping on a particular activity, the provision providing the greater protection to ((~~the~~)) public safety shall apply and duplicate forms and processing avoided.

B. In the event a use contains a single element that may be classified within two (((~~2~~))) or more chapters or ((~~categories~~)) sections within a ((~~chapter~~)) title, the City official responsible for issuing the permit shall select the chapter or ((~~classification~~)) section within a ((~~chapter~~)) title, as the case may be, that is most descriptive of the proposed use.

Section 16. Section 15.02.080 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.080 Assemblies and gatherings((~~.~~))

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It is City policy to encourage the holding of public assemblies and other gatherings in parks and at the Seattle Center rather than in streets open for vehicular travel or sidewalks with substantial pedestrian traffic((~~; and it is City policy to permit use of University Street between Fourth and Fifth Avenues (Victory Square) on weekdays only if the event can not reasonably be accommodated in Seattle's downtown parks and pedestrian ways~~)).

Section 17. Section 15.02.085 of the Seattle Municipal Code, last amended by Ordinance 118409, is amended as follows:

15.02.085 Public fora((~~,~~))

The Director of Transportation and the Superintendent are authorized to designate by permit from time to time one (((~~1~~))) or more particular areas within a public place where ((~~citizens~~)) an individual or entity may place commemorative displays, monuments, or symbols((~~,~~)); for up to ((~~ten (10)~~))) 10-calendar days in order to communicate a message to the public((~~,~~)); and to establish the terms and conditions of their placement. Unless the permit expressly provides otherwise, the commemoration ((~~must~~)) shall be removed between the hours of 12:01 a.m. and ((~~six a.m. (6:00 a.m.)~~))) 6 a.m. each day. An appropriate sign shall be placed near the commemoration identifying ((~~its sponsor~~)) the owner of the commemoration and the location as a public forum.

Section 18. Section 15.02.090 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.090 Appeals to Municipal Court((~~,~~))

If an applicant asserts a right protected by the First Amendment of the United States Constitution ((~~and/or~~)) or Article I, Sections 3, 4, and 5 of the Washington Constitution, and is

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aggrieved by an action of the City in denying a permit, ((~~and time be of the essence,~~)) the applicant may, within 30-calendar days, petition the presiding judge of the Seattle Municipal Court for a prompt review ((~~thereof~~)). The matter shall be granted priority as a case involving constitutional liberties and shall be heard in the manner provided by the Municipal Court by rule, and the decision of the Municipal ((~~court~~)) Court shall be final subject only to judicial review.

Section 19. Section 15.02.100 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.100 Effect of ordinance((~~.~~))

((~~This title~~)) Title 15 prohibits an action or activity whenever it requires a permit for a "use" defined in Section 15.02.048, and:

A. ((~~This title~~)) Title 15 authorizes issuance of a permit for the type of activity, but the ((~~applicant~~)) individual or entity using the public place fails to apply for and secure a permit;

B. The ((~~applicant~~)) permittee is granted a permit upon conditions or subject to restrictions and the ((~~applicant~~)) permittee fails to comply ((~~therewith~~)); or

C. The City, by policy, does not issue permits for that type of use.

((~~Issuance of~~)) Issuing permits under ((~~this title~~)) Title 15 is discretionary; ((~~this title~~)) Title 15 does not create any right to a ((~~street use~~)) permit.

Section 20. Section 15.02.110 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.02.110 Authority cumulative((~~.~~))

The authority granted by ((~~this title~~)) Title 15 to any City officer or employee is in addition to and supplemental of powers granted by other sections of the Seattle Municipal Code

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or City ordinances and does not limit any other authority granted to City officials by other ordinances or laws.

Section 21. Section 15.04.010 of the Seattle Municipal Code, last amended by Ordinance 121276, is amended as follows:

15.04.010 Permit--Required((.))

It is unlawful for anyone to make use, as defined in ((~~this title~~)) Section 15.02.048, of any public place without first securing a written permit as authorized in Section 15.04.015 from: the Director of Transportation, the Director of the Department of Planning and Development, or the Superintendent of Parks ((~~, as authorized in Section 15.04.015, and~~)) and Recreation; or without complying with all the provisions of ((~~this title; provided, that the~~)) Title 15. The requirements of obtaining a permit((~~,~~)) and complying with permit procedures do not apply to street maintenance work performed by the ((~~City,~~)) City's Department of Transportation or street improvement work authorized by ordinance and administered by the Director of Transportation.

Section 22. Section 15.04.012 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.012 Nuisances((.))

Any structure built, excavation made, ((~~and/or~~)) or material placed in or on any public place by anyone without ((~~a permit therefor first~~)) having ((~~been~~)) first obtained and complied with a permit, as provided in ((~~this title~~)) Title 15, may be deemed a public nuisance. In the discretion of the authorizing official identified in Section 15.04.015, ((~~such~~)) the nuisances may be abated with or without action at law((~~, and/or such~~)); or other proceedings may be taken as are

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authorized by law ((~~and the~~)) or City ordinances ((~~of the City for the prevention, abatement, and punishment of nuisances~~)).

Section 23. Section 15.04.015 of the Seattle Municipal Code, last amended by Ordinance 123100, is amended as follows:

15.04.015 Authorizing official((~~.~~))

A. The Director of the Department of Planning and Development may authorize the construction of a curb cut, or a structural building overhang, or reconstruction of an areaway in a public place under the Master Use Permit procedures of Chapter 23.76, particularly ((~~Section 23.76.006 B3,~~)) subsection 23.76.006.B.3; or removal of trees and vegetation located in an environmentally critical area under Chapter 25.09. An authorization for construction in a park drive, boulevard, or area under the jurisdiction of the Superintendent of Parks and Recreation identified in Appendix I or shown on the map as Appendix II is dependent upon:

((~~(a) a~~))1. A description of the encroachment or use in the application for the Master Use Permit or the accompanying materials;

((~~(b) its~~))2. Its identification as a park drive, boulevard, or property under the jurisdiction of the Superintendent of the area to be used;

((~~(c) the~~))3. The written concurrence of the Superintendent;

((~~(d)~~))4. The payment of applicable fees; and

((~~(e) if~~))5. If there is a modification, written concurrence of the Superintendent ((~~thereto~~)).

