DIRECTOR'S REPORT AND RECOMMENDATION
Omnibus Ordinance

Introduction
The Department of Planning and Development (DPD) is responsible for development and routine maintenance of the Land Use Code. The proposed amendments are called "omnibus" amendments because DPD packages a collection of amendments that are small scale, with a limited scope of impact. Such amendments include correcting typographical errors and incorrect section references, as well as clarifying or correcting existing code language. Following is a section-by-section description of the proposed amendments. Where the only changes are minor grammatical corrections to existing language or corrections of typographical errors, the descriptions are limited or omitted.

3.58.070 Seattle Design Commission – Purpose of Commission
The current section sets forth the purpose of the Seattle Design Commission. The section includes a statement requiring the Commission to make a recommendation on any matter submitted to it within 30 days or, if no recommendation is received, then the Commission "shall be considered to have recommended "approval." The 30-day limit is insufficient time for review of many complex proposals. The proposed change would provide that the Commission shall either make its recommendation in 30 days or provide a statement within 30 days indicating when it intends to make the recommendation. The proposed change would also delete the language authorizing an extension of the 30 day limit and stating that if the "City" fails to extend the 30-day limit, "it shall be considered to have recommended approval." This language does not clearly state who in "the City" authorizes the extension. The amendments clarify that the Design Commission is the responsible party.

3.58.090 Seattle Design Commission – Fees and charges for Design Commission review
The proposed changes would remove the references to specific fees for Design Commission review in this section and replace with cross references to the City's Fee ordinance. So the fee ordinance would be the sole location for Design Commission fees and this Code section does not have to be updated in the future.

23.22.024 Subdivisions – Preliminary Plat Process – Distribution of preliminary plans
The proposed amendment would make minor changes to style and update the list of organizations designated to receive copies of the preliminary plat for review and recommendations for approval or disapproval.

23.24.020 Short Plats – Content of application
The current language requires submittal of both a plat of the proposed short subdivision containing standard survey data and a separate vicinity map indicating the property to be subdivided. The separate vicinity map is redundant since it is standard survey practice to indicate the general location of the property. Therefore, the proposal is to remove the requirement for a vicinity map.

23.28.030 Lot Boundary Adjustments – Criteria for approval

The proposed amendment to Section 23.28.030.A.3 would change the language to clarify that lots resulting from a lot boundary adjustment must continue to have alley access if they are adjacent to an alley. The existing Code language begins "If [an] **adjusted lot** is adjacent to an alley, and the adjacent alley is either improved or required to be improved according to the standards of Section 23.53.030, then no adjusted lot shall be proposed that does not provide alley access, except that access from a street to an existing use or structure is not required to be changed to alley access...." Elsewhere in the section "adjusted lot" is used to mean one of the lots resulting from the lot boundary adjustment, i.e., after the adjustment. The amendment clarifies subsection A.3, consistent with what was intended, so that if the existing lot is adjacent to an alley, then the lot after adjustment must continue to have alley access either by fronting on the alley or by access easement.

23.34.009 Rezones – Height limits of the proposed rezone

Subsection 23.34.009.D.2 incorrectly cross references subsection 23.34.008.D.2, "major physical buffers," which is actually 23.34.008.E.2. The proposed amendment would change 23.34.009.D.2 to cross reference 23.34.008.E.2.

23.40.050 Pilot program for vacant and underused lots

This Code section is proposed to be repealed, since the enrollment period for the program expired in May 2013. See further discussion below under proposed amendments to Section 23.42.038.

23.41.004 Design Review - Applicability

Table A for 23.41.004 lines a through c currently establish thresholds for design review in multifamily zones based on numbers of dwelling units. While most permitted uses in multifamily zones are residential uses, there are some non-residential uses such as medical service uses and some first floor commercial uses that are also permitted. These uses are not addressed by a design review threshold based on numbers of dwelling units. Thus, a recent proposal to build a 35,000 square foot medical service building in a LR3 zone (where it was allowed under subsection 23.45.504.G.2) was exempt from design review. To appropriately require design review for such uses, the proposal would change the table to add a square footage threshold of 4,000 square feet, similar to the threshold for neighborhood commercial zones on line d.

