Ordinance No. 123978

Council Bill No. 117572

AN ORDINANCE relating to land use and zoning; amending Sections 23.44.010 and 23.44.012 of the Seattle Municipal Code to adopt interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

Related Legislation File: _____

Date Introduced and Referred: Sept. 4, 202	To: (committee): ~~[illegible]~~ Full Council
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 9.10.12	Date Presented to Mayor: 9.12.12
Date Signed by Mayor: 9/20/12	Date Returned to City Clerk: 9/20/12
Published by Title Only ✓ Published in Full Text _____	Date Vetoed by Mayor:
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: _____

Committee Action:

Date	Recommendation	Vote

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

Full Council Action:

Date	Decision	Vote
9.10.12	Passed as Amended	9 – 0

CITY OF SEATTLE

ORDINANCE 123978

COUNCIL BILL 117572

AN ORDINANCE relating to land use and zoning; amending Sections 23.44.010 and 23.44.012 of the Seattle Municipal Code to adopt interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council ("Council") makes the following legislative findings of fact and declarations:

1. The Council finds that land use code does not currently include appropriate development standards applying to single-family-zoned lots that are significantly less than the minimum lot size allowed; and,

2. The Council finds that the lack of appropriate development standards applicable to single-family-zoned lots that are significantly less than the minimum lot size allowed has resulted in new single-family dwellings that are, based on their height and lot coverage, out of scale and incompatible with adjacent existing single-family dwellings; and

3. The Council finds that the City is currently studying permanent changes to Chapter 23.44 of the Seattle Municipal Code that will result in new development standards addressing the problems created by new single-family dwellings on lots significantly less than the minimum lot size allowed in single-family zones; and

4. The Council finds that adopting interim standards will allow appropriately-sized single-family dwellings on these single-family-zoned lots to continue to be built during this interim period; and

5. The Council finds that it has the authority to establish interim measures as granted by Article 11, Section 11 of the Washington State Constitution, and the Growth Management Act, Chapter 36.70A, RCW, and declares that an emergency exists;

Section 2. Section 23.44.010 of the Seattle Municipal Code, which section was last amended by Ordinance 123809, is amended as follows:

23.44.010 Lot requirements

* * *

B. Exceptions to Minimum Lot Area Requirements. The following exceptions to minimum lot area requirements are allowed, subject to the development standards for undersized lots in subsection 23.44.010.C, except as limited under subsection 23.44.010.B.2:

1. A lot that does not satisfy the minimum lot area requirements of its zone may be developed or redeveloped separately under one of the following circumstances:

* * *

d. The lot has an area at least 50 percent of the minimum required under section 23.44.010.A, and was established as a separate building site in the public records of the county or City prior to July 24, 1957, by deed, contract of sale, mortgage, ((~~property tax segregation,~~)) platting or building permit, and falls into one of the following categories:

* * *

CITY COUNCIL CLERK

C.((~~Development standards for certain lots that qualify for the exception to minimum area in subsection 23.44.010.B.1.d.~~

~~1.~~)) Development of any principal structure on ((~~those~~)) lots that meet the conditions outlined in subsection 23.44.010.B.1.d but have a total area less than ((~~2,500~~)) 3,750 square feet shall comply with the ((~~following:~~

~~1.The~~)) height standards of Section 23.44.012.A.3.

((~~2. Structure depth shall not exceed two times the width of the lot, for any lot less than 30 feet wide. If a side yard easement is provided according to subsection 23.44.014.D.3, then the easement area may be included as part of the width of the lot for purposes of compliance with this subsection 23.44.010.C.2.~~))

* * *

Section 3. Section 23.44.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123809, is amended as follows:

23.44.012 Height limits

A. Maximum Height Established.

1. Except as permitted in Section 23.44.041.B, and except as provided in subsections 23.44.012.A.2 and A.3, the maximum permitted height for any structure not located in a required yard is 30 feet.

2. The maximum permitted height for any structure on a lot 30 feet or less in width is 25 feet.

3. The maximum permitted height for any structure on a lot ((~~of less than 2,500 square feet~~)) of any width that is less than 3,750 square feet that qualifies for separate

COUNCIL CLERK

development according to the provisions in section 23.44.010.B.1.d is 22 feet, unless the structure's height is further restricted by other code provisions. ((~~, if that lot has less than 15 feet of street frontage and if the front yard or side yard of that lot abuts, for at least 15 feet, on the rear yard of another lot~~)).