B. Continuation of ((~~such~~)) the uses after completion of construction is subject to compliance with the terms and conditions of ((~~this title~~)) Title 15; inspection and administration

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by the Director of Transportation or the Superintendent, as the case may be; and payment of an annual fee, if applicable.

((~~B~~))C. The Superintendent of Parks and Recreation may authorize the use and occupation of, and administer ((~~this title~~)) Title 15 for((~~,~~)) public places under the jurisdiction of the Department of Parks and Recreation, including park drives and boulevards. These areas are identified in Appendix I or shown on the map as Appendix II.

((~~C~~))D. The Director of Transportation has authority for all public places and uses, other than those authorized to the Director of the Department of Planning and Development under Chapter 23.76 to issue use and occupation ((~~of,~~)) Street Use permits and administer ((~~this title for, all other public places and for uses other than those authorized to the Director of Planning and Development under Chapter 23.76~~)) Title 15. The Director of Transportation may delegate to the Director of the Seattle Center the administration of permits for streets within the Seattle Center, and to the Superintendent the administration of permits for sidewalks and planting strips adjacent to parks.

((~~D~~))E. When a street, bridge, overpass, or underpass crosses a park, park drive, or boulevard, the authorizing official shall be the Director of Transportation as to the surfaces or structures maintained by ((~~Seattle~~)) the Department of Transportation((~~,~~)); and the Superintendent as to areas within the jurisdiction of the Department of Parks and Recreation.

((~~E~~))F. In order to coordinate the administration of ((~~this title~~)) Title 15, any of the foregoing officials may delegate to another authorizing official((~~,~~)) the authority to issue permits or ((~~to~~)) supervise the public place.

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Section 24. Section 15.04.017 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.017 Constitutional requirement((.))

When required by the United States Constitution or the Washington Constitution or a federal or state statute enacted thereunder, the City official responsible for issuing a permit shall suspend the application of any particular section of ((~~this ordinance~~)) the Street Use Ordinance or waive compliance with a requirement, including payment of fees, the provision of an indemnity deposit or contract, and the furnishing of insurance (Sections 15.04.040—15.04.060). The official shall maintain a record open for public inspection disclosing the suspensions and waivers granted.

Section 25. Section 15.04.020 of the Seattle Municipal Code, last amended by Ordinance 121276, is amended as follows:

15.04.020 Filing of application((.))

An applicant, or agent authorized to submit an application on behalf of an applicant, may file an application for use of a ((~~public~~)):

A. Public place in accordance with the procedures for ((~~issuance of~~)) issuing a Master Use Permit under Chapter 23.76 or a permit under Chapter 25.09. The Master Use Permit application shall be filed with the Director of the Department of Planning and Development((. ~~An application for use of a park~~));

B. Park drive or boulevard as described in Appendix I or shown on the map in Appendix II or administered by the Superintendent as contemplated by Section 15.04.015. The Parks Use Permit shall be filed with the Superintendent((. ~~All other applications~~)); or

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C. A public place in accordance with the procedures for issuing for ((~~permits provided for by this title~~)) street use under Chapter 15.04. The Street Use Permit shall be filed with the Director of Transportation.

Section 26. Section 15.04.025 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.025 Form of application((~~,~~))

Applications shall be on a form provided by the City and contain an accurate description of:

A. The public place or defined portion ((~~thereof~~)) of the public place to be used;

B. The ((~~use~~)) proposed ((~~to be made~~)) use;

C. The plans and specifications for any utility or structure proposed in or on the public place; ((~~and~~))

D. Any existing public improvements, utilities, or structures in the area to be used and any trees that may be affected((~~,~~));

E. If the proposed use is related to a Master Use Permit, the identification of the permit file and any ((~~special~~)) conditions ((~~affecting~~)) imposed on the proposed use((~~,~~)); and

F. When the proposed use involves an areaway, an opening, elevator ((~~or~~)), other use regulated by Chapter 15.08((~~,~~)); a structural building overhang, ((~~or~~)) a retaining wall, or a permanent method of lateral support((~~,~~)); the application shall also be accompanied by documentation showing the ((~~applicant to be~~)) individual or entity that is the record owner of the premises served ((~~or~~)) by the proposed use and showing the ((~~consent of the~~)) record owner of the premises consents to the premises being served by the proposed use.

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Section 27. Section 15.04.030 of the Seattle Municipal Code, last amended by Ordinance 121276, is amended as follows:

15.04.030 Processing of applications((,))

A. The authorizing official identified in Section 15.04.015 shall examine each application for a permit for compliance with ((~~this title~~)) Title 15.

B. The authorizing official ((~~in his or her discretion~~)) may: require additional information or material((,)) including when deemed appropriate, a map, construction plans, or a survey of the site; inspect the premises; solicit ((~~comment~~)) comments from other abutters ((~~and/or~~)) or the public; ((~~and/or~~)) post or require posting of notice at the site inviting comment to the authorized department; or ((~~giving~~)) give notice of a request for the review or reconsideration of a decision ((~~pursuant~~)) according to Section 15.04.112.

C. Any application for a use that requires a permit under the Seattle Building and Construction Codes in ((~~SMC~~)) Title 22 and that has not been filed with the Director of the Department of Planning and Development shall be ((~~transmitted~~)) sent to the Director for review. The Director of the Department of Planning and Development shall ((~~respond with his or her~~)) send all findings and comments to the Director of Transportation.

D. If the authorizing official determines that engineering or other studies should be ((~~made~~)) prepared before ((~~approving~~)) a permit is approved, the applicant shall ((~~make~~)) prepare the studies, or authorize the City to ((~~make~~)) prepare the studies at the applicant's ((~~cost or~~)) expense or pay for the studies from the applicant's indemnity deposit.

Section 28. Section 15.04.035 of the Seattle Municipal Code, last amended by Ordinance 119673, is amended as follows:

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15.04.035 Approval; considerations((.))

A. If the application conforms to the requirements of ((~~this title~~)) Title 15 and the proposed use is consistent with the rights of the public, the authorizing official may approve the application((,)); fix the duration and the terms or conditions of the permit((,)); and when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification, and payment of all required fees((,)); issue the permit. The original permit shall remain in the custody of the City, and a copy shall be given to the permittee and shall be posted or available at the site.