A second proposed change is for Table A for 23.41.004, line g, where the Code currently states that the design review threshold for structures in Industrial Commercial (IC) zones applies to the IC zone "within all designated urban villages and centers." This phrase creates some ambiguity concerning the term "centers" and whether the reference is limited to "urban centers" or might include a Manufacturing and Industrial Center (MIC). The proposed changed would clarify that the threshold applies to "urban centers" by adding the word "urban" to the sentence.

A third proposed change would repeal current subsection 23.41.004.A.6 and renumber the following subsections. Current subsection A.6 exempts projects from design review if they are subject to SEPA solely due to the presence of Environmentally Critical Areas on the site. This provision made sense at a time when design review thresholds were closely linked to SEPA thresholds, but the Code has since been amended to establish design review thresholds that are no longer directly linked to SEPA thresholds and, in fact, SEPA thresholds for some projects are higher than design review thresholds in Table A for 23.41.004.

Under the current language, it is possible that an applicant for a proposed structure on a site in a critical area could claim a design review exemption merely because a limited SEPA review due to the presence of critical areas is required. For example, a large new structure located in an urban center, with more than 20 dwelling units and thus generally subject to design review, could be exempt if SEPA review for ECA purposes also exempts it from design review. In a second example, a development of 3-8 townhomes, a development generally exempt from full design review but subject to streamlined design review, could be exempt from streamlined design review if located on a site in a critical area and if a SEPA review for critical areas is triggered, because subsection A.5 imposes streamlined design review only to protect exceptional trees.

23.41.008 Design Review – Design Review Board

The staggering of Board terms has lost balance over the years. For example, in 2014 13 of 15 positions changed and in some cases this meant 3 out of 5 members on a particular Board were new. This creates problems with continuity and consistency in reviewing projects. Some flexibility built into the Code to allow terms to be extended to prevent more than 2 out of 5 Board terms from turning over is needed. Accordingly, the proposed language would allow the DPD Director to extend terms by one year to avoid turnover of more than 2 Board members per District per year.

23.41.010 Design Review – Design review guidelines

The Wallingford Design Guidelines, adopted by Ordinance 124389, are proposed to be amended to change the title page and to correct the map of the Wallingford Planning Area Boundary on page vii, as shown on Exhibit A to the proposed omnibus ordinance. The change also results in a minor change to Section 23.41.010.B.18 to update the reference to the Wallingford Design Guidelines from 2013 to 2014.

23.41.012 Design Review – Development standard departures

Section 23.41.012.B lists the various Land Use Code standards and requirements that are not eligible for departures under the Design Review process. In the last omnibus, Ordinance 124378, the standards for structural building overhangs in Section 23.53.035 were extensively revised and the option to apply for departures from these standards was removed from the Code by inserting new subsection 23.41.012.B.31. In doing so, a reference to structural building overhang provisions being departable was overlooked in subsection B.24. That reference is now proposed to be deleted in subsection B.24.