4. The method of determining structure height and lot width is detailed in Chapter 23.86, Measurements.

* * *

Section 4. Under RCW 36.70A.390, the City Council approves the following work plan for the development of permanent development regulations to address the issues in this ordinance:

Draft legislation, SEPA checklist, SEPA decision and Director's Report	September through December 2012
Publish SEPA decision	mid-January 2013
SEPA appeal period ends	end of January 2013
Mayor's Office Transmits legislation to City Council	March 2013
Council deliberations, public hearing and vote	April through July 2013
Permanent regulations replace interim controls	August/September 2013

Section 5. Under SMC 25.05.880, the Council finds that an exemption under SEPA for this action is necessary to prevent development that is incompatible with City land use policies for single-family neighborhoods. SEPA review of any permanent regulations modifying existing zoning will be conducted.

Section 6. Based on the authority of RCW 36.70A.390 and the findings in Section 1 of this ordinance, Section 23.76.062 is waived for the adoption of this ordinance.

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Section 7. By reason of the findings set out in this ordinance, and the emergency that is declared to exist, this ordinance shall become effective immediately upon its passage by a three-fourths vote of the Council, and its approval by the Mayor, as provided by Article 4, Subsection 1(I) of the Charter of the City.

Passed by a three-fourths vote of all the members of the City Council on the 10th day of September 2012, and signed by me in open session in authentication of its passage this 10th day of September, 2012.

President _____ of the City Council

Approved by me this 20th day of September, 2012.

Michael McGinn, Mayor

Filed by me this 20th day of September, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

COUNCIL CLERK

Form revised: December 6, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Mike Podowski/6-1988	Not Applicable

Legislation Title:

An Ordinance relating to land use and zoning; amending Sections 23.44.010 and 23.44.012 of the Seattle Municipal Code to adopt interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

Summary of the Legislation:

In reviewing Land Use Code provisions governing undersized lots and minimum lot area exceptions, the Department of Planning and Development (DPD) has determined that development approved under current standards is often out of character with surrounding conditions and inconsistent with the policy intent of allowing infill development on undersized lots. Interim measures are proposed in order to prevent a rush to obtain permits and develop properties in a manner that is not appropriate while this issue is being studied and legislation for permanent provisions is completed.

The proposed interim measures would:

- Limit application of the lot area exception provided for lots of historic record to those lots with an area of at least 50 percent of the general minimum requirement for the zone.
- End the use of historic tax records as a basis for qualifying for lot area exceptions.
- Continue to allow development of lots with an area of between 50 and 75 percent of the general minimum lot area of the zone (i.e. lots between 2,500 and 3,750 square feet in an SF 5000 zone) by allowing development on such lots to be built to the height and floor area that would be allowed for a detached accessory dwelling unit on a lot of the same dimensions.

Background:

Seattle has imposed minimum lot area requirements in single-family zones since the 1950s, including exceptions to the minimum requirements. Exceptions were allowed for infill housing opportunities on lots that otherwise would remain vacant, and to allow property owners who had acquired a parcel prior to the adoption of the minimum lot area requirement to continue to benefit from their investment. The latter purpose was the chief reason behind the exception in Section 23.44.010.B.1.d, made for certain historic lots of record prior to July 24, 1957, the date which the City adopted minimum lot area standards and exceptions to those standards.

CITY COUNCIL CLERK

Unlike most of the lot area exceptions in Section 23.44.010.B, the exception for historic lots of record includes no absolute minimum area requirement. In recent years, development of lots under 50 percent of the minimum lot area requirement has been approved pursuant to the historic lot exception. Development on significantly undersized lots has triggered strong and persistent complaints from neighbors. Typically, the following issues have been raised:

- Development is occurring on lots that are so small that they are out of scale with the surrounding development pattern; neighbors never expected that they could be separately developed.
- In some cases it appears that a lot, although technically treated as separate in an historic record, most likely was never held with any intention that it might someday be separately developed.
- The separate development of lots based on historic tax records does not appear to be justified based on the intent behind the exception made for other historic lots, to preserve the opportunity to develop, as the separate tax lots were not historically created or acquired for separate development. These arcane tax record provisions benefit developers rather than the historic owners of the parcels.
- Houses being built on undersized lots are often taller than surrounding homes, or otherwise present imposing façades or other design problems, due to the desire to maximize potential floor area, at the expense of compatibility with adjacent development.
- Because the development of a house on an undersized lot requires no discretionary review, it triggers no public notice. Neighbors often become aware that the lot is to be separately developed only when construction begins. No administrative appeal is available; the only recourse is to go to court under the Land Use Petition Act, and the opportunity to do that is subject to a very tight deadline.