B. The permit may specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit.

((~~B~~))C. Factors for consideration in evaluating an application for a permit include, but are not limited to, the ((~~rights of the applicant (both~~)) applicant's constitutional ((~~liberties~~)) rights and the abutter's property rights((.)); the site and its terrain; the public and private benefits of the proposed use; and the impact of the proposed use on the following:

((~~*~~))1. The paramount purpose of streets for travel and transportation;

((~~*~~))2. Utilities; authorized secondary street uses; and any ((~~usage~~)) use being made by the public of the site;

((~~*~~))3. Fire access and public safety;

((~~*~~))4. Uses under permit; street trees; and other proposed or past uses of the site;

((~~*~~))6. Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;

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((*))7. The environment;

((*))8. Drainage, surface and underground; springs and watercourses; and the stability of soils; and

((*))9. Where applicable, City land use, transportation, open space, shoreline, and beautification policies and approved neighborhood land use plans.

D. In addition to the considerations in subsection 15.04.035.B, where ((~~these~~)) the following situations occur, factors for consideration include:

((~~* As to~~))1. For public places under the jurisdiction of the Department of Parks and Recreation, their character as a park drive or boulevard, or as open space;

((~~* As to~~))2. For shoreline street ends, their purpose to provide the public with visual or physical access to the water and the shoreline;

((~~* As to~~))3. For submerged streets, the Harbor Code, Title 16;

((~~* As to~~))4. For environmentally critical areas, the requirements of Chapter 25.09; and

((~~* As to~~))5. For streets or public places in the process of being vacated, the use ((~~upon~~)) after the vacation.

Section 29. Section 15.04.037 of the Seattle Municipal Code, last amended by Ordinance 118369, is amended as follows:

15.04.037 Overview of indemnity deposit, accounts, escrow, insurance, and surety bond((~~,~~))

A. Sections 15.04.040 through 15.04.060 are coordinated elements of a package of protections intended to: assist the City in collection of expenses charged under ((~~this ordinance~~)) the Street Use Ordinance and costs associated with a use under a permit; ((~~to~~)) assure

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performance of the requirements of ((~~this ordinance~~)) the Street Use Ordinance and the covenants or conditions in a permit; ((~~to~~)) place on the ((~~user~~)) permittee the risks associated with the use and provide a degree of financial responsibility in the event of an accident or injury; ((~~and, when their use is completed, to have~~)) restore the public place ((~~restored~~)) when the permittee's use has been revoked or terminated to at least as good a condition ((~~as before the use began~~)) as required by current applicable standards; and ((~~thereby further compliance and~~)) protect the public treasury. The City's acceptance of an indemnity deposit, an escrow account, a surety bond, or insurance; or the establishment of a subaccount in the City Treasury in favor of an applicant or a permittee ((~~do~~)) does not limit an applicant's or a permittee's liability to the amount ((~~thereof~~)) deposited or stated in the instrument.

B. Sections 15.04.040 through 15.04.060 relate to each other as follows:

1. A deposit with the City under Section 15.04.040 provides a source of funds, held by the City, to pay probable City expenditures arising from a proposed use ((~~and/or~~)) or restoration of the public place after the use((~~,~~)); the time of City employees for inspection and Code enforcement((~~,~~)); and ancillary City expenses. Annual fees are billed separately.

2. An escrow account maintained under Section 15.04.042 may be an alternative to a deposit under Section 15.04.040 for amounts at or over ((~~One Thousand Dollars ($1,000) and/or~~)) $1,000; or to ((~~providing~~)) provide a surety bond under Section 15.04.044 in an amount up to ((~~Ten Thousand Dollars ($10,000),~~)) $10,000; or a supplement to either or both of them. ((~~It~~)) An escrow account differs from a deposit in that the ((~~stakeholder~~)) deposit holder, rather than the City, is a public depository; interest on the deposit accrues to the account, rather than to

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the City; and withdrawals from the account are governed by the escrow agreement rather than by City rules on guaranty deposits.

3. A subaccount under Section 15.04.050 establishes a balance with the City in favor of the applicant or permittee against which a City department may deduct fees and charges as they occur, including annual fees and deposits for particular permits.

4. A surety bond under Section 15.04.044 provides a promise by a licensed surety company, within the limits and according to the terms of the bond, to perform work or pay the City's expenses to perform the work in the event of the permittee's default. A surety bond is not a substitute for providing the City public liability insurance for any tortious injury.

5. Liability insurance under Section 15.04.045 protects the City as an additional insured from public liability as a result of an accident, injury, or damage arising from the use of a public place((,)); and assists in making permittees financially responsible for meeting liabilities that may arise from their use of public places.

6. The covenant for indemnity under Section 15.04.060 holds the City harmless from ((~~any and~~)) all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description. It applies independently of the foregoing and authorizes a tender of defense by the City to the permittee in the event of a suit, action, or claim ((~~or lawsuit~~)) arising from the use.

7. Section 15.04.017 empowers an authorized official, when required to do so by a constitutional provision, or state or federal law, to waive compliance with any of ((~~these sections~~)) the Sections 15.04.040 through 15.04.060.

C. The amount set by an authorizing official for an indemnity deposit, an escrow account, or a surety bond((,)); and the correctness of a charge or deduction shown on the City's account

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statement or made from an escrow account; shall be subject to review or reconsideration ((~~pursuant~~)) according to ((~~SMC~~)) Section 15.04.112.

Section 30. Section 15.04.040 of the Seattle Municipal Code, last amended by Ordinance 123361, is amended as follows:

15.04.040 Indemnity deposit – Escrow -- Surety bond((~~,~~))

A. If the authorizing official determines that there is a substantial risk of injury, damage, or expense to the City or probable City expenditures arising from an applicant's proposed use of any public place((~~,~~)); the authorizing official may require the applicant to make an indemnity deposit with the Director of Finance and Administrative Services in an amount based on the official's estimate of the injury, damage, or expense to the City ((~~and/or~~)); or cost of ((~~restoration of~~)) restoring the public place if a mishap or accident ((~~were to occur~~)) occurs. The funds shall be deposited to the credit of the Guaranty Deposit Fund.