23.42.038 General Use Provisions – Uses allowed on vacant and underused lots in certain zones

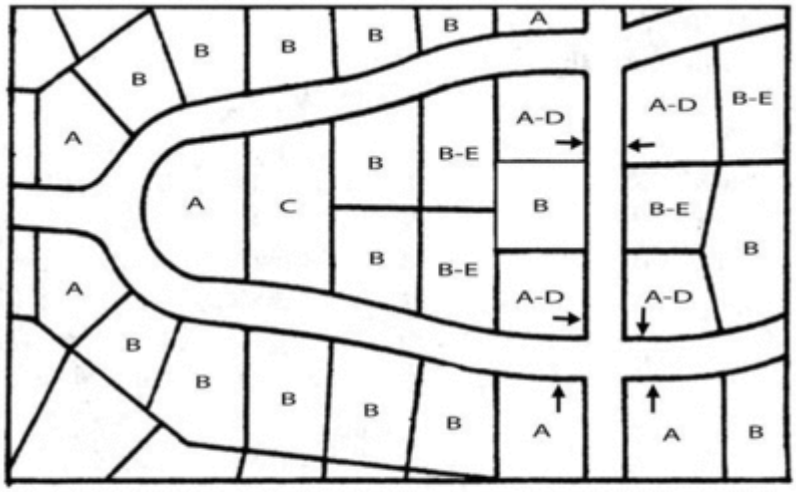
Section 23.42.038 authorizes a Type I "interim use" permit for a variety of uses allowed on lots that were accepted into the pilot program established by Section 23.40.050 to "activate" vacant and underused lots. The existing language in Sections 23.40.050 and 23.42.038 was adopted as a relief measure during the economic downturn of 2007-2010, when a number of projects were put on hold and their development sites were simply left vacant. There is merit in allowing flexibility for the "active uses" on vacant and underused lots to continue to be allowed as interim uses even though the economic downturn is over, since these relatively modest uses must otherwise revert to the Type II "temporary use" process involving public notice, a written decision by a DPD planner, and opportunity to appeal that decision. The active uses that would continue to be allowed include:

- Mobile food or other vendors using a cart, trailer, van, or similar vehicle, or using a kiosk or similar temporary structure;
- Displays or installations of art;
- Horticulture uses such as community gardens;
- Entertainment activities including live music, live performances, and outdoor cinemas; and
- Other similar uses that would encourage or support pedestrian activity.

The sections of 23.42.038 that authorized principal use parking as an interim use would be repealed. The proposed change would continue to allow the other active uses through a three-year interim use permit. The existing language allows the interim use permit to be renewed once. The proposed change would allow unlimited renewals at three-year intervals, at the discretion of the DPD Director. Thus, a permit could be easily cancelled if there have been enforcement issues or complaints during the prior three-year term.

23.44.014.C, 23.44.014.D.5 – Residential, Single-Family - Yards

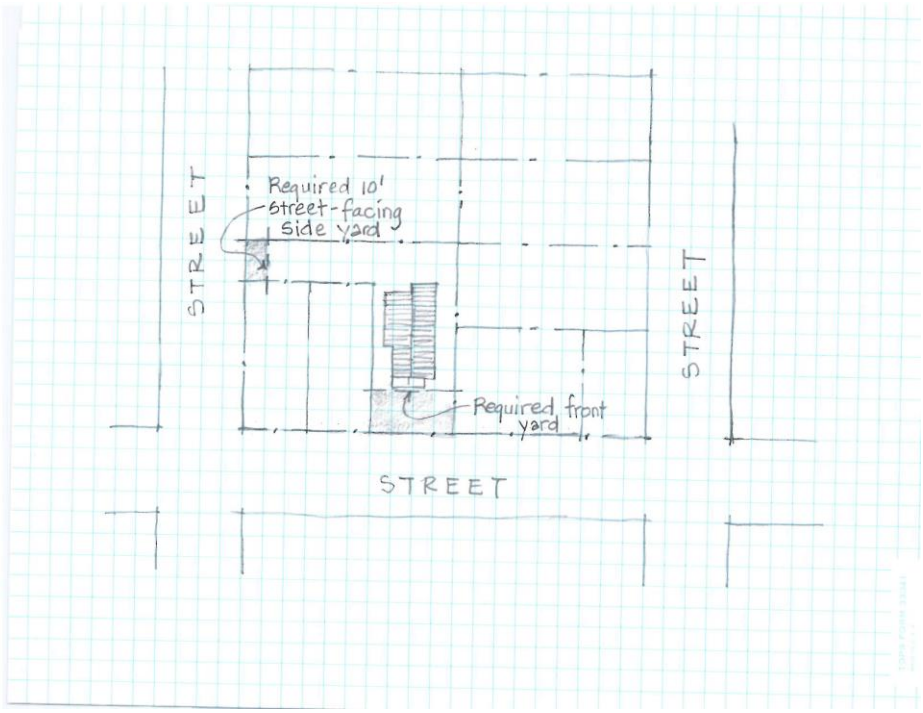
Section 23.44.010.C requires a 10-foot side yard for the street facing side yard of a "reversed corner lot," which is defined as a lot with a side lot line adjacent to a street that is a continuation of the front lot line of the lot to its rear. This configuration is illustrated by Exhibit A for 23.84A.024, set forth below:



A = Corner lot
B = Interior lot
C = Through (or double frontage) lot
D = Reversed corner lot
E = Key lot
→ = Indicates front lot line

The proposed change would maintain the existing standard for reversed corner lots while also addressing other situations in which a street facing side yard is adjacent to a front yard of another single family zoned lot. This generally occurs with lots that "wrap around" a corner lot. (See Figure A below.) Lots that wrap around corner lots are treated as interior lots but, like corner lots, they still have two street facing lot lines. If the adjacent interior lots also have front yards facing the street, there is a need to require a 10-foot side yard for the wrap around parcel, as its side yard will appear similar to a front yard. The proposed change would require any lot with a street facing side yard adjacent to a front yard to have a 10-foot side yard. Thus, for the "wraparound" lot in Figure A, the smaller section of the lot facing the street to the west has a street facing side yard that must be 10 feet, as it is adjacent to an interior lot to the north with a front yard facing the street. However, the required front yard of the wraparound lot faces south.

Figure A



Subsection D.5 allows uncovered and unenclosed porches or steps to project into a required yard if, among other standards, they are no higher than 4 feet on average above existing grade. This subsection has been interpreted to allow the height average to be calculated along the entire run of a set of steps, rather than being limited to those steps that are within the required yard. This interpretation allowed steps on a particular site to rise up to 8 feet to reach the roof of an approved garage deck. The proposed change would clarify that decks and porches in required yards may not exceed a height of 4 feet above existing grade. Width of porches and steps are calculated separately but maximum height of 4 feet is intended to be at the porch level.

23.44.041 Residential, Single-Family – Accessory Dwelling Units

Footnote 1 for Table A, line a, says that the gross floor area of an attached accessory dwelling unit (ADU) may exceed 1,000 square feet only if the structure existed prior to June 1, 1999 and if the ADU is located on one level. The proposed change would allow a garage for the ADU to be located on a different level, since a garage on a different level from the living area in a single family residence, particularly basement garages given Seattle's topography, is a common arrangement.

Subsection 23.44.041.B.3 is proposed to be amended to clarify that conversion of an accessory structure to a detached accessory dwelling unit can include demolition and rebuilding, provided that any expansion or relocation of a structure must comply with the development standards for detached accessory dwelling units. The change would allow, for example, replacement of an existing garage or shed with a new building built to the same configuration or meeting all current Code standards, including building codes, instead of a more expensive and complicated remodel to bring an existing structure up to current standards.

23.44.051 Residential, Single-Family – Bed and Breakfasts

Subsection 23.44.051.A is proposed to be clarified consistent with Council's original intent.

23.45.504 Multifamily – Permitted and prohibited uses

The proposed change to Table A for 23.45.504 would correct a footnote reference and clarify when ground floor commercial uses are permitted in Midrise and Highrise zones that include a Residential-Commercial (RC) designation. (See further discussion under Section 23.45.508 below.)