The Department charges fees to cover the cost of review of these permit applications. The proposed amendments will not add review time or cost. No fiscal impacts are anticipated from the adoption of this legislation. A schedule for adoption of permanent legislation is included in the legislation with an anticipated effective date of September 2013. Fiscal impacts of the future legislation will be considered as part of the preparation of that proposal.

Please check one of the following:

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

____ **This legislation has 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?

CITY COUNCIL CLERK

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?**
No alternatives have been identified.

e) **Is a public hearing required for this legislation?**
Yes. The City Council must hold a public hearing, after the vote on this ordinance.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
Yes. Publication of notice of the Council public hearing will be made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin.

g) **Does this legislation affect a piece of property?**
The legislation is of general application to property having the characteristics described in the ordinance.

h) **Other Issues:** None.

List attachments to the fiscal note below: None.

COUNCIL CLERK

podowski/mckim
DPD – small lot interim controls ORD
August 29, 2012
Version #6

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 117572

AN ORDINANCE relating to land use and zoning; amending Sections 23.44.010 and 23.44.012 of the Seattle Municipal Code to adopt interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

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3. The Council finds that the City is currently studying permanent changes to Chapter 23.44 of the Seattle Municipal Code that will result in new development standards addressing the problems created by new single-family dwellings on lots significantly less than the minimum lot size allowed in single-family zones; and

THIS VERSION IS NOT ADOPTED

4. The Council finds that adopting interim standards will allow appropriately-sized single-family dwellings on these single-family-zoned lots to continue to be built during this interim period; and

5. The Council finds that it has the authority to establish interim measures as granted by Article 11, Section 11 of the Washington State Constitution, and the Growth Management Act, Chapter 36.70A, RCW, and declares that an emergency exists;

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* * *

THIS VERSION IS NOT ADOPTED

C. Development standards for certain lots that qualify for the exception to minimum area in subsection 23.44.010.B.1.d. Development of any principal structure on those lots that meet the conditions outlined in subsection 23.44.010.B.1.d but have a total area less than ((~~2,500~~)) 3,750 square feet shall comply with the ((~~following:~~

~~1.The height standards of Section 23.44.012.A.3.~~

~~2. Structure depth shall not exceed two times the width of the lot, for any lot less than 30 feet wide. If a side yard easement is provided according to subsection 23.44.014.D.3, then the easement area may be included as part of the width of the lot for purposes of compliance with this subsection 23.44.010.C.2.~~)) standards for gross floor area and structure height contained in subsection 23.41.041 Table B, rows f and k, that apply to a detached accessory dwelling unit on a property of the same dimensions, in addition to complying with the other development standards for single family dwelling units in the zone.

* * *

Section 3. Section 23.44.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123809, is amended as follows:

23.44.012 Height limits

A. Maximum Height Established.

1. Except as permitted in Section 23.44.041.B, and except as provided in subsection 23.44.010.C or subsections 23.44.012.A.2 and A.3, the maximum permitted height for any structure not located in a required yard is 30 feet.

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Passed by a three-fourths vote of all the members of the City Council on the ____ day of September 2012, and signed by me in open session in authentication of its passage this _____ day of September, 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)

THIS VERSION IS NOT ADOPTED

STATE OF WASHINGTON – KING COUNTY

--ss.

289062 No. 123977 123978

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

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

CT:TITLE ONLY ORDINANCE

was published on

10/05/12

The amount of the fee charged for the foregoing publication is the sum of $41.85 which amount has been paid in full.

Subscribed and sworn to before me on

10/05/2012

Notary public for the State of Washington,
residing in Seattle

JENNIFER A. BORRERO NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 10-24-15

State of Washington, King County

City of Seattle
Title Only Ordinances

The full text of the following legislation, passed by the City Council on September 10, 2012, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 123977

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 123978

AN ORDINANCE relating to land use and zoning; amending Sections 23.44.010 and 23.44.012 of the Seattle Municipal Code to adopt interim development regulations to prohibit incompatible buildings on undersized single-family-zoned lots; and declaring an emergency requiring a three-fourths vote of the City Council so that the ordinance may take effect immediately.

Date of publication in the Seattle Daily Journal of Commerce, October 5, 2012.

10/5(289062)