B. The indemnity deposit shall be used to pay the cost of: restoring the public place((~~,~~)): ((~~or~~)) removing any earth or other debris((~~, of~~)); replacing or repairing any damaged utility ((~~interrupted~~)) or ((~~damaged or of any~~)) trees in the public place((~~, of~~)); completing any work left unfinished((~~, of~~)); resetting any traffic control devices((~~, of the expenses of~~)); engineering and other studies authorized by Section 15.04.035, and any other expense that the City may sustain in conjunction with the permitted work((~~, plus~~)) and; a City administrative charge equal to 15((~~-~~)) percent of the amounts expended for the City's expenses for services such as inspections, surveys, preparing plans, letting contracts, and contract administration or supervision. The balance of the cash indemnity deposit, if any, after all deductions shall be returned to the

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applicant or permittee. If the indemnity deposit ((~~be~~)) is insufficient, the applicant or permittee shall be liable for the deficiency.

C. The authorizing official may authorize the filing of a surety bond in accordance with Section 15.04.044 in lieu of making all or part of an indemnity deposit and may suspend its application or waive compliance when required by Section 15.02.027.

Section 31. Section 15.04.042 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.042 Escrow((~~,~~))

An authorizing official may accept the establishment of an escrow account in a qualified public depository as defined in RCW 39.58 that is eligible to receive City moneys (((~~a~~))) as a substitute for ((~~making~~)):

A. Making all or part of an indemnity deposit required by Section 15.04.040 if the amount involved equals or exceeds ((~~One Thousand Dollars ($1,000.00)~~)) $1,000 and the terms of the escrow authorize the deduction and payment to the City of charges identified in Section 15.04.040; ((~~and/or (b) as a substitute for filing~~)) or

B. Filing a surety bond required by Section 15.04.044 if the amount involved is ((~~Ten Thousand Dollars ($10,000.00)~~)) $10,000 or less((~~,~~)) and, in the event of the applicant's or permittee's default, the authorizing official anticipates that the City could reasonably complete the work needed to protect the public and restore the public place for the amount placed in the escrow account.

C. Interest accruing in the escrow account shall be added to the principal account and the balance after deductions returned to the applicant or permittee.

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Section 32. Section 15.04.044 of the Seattle Municipal Code, last amended by Ordinance 123361, is amended as follows:

15.04.044 Surety bond((,))

A. If required by the authorizing official, the applicant or permittee shall ((~~file with~~)) deliver to the Director for filing with the City Clerk or ((~~such official's~~)) the functional successor, in lieu of((,)) or in addition to the indemnity deposit, a sufficient surety bond executed by a surety company authorized and qualified to do business in the State of Washington and is approved as to surety and as to form by the City Attorney. The bond shall: assume all the requirements provided in Section 15.04.060 in relation to an indemnity deposit((~~, shall~~)); run for the full period of the permit((~~, and shall~~)); be in an amount ((~~to be~~)) fixed by the authorizing official((~~, and~~)); be conditioned that ((~~such applicant~~)) the permittee shall ((~~faithfully~~)) comply with all the terms of the permit and all the provisions of ((~~this title~~)) Title 15 and all other ordinances of the City((,)); and((,)) to the extent permitted by RCW Chapter 19.72, indemnify and save the City ((~~free and~~)) harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description ((~~which~~)), excepting only damages that may result from the sole negligence of the City and that may accrue to, be asserted by, or be suffered by, any person or property, including without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenant's invitees, or licensees, by reason of the use of any public place, as provided for in the application.

B. If the application ((~~shall be~~)) proposes to construct, reconstruct, repair, maintain, or remove any pavement, sewer, water main, storm drain, grading, street lighting, or appurtenance ((~~thereto~~)) in the public place, the applicant shall file with the Director of Finance and

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Administrative Services or ((~~such official's~~)) the functional successor: a sufficient surety bond executed by a surety company authorized and qualified to do business in the State of Washington and is approved as to surety and as to form by the City Attorney. The bond shall: be in an amount fixed by the authorizing official; be conditioned that the ((~~applicant~~)) permittee shall ((~~faithfully~~)) complete all portions of the work according to the City's Standard Plans and Specifications((~~,~~)) and the special plans approved by the authorizing official((~~,~~)); and be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of Title 15 and all other ordinances of the City; and to the extent permitted by RCW Chapter 19.72, indemnify and save the City harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the City, that may accrue to, be asserted by, or be suffered by, any person or property, including without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenant's invitees, or licensees, by reason of the use of any public place, as provided for in the application. The bond shall run for the full period of the permit plus one year after City acceptance of the permitted work. ((~~The authorizing official shall set the amount of the bond.~~))

C. If ((~~an applicant shall be~~)) a permittee is periodically using public places, the authorizing official may require the ((~~applicant~~)) permittee to post a surety bond in an amount the authorizing official deems sufficient to cover the accumulated cost or risk involved at any certain time in a calendar year for the number of permits outstanding. The bond shall be in force during the period of all outstanding permits, but in no case for less than one year. The bond shall be executed by a surety company authorized and qualified to do business in the State of

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Washington and is subject to approval by the City Attorney as to surety and ((~~as to~~)) form. The bond shall ((~~be conditioned to assume all of the requirements of this title in relation to a cash indemnity deposit~~)) require as conditions that the permittee shall: complete all portions of the work according to the City's Standard Plans and Specifications and the special plans approved by the authorizing official; comply with all the terms of the permit and all the provisions of Title 15 and all other ordinances of the City; and to the extent permitted by RCW Chapter 19.72, indemnify and save the City harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the City, that may accrue to, be asserted by, or be suffered by, any person or property, including without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenant's invitees, or licensees, by reason of the use of any public place, as provided for in the application.