23.45.508 Multifamily – General provisions – Application of development standards for lots in multiple zones

In Chapter 23.46, there are regulations for a specialized zone modifier known as the RC (Residential Commercial) designation. The RC designation is paired with a multifamily zone, such as LR3 (Lowrise 3) and allows a greater variety of uses, particularly commercial uses, than would be permitted in a multifamily zone that lacked the RC designation. However, Chapter 23.46 does not clearly state what development standards apply to structures containing both commercial and residential uses and that are located in a multifamily/RC zone. The proposed change would clarify that the development standards of the multifamily zone that is paired with

the RC designation, such as standards for structure height, setbacks, and floor area ratio, will apply unless a different standard is specified.

Prior to the adoption of Seattle Ordinance No. 123209 in 2010, the regulations for multifamily zones contained a provision in former Section 23.45.006.C that provided as follows: "The development standards of each zone shall be applied in that zone, and may not be used in any other zone, unless otherwise specified." This regulation was deleted by Ordinance 123209 with the result that it is unclear how to apply multifamily regulations on sites that are located within more than one zoning designation (referred to as "split zoned lots"). The result is unintended interpretation such as, for example, a density calculation on a split zoned lot that allows the entire lot size to be used for calculating the allowed number of units. If this is done, the portion of a lot with a lower density allowance could result in a higher density on that portion of the lot. The proposed change would add a new subsection 23.45.508.L to restore the former language and further refine it to specify that on "split zoned" lots, the development standards of each zone apply within that portion of the lot with the corresponding zoning designation and may not be transferred to the other portion of the lot with a different zoning designation.

23.45.510 Multifamily – Floor area ratio (FAR) limits

The proposed change to Section 23.45.510.A.1 would specifically include the area of stair penthouses with enclosed floor space in calculating gross floor area. The current language does not clearly state whether the area of a stair penthouse on the roof of a building counts as gross floor area towards the FAR limit. The argument has been made that there is no actual floor surface at the roof level apart from the landing but in some cases the penthouse area does have at least some enclosed floor space and, if not for the penthouse and roof opening, a flight of stairs to the roof would not be provided. The stairs leading to any enclosed floor space within the stair penthouse are a functional part of the building that should not be disregarded in FAR calculations.