D. If at any time ((~~any~~)) an applicant ((~~shall apply~~)) or permittee applies for a permit to use a public place or to modify an issued permit((~~, and in the opinion of~~)), the authorizing official, in consultation with the City Risk Manager, may adjust the aggregate amount of bonds needed for the additional work or risk involved in the proposed use((~~,~~)); together with that involved under other permits outstanding to the applicant or permittee, exceed the amount of the then posted surety bond((~~,~~)); the authorizing official may require the applicant or permittee, prior to issuing the permit((~~,~~)); to post an additional or separate surety bond in an amount the authorizing official, in consultation with the City Risk Manager, deems sufficient to cover the additional risk or work involved. The bond shall remain in force during the period of all outstanding permits, but in no case for less than one year from and after the date of the permit.

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Also, the authorizing official may require any permittee to post a surety bond in the calendar year following the period of a permit when the extent of possible damage to a public place has not been completely determined.

E. Registered side-sewer contractors who post a one-year bond under the provisions of subsection 15.04.044.C or 15.04.044.D shall not be required to post an additional surety bond specifically covering work under separate side-sewer ordinances, including but not limited to Chapter 21.16. An authorizing official may waive the requirement of surety bond under subsection 15.04.044.C upon finding that the bond posted under subsection 21.16.060.C is adequate to fully protect the City. The surety bond shall contain all the requirements of side-sewer ordinances in the same manner as required bonds posted ((~~pursuant~~)) according to the side-sewer ordinances and subsection 21.16.060.C.

F. Sections 15.02.027 and 15.04.017 may apply when constitutional freedoms or statutory rights are exercised.

Section 33. Section 15.04.045 of the Seattle Municipal Code, last amended by Ordinance 118369, is amended as follows:

15.04.045 Liability insurance((~~,~~))

((~~An applicant for a permit~~)) A permittee shall obtain and maintain in full force and effect ((~~during the full period of the permit~~)), at its own expense, public liability insurance in an amount sufficient to ((~~cover~~)) protect the City from all potential claims ((~~for any bodily injury, death, or disability and for property damage, which~~)) and risks of loss from perils in connection with any activity that may arise from or be related to the permittee's activity upon or the use or occupation of the ((~~area~~)) public place allowed by the permit and claims and risks in connection

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with activities performed by the permittee by virtue of the permission granted by the permit. The insurance policy shall: be in effect for the duration of the permit; name the "City of Seattle, its elected and appointed officers, officials, employees, and agents" as ((~~an~~)) additional ((~~insured~~)) insureds for primary and non-contributory limits of liability subject to a Separation of Insureds clause; apply as primary insurance regardless of any insurance ((~~which~~)) that the City may carry; and obligate the insurance company to give notice to both the authorizing official and the City's Risk Manager at least ((~~thirty (30)~~)) 30-calendar days before any cancellation of the policy. The authorizing official ((~~may~~)), in consultation with the City Risk Manager, shall establish the amount of ((~~such~~)) the insurance, subject to review or reconsideration ((~~pursuant~~)) according to ((~~SMC~~)) Section 15.04.112((~~,~~)); and unless constitutional liberties prohibit it, ((~~may~~)) shall require that the insurance be provided prior to issuance of the permit. The City requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier according to RCW Chapter 48.15, except that if it is infeasible to obtain coverage with the required insurer, the City may approve an alternative insurer.

Section 34. Section 15.04.050 of the Seattle Municipal Code, last amended by Ordinance 123361, is amended as follows:

15.04.050 Account or bond for multiple permits((~~,~~))

In the alternative to making an indemnity deposit for each permit under Section 15.04.040, an applicant or permittee, who anticipates ((~~seeking~~)) applying for two or more permits ((~~from the same department,~~)) may, upon the approval of the Director of Transportation, establish with the City a subaccount. This subaccount is created by depositing with the Director

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of Finance and Administrative Services, to the credit of the Guaranty Deposit Fund, a minimum sum of ((~~at least~~)) $500 or the amount fixed for the permit being sought, whichever is greater. On notice from the City, the applicant or permittee shall replenish ((~~such~~)) this sum from time to time, whenever the subaccount balance ((~~shall have been~~)) is reduced to ((~~the sum of~~)) $300 or less.

Section 35. Section 15.04.060 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.060 ((~~Covenant for indemnity.~~))Indemnity agreements and covenants

A. The permittee shall agree to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents from and against:

1. Any liability, claims, actions, suits, loss, costs, expense judgments, attorneys' fees, or damages of every kind and description resulting directly or indirectly from any act or omission of the permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the permittee's use or occupancy of the public place; and

2. All loss by the failure of the permittee to fully or adequately perform, in any respect, all authorizations of obligations under permit.

B. If the application is for a permit to use or occupy a public place with an areaway, fuel opening, sidewalk elevator or door, a bulkhead, steps, retaining wall, rockery, structure, or an extension or appurtenance to a structure or any facility with an anticipated continued occupancy of a public place of more than one year((~~,~~)); the owner of the adjacent property, and any existing lessee, sublessee, tenant and subtenant using or occupying the part of the premises served or

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connected to the permitted use shall, in the manner provided by law for the execution of deeds, execute and deliver to the City upon a form to be supplied by the authorizing official, an agreement in writing((~~,~~)): signed and acknowledged by ((~~such~~)) the owners and by any ((~~such~~)) existing lessee, sublessee, tenant and subtenant((~~, and~~)); containing an accurate legal description of the premises; ((~~and a covenant~~)) covenanting on the part of ((~~such~~)) the owner, lessee, sublessee, tenant and subtenant, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants((~~,~~)) and forever ((~~to hold and save~~)) defending, indemnifying, and holding harmless the City ((~~free and harmless~~)), its officials, officers, employees, and agents from and against any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages ((~~which~~)) of every kind and description, excepting only damages that may result from the sole negligence of the City; that may accrue to, be asserted by, or be suffered by((~~,~~)) any person or property; including without limitation, damage, death, or injury to members of the public or to the permittee's officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or its successors and assigns; arising out of or by reason of ((~~the use of such public place, or of the construction, existence, maintenanceor use of the use permitted; provided, no indemnification is required on account of injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.~~)):

1. The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the permitted area or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the owner, lessee,

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sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants;

2. Anything that has been done or may at any time be done by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants by reason of the permit; or

3. The owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants failing or refusing to strictly comply with every provision of the permit; or arising out of or by reason of the permit in any other way.

C. If the application is for a permit to construct and maintain an areaway((~~, such~~)); the agreement shall also contain a covenant on the part of the ((~~persons or corporations~~)) permittee executing the ((~~same~~)) agreement, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants((~~,~~)); assuming the duty of inspecting and maintaining all services, instrumentalities, and facilities installed in the areaway to be constructed or occupied under authority of ((~~such~~)) the permit((~~,~~)); and assuming all liability for((~~,~~)); and ((~~saving~~)) at all times defending, indemnifying, and holding harmless the City ((~~harmless~~)), its officials, officers, employees, and agents from ((~~any~~)) and against all claims, actions, suits, liability, loss, ((~~damage or injury~~)) costs, expense, attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the City; that may accrue to, be asserted by, or be suffered by any ((~~that may result to his or her own~~)) person or property((~~, or the person or property of another, by reason of such services, instrumentalities or facilities.~~)); including without limitation, damage, death, or injury

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to members of the public or to the permittee's officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or its successors and assigns; arising out of or by reason of:

1. The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the permitted area or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants;

2. Anything that has been done or may at any time be done by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants by reason of the permit; or

3. The owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants failing or refusing to strictly comply with every provision of the permit; or arising out of or by reason of the permit in any other way.

All agreements shall be a covenant running with the land.

((~~B~~))D. In addition ((~~such~~)), the agreement shall contain a provision that the permit ((~~is~~)):

1. Is wholly of a temporary nature ((~~, that it vests~~));

2. Vests no permanent right whatsoever ((~~, that~~));

3. May be revoked, the structures and obstructions removed, and public place restored to the condition that existed prior to use occurring in the public place upon ((~~thirty (30)~~)) 30-calendar days((~~!~~)) notice, posted on the premises, or ((~~by publication~~)) published in the

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official newspaper of the City((,)); or without ((~~such~~)) notice, ((~~in case~~)) if the permitted use ((~~shall become~~)) is dangerous or ((~~such~~)) the structures ((~~shall become~~)) is insecure or unsafe, or ((~~shall~~)) is not ((~~be~~)) constructed, maintained, or used in accordance with the provisions of ((~~this title, the same may be revoked and the structures and obstructions ordered removed~~)) Title 15. ((~~Every such~~))

E. An agreement after it has been received and ((~~after the same has been~~)) recorded with the King County Department of Records and Elections, shall be retained by the City Clerk in the files and records of the Clerk's office.

((~~C~~))F. The authorizing official may waive execution of the signature on an agreement by a tenant or subtenant on a month-to-month lease or on a tenancy at will. If the application ((~~be~~)) is made by a condominium or cooperative apartment, the authorizing official may accept an agreement by the condominium or apartment association together with documentation showing its authority to execute the agreement in lieu of ((~~execution of~~)) executing the agreement by all unit or apartment owners.

Section 36. Section 15.04.070 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.070 Permit ((~~—Duration—Revocation.~~)) duration, revocation, and public place restoration

A. All use authorizations approved under the provisions of ((~~this title~~)) Title 15 or ((~~Seattle Municipal Code~~)) Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, or as to public places under the jurisdiction of the Department of Parks and Recreation under Chapter 18.12, shall be of a temporary nature and shall vest no permanent

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right((,)); and may in any case be revoked upon ((~~thirty (30)~~)) 30-calendar days notice; or without notice, in case any ((~~such~~)) use or occupation ((~~shall become~~)) is dangerous or any structure or obstruction permitted ((~~shall become~~)) is insecure or unsafe((,)); or ((~~shall~~)) is not ((~~be~~)) constructed, maintained, or used in accordance with the provisions of ((~~this title~~)) Title 15.

B. If a permit to use a public place is revoked or terminated, the public place shall be restored to the condition that existed prior to use occurring in the public place.

Section 37. Section 15.04.072 of the Seattle Municipal Code, last amended by Ordinance 118409, is amended as follows:

15.04.072 Authority to remove occupancy((,))

If any structure ((~~or~~)), obstruction, ((~~or~~)) use, or occupancy((,)) is not discontinued on notice from the City to do so, the Director of Transportation or the Superintendent with respect to public places under jurisdiction of the Department of Parks and Recreation, may ((~~forthwith prohibit~~)):

A. Prohibit its further use ((~~and remove such structure or obstruction~~));

B. Remove it from the public place((~~, or make such~~));

C. Make repairs ((~~upon such structure or obstruction~~)) to it as may be necessary to render ((~~the same~~)) it secure and safe((,)) at the expense of the permittee or the permittee's successor or user ((~~or person~~)) responsible for ((~~said~~)) the structure, obstruction, use((~~. The City may collect such expense~~)), or occupancy; and

D. Collect expenses incurred in rendering it secure and safe and restoring the public place in the manner provided by law.

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Section 38. Section 15.04.074 of the Seattle Municipal Code, last amended by Ordinance123659, is amended as follows:

15.04.074 Permit--Fees

A. From time to time the Director of Transportation shall prepare and recommend for adoption by the City Council a schedule of fees applicable to all ((~~such~~)) permits for public places under the jurisdiction of ((~~Seattle~~)) the Department of Transportation. The Director of the Office of Economic Development shall prepare and recommend for adoption by the City Council a schedule of fees applicable to master filming permits. The Superintendent shall prepare and recommend a schedule of fees applicable to permits for use of public places under the jurisdiction of the Department of Parks and Recreation, and the Director of the Department of Planning and Development shall recommend a schedule of fees applicable to permits required by Section 15.44.020. The fee schedule, when adopted by ordinance, shall govern the ((~~amount of the~~)) fee for permits ((~~heretofore or hereafter~~)) issued. The ((~~amount of the~~)) permit fee shall be commensurate with the cost of ((~~administration~~)) administering, ((~~inspection~~)) inspecting, and policing involved in ((~~the issuance~~)) issuing and ((~~continuance of such~~)) continuing the permits and with the use and occupation ((~~thereby~~)) granted by the permits. Fees for ((~~use of~~)) using or occupying the public ((~~right of way~~)) place may take into consideration the undesirability of the use or occupation relative to the rights of the public, such as the City policy of discouraging encroachments inconsistent with the public right of access to the shorelines or ((~~right-of-way~~)) other public places and ((~~may~~)) shall be included in the schedule of fees for use of public places under the jurisdiction of ((~~Seattle~~)) the Department of Transportation . Fees for use of park drives and boulevards may take into consideration City policy of discouraging encroachments

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inconsistent with their park-like character and may be included in the schedule of fees for use of facilities of the Department of Parks and Recreation.

B. The fee shall be collected as a condition to ((~~the issuance~~)) issuing or ((~~continuance of~~)) continuing any ((~~such~~)) permit or use except when ((~~such~~)) the permit is issued as a component of a master filming permit ((~~pursuant~~)) according to ((~~SMC~~)) Section 15.35.010. In order to effectuate collection of ((~~such~~)) fees, the Director of Transportation, the Director of the Office of Economic Development as to master filming permits, or the Superintendent as to public places under the jurisdiction of the Department of Parks and Recreation((~~,~~)), shall promptly notify ((~~holders~~)) permittees of outstanding permits issued to pay the applicable fee or the permit will be revoked.

C. The rate in the schedule for master filming permits shall identify ((~~which~~)) what, if any, of the factors identified in ((~~SMC~~)) Section 15.35.020 are taken into consideration in setting the rate and ((~~which~~)) what factors are to be determined with respect to particular applications.

((~~C~~))D. Upon petition by a public agency for ((~~a vacation of~~)) vacating a street area, street use fees for ((~~such~~)) the street area ((~~shall~~)) may be suspended if the Director of Transportation finds that ((~~such~~)) the public agency((~~, as a current practice,~~)) would convey to((~~,~~)) or ((~~permits~~)) permit use by((~~,~~)) the City ((~~of~~)), a portion of the public agency's property for street or other public purpose without charge; provided, should the street vacation petition be denied or withdrawn, street use fees shall be payable for the full period of use.

((~~D~~))E. When a ((~~use of a public place for which a~~)) Master Filming Permit ((~~may be~~

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~~obtained~~)) under ((~~Seattle Municipal Code Ch.~~)) Chapter 15.35 is ((~~made~~)) required and the public place is used without first obtaining ((~~such~~)) a permit or the required component permits, the fee shall be $500.

((~~E~~))F. Fees for ((~~the use of~~)) using public places under the jurisdiction of the Department of Parks and Recreation shall be deposited in the Park and Recreation Fund; all other fees under the jurisdiction of ((~~Seattle~~)) the Department of Transportation shall be deposited in the Transportation Operating Fund. If the Superintendent of Parks or the Director of Transportation delegates the administration of ((~~this title~~)) Title 15 to the ((~~Director of Transportation~~)) other department, fees resulting from permits for ((~~the use of~~)) using the public place ((~~that were~~)) now administered by the Director of Transportation shall be deposited into the Transportation Operating Fund and fees resulting from permits for using the public place now administered by the Superintendent of Parks shall be deposited into the Park and Recreation Fund.

((~~F~~))G. Fees for vending activities authorized under Chapter 15.17 shall be deposited in the Transportation Operating Fund. Street Use permit fees for vending activities may be used by other City departments for vending enforcement as authorized by the Director of Transportation and shall be used by the Department of Transportation for the following purposes: administering the vending program, including notifying property owners abutting a proposed vending site designated by the Department of Transportation; verifying property boundaries and square footage of usage; designating pre-approved vending sites by the Department of Transportation; signing and demarcating designated vending sites and food vehicle zones; attending meetings or hearings; preparing documents, legislation, forms, and notices; inspecting and enforcing

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permitted or illegal vending activity; or engaging in any other vending-related activity as directed by the Director of Transportation.

Section 39. Section 15.04.090 of the Seattle Municipal Code, last amended by Ordinance 123361, is amended as follows:

15.04.090 Refund of permit fee((,))

Whenever the fee paid for any use or occupation permit ((~~shall be erroneous~~)) is in error for any reason, and an application is made for refund((,)), the authorizing official shall certify the facts justifying ((~~such~~)) the refund, the refund amount ((~~thereof~~)), and ((~~his or her~~)) their approval of ((~~such~~)) the refund((,)); and upon ((~~presentation of such~~)) presenting the certificate to the Director of Finance and Administrative Services((,)), a warrant shall be drawn and paid in the amount ((~~of such refund~~)) stated. The necessary appropriations are ((~~hereby~~)) then made and authorized. If the appropriate fund is solvent at the time payment is ordered, the Director may elect to make payment by check.

Section 40. Section 15.04.100 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.100 Exception—Waiver—Fees; surety bond((,))

A. The authorizing official may grant an exception from ((~~payment of~~)) paying fees, making an indemnity deposit ((~~or~~)), posting a surety bond, or providing liability insurance ((~~to~~)) from the United States of America ((~~and for developing a use that is for the use of the public, e.g., a street park, or plantings in a traffic circle~~)), or if the use is for a public transportation-related-infrastructure project, like light rail, and is authorized under a separate ordinance.

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B. An authorizing official may waive the ((~~making of~~)) requirement for an indemnity deposit ((~~and/or the posting of a~~)) or surety bond for a use by the State of Washington or a local government.

Section 41. Section 15.04.110 of the Seattle Municipal Code, last amended by Ordinance 117569, is amended as follows:

15.04.110 Construction—Changes((~~,~~))

A. Construction of a structure or improvement shall be in accord with the permit and plans accompanying the ((~~application cited by the~~)) approved permit unless the authorizing official first ((~~grants permission for a~~)) approves a revised permit authorizing the change.

B. If a proposed change is substantial and objections or adverse comments are received before ((~~issuance of~~)) the permit authorizing the revision is issued, the authorizing official shall give notice to the persons making the objection or comments about the proposed ((~~amendment~~)) change, or require the applicant or permittee to do so, and allow ((~~them an opportunity to~~)) public comment ((~~thereon~~)) before ((~~permitting~~)) reaching a decision on the proposed change.

Section 42. Section 15.04.112 of the Seattle Municipal Code, last amended by Ordinance 123001, is amended as follows:

15.04.112 Decisions—Review or reconsideration((~~,~~))

A. A person aggrieved by any of the following Department of Transportation ((~~Department~~)) decisions may timely request the Director to review the decision, or if the decision be that of the Director, to reconsider the decision:

((~~A~~))1. The closure or partial closure of any street or alley ((~~or portion thereof pursuant~~)) according to ((~~SMC~~)) Section 11.16.125;

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((~~B~~))2. The approval or denial((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.04.010((~~,~~)) of a ((~~street use~~)) Street Use permit;

((~~C~~))3. The determination((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.04.040((~~, of the amount~~)) of any cash indemnity deposit, escrow account, or surety bond in lieu ((~~thereof~~)) of or in addition ((~~thereto ,~~)) to that ((~~is~~)) required of an applicant for a ((~~street use~~)) Street Use permit;

((~~D. The determination, pursuant to SMC Section 15.04.045, of the amount of public liability insurance coverage that is required of an applicant for a street use permit;~~

~~E~~))4. The determination((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.04.044((~~,~~)) of the amount of any surety bond that is required of an applicant or permittee for a ((~~street use~~)) Street Use permit;

((~~E~~))5. The determination according to Section 15.04.045 of the amount of public liability insurance coverage that is required of a permittee for a Street Use permit;

((~~F~~))6. The revocation((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.04.070((~~,~~)) of any ((~~street use~~)) Street Use permit;

((~~G~~))7. The approval or denial((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.08.080((~~,~~)) of a request to construct a street elevator;

((~~H~~))8. The approval or denial((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.10.020((~~,~~)) of a request for an exception to the minimum height requirement applicable to marquees((~~,~~)) or awnings ((~~and canopies~~));

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((~~I~~))9. The approval or denial((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.10.030((~~,~~)) of a request for exception to the vertical depth requirement applicable to marquees;

((~~J~~))10. The approval or denial((~~, pursuant~~)) according to ((~~SMC~~)) Section 15.12.030((~~,~~)) of a request for a permit to hang a banner;

((~~K~~))11. The approval or denial((~~, pursuant~~)) according to ((~~SMC~~)) Sections 15.14.040 and 15.14.050((~~,~~)) of a request for a permit for a newsstand location not generally permitted by ordinance, or the replacement of a newsstand ((~~pursuant~~)) according to Section 15.14.080;

((~~L~~))12. Conditions imposed regarding a permit to move a building or equipment; the assessment and allocation((~~, pursuant~~)) according to Section 15.28.050((~~,~~)) of the costs of relocating wires or cables; and the amount of City costs assessed ((~~pursuant~~)) according to Section 15.28.070;

((~~M. The determination of the cost of removal of a handbill, sign, or poster pursuant to Section 15.48.120;~~

~~N~~))13. An order to paint or repaint a pole ((~~pursuant~~)) according to Section 15.32.100;

14. The determination of the cost of removing a handbill, sign, or poster according to Section 15.48.120;

((~~O~~))15. Any of the actions relating to an excavation or fill identified in Section 15.44.140;

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((~~P~~))16. A Stop Order of the Director of Transportation ((~~pursuant~~)) according to Sections 15.50.023 or 15.50.025; and

((~~Q~~))17. The issuance or denial((~~, pursuant~~)) according to ((~~SMC~~)) Chapter 16.60((~~,~~)) of a permit to use or occupy any part of a waterway or any part of the land portion of a waterway.

B. An aggrieved person may request review or reconsideration by filing a request for review or reconsideration with the Director within ((~~ten (10)~~))10-calendar days of the date of the decision. The request shall identify the decision for which review or reconsideration is requested, the objection(s) to the decision; and the specific alternative being proposed. The Director shall designate a review officer, who shall make a recommendation to the Director. The Director may, at ((~~his or her~~)) their discretion, stay implementation of a decision pending review or reconsideration. The Director's decision on review or reconsideration shall be final.

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Section 43. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2012, and signed by me in open session in authentication of its passage this _____ day of _____, 2012.

_____
President _____of the City Council

Approved by me this ____ day of _____, 2012.

_____
Michael McGinn, Mayor

Filed by me this ____ day of _____, 2012.

_____
Monica Martinez Simmons, City Clerk

(Seal)

CITY CLERK

Angela Steel
SDOT Omnibus FISC
January 9, 2012
Version #2

Form revised: December 6, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Rebecca Guerra/684-5339

Legislation Title:
AN ORDINANCE relating to street and sidewalk use; amending Chapters 15.02 and 15.04 of the Seattle Municipal Code, to correct typographical errors, correct section references, clarify regulations, and make minor amendments.

Summary of the Legislation:
Ongoing maintenance of the Street and Sidewalk Use Code, Chapters 15.02 and 15.04; to correct typographical errors, correct section references, clarify regulations, and make minor amendments. The amendments are consistent with the 2011 City Code Drafting Manual.

Background:
Periodically updating the Street and Sidewalk Use Code is an important part of the regulatory process. Clarifying the code is necessary to correct errors or omissions. The amendments will improve an understanding of and application of the code. The last omnibus ordinance of Street and Sidewalk Use Code was adopted in 1995 by Ordinance 117569.

Please check one of the following:

__X__ **This legislation does not have any financial implications.**

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

b) **What is the financial cost of not implementing the legislation?**
None.

c) **Does this legislation affect any departments besides the originating department?**
No.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None.

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e) **Is a public hearing required for this legislation?**
No.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.

g) **Does this legislation affect a piece of property?**
No.

h) **Other Issues:**
N/A

List attachments to the fiscal note below: N/A

2012 JAN 9 CITY CLERK

City of Seattle
Office of the Mayor

January 31, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that proposes minor amendments to the Street and Sidewalk Use Code Chapters 15.02 and 15.04. The Seattle Department of Transportation's Street Use Division is responsible for reviewing and amending the Street and Sidewalk Use Code, Title 15.

The proposed "omnibus" amendments are minor amendments with limited impacts. The amendments correct typographical errors and incorrect section references, and clarify existing code.

Periodically updating the Street and Sidewalk Use Code is an important part of the regulatory process. Adopting the amendments improves an understanding of and application of the code. The last omnibus ordinance of Street and Sidewalk Use Code was adopted in 1995 by Ordinance 117569.

Thank you for your consideration of this legislation. Should you have questions, please contact Angela Steel at 684-5967.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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