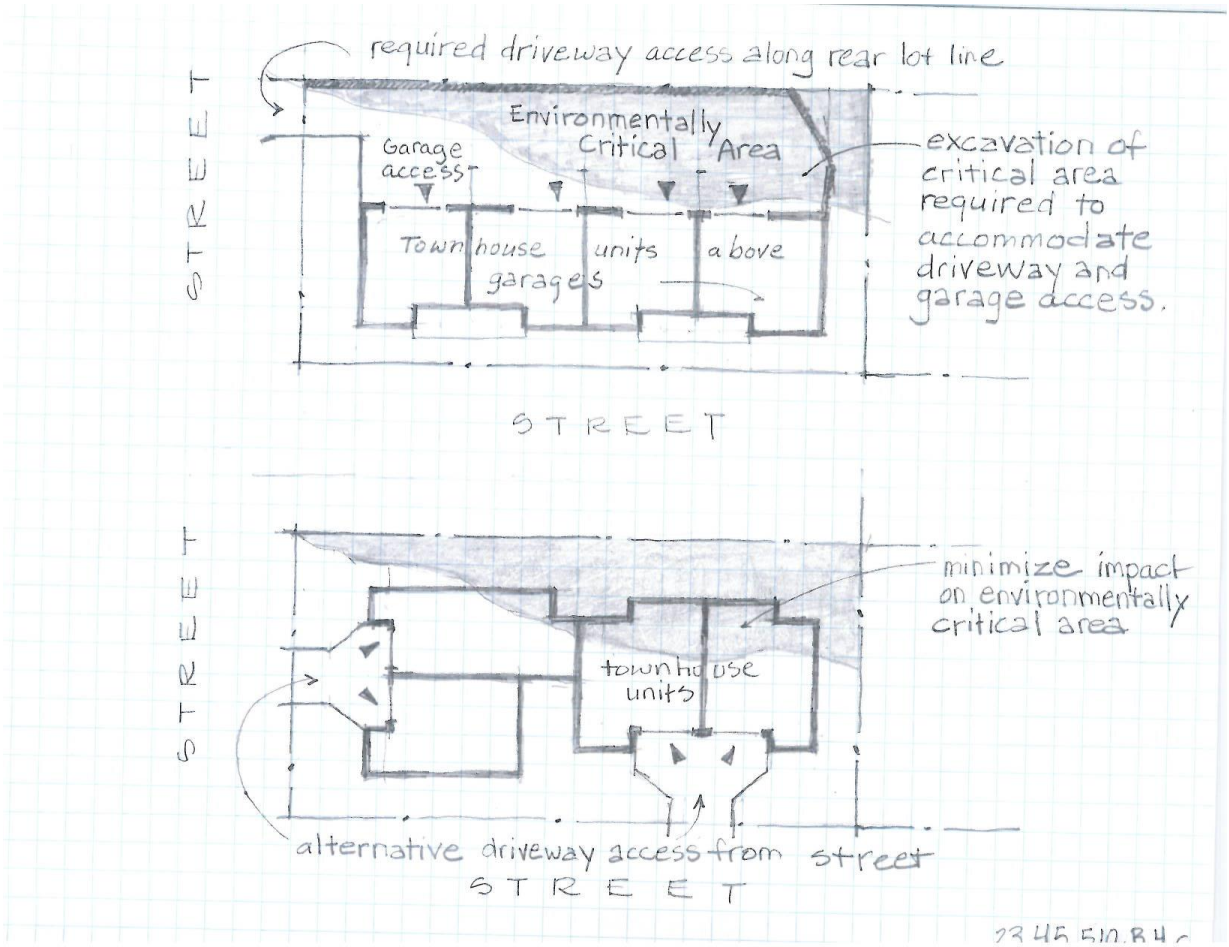
A second change, to Section 23.45.510.C.1.b, would allow existing structures and any additions built onto those structures, to gain the higher FAR normally reserved for structures built to green building performance standards, if the structures were originally built prior to the effective date of Ordinance 123495 that amended the regulations for Lowrise zones. However, entirely new structures proposed to be built on the property and any structures built after the effective date of Ordinance 123495 would have to meet green building standards to gain the additional FAR and, for structures originally built only to the base FAR, would have to be remodeled to meet the green building standards. A structure that could have been developed to the higher FAR limits should not be eligible to be altered later to gain additional FAR without meeting green building standards, but structures built before those standards were developed in the Code should be allowed to gain FAR without remodeling to meet the green building standards. This is proposed in recognition of the environmental benefits of retaining and reusing existing structures and also that green building rating programs are not easily applied to additions to existing structures.

A third change is proposed to subsection 23.45.510.C.3, which currently provides that, for the purposes of gaining higher FAR limits, if a parking area is not within a structure, it must be

located behind all structures except when accessed from an alley, and then it may be located no closer to the front lot line than 50% of lot depth. This section leaves an ambiguity for corner lots accessed from the street, in that it is nearly impossible to locate the outside parking completely behind a structure as viewed from both streets. The parking will generally be exposed to view from at least one of the streets. The proposed solution is to specify that the parking shall be located at the rear of the lot but no closer than 7 feet to the side street lot line, to allow the parking to be partially exposed from the side.

A fourth change to subsection 23.45.510.C.4.c.1 would allow more discretion in location of driveways on corner lots where bonus FAR is sought. The subsection currently requires, for proposed development using bonus FAR only, that the driveway on corner lots must abut and run parallel to the rear lot line or a side lot line that is not a street lot line. The original intent was to promote, using additional FAR, access to a site that resembles access from an alley, largely keeping the parking and access out of the middle of the site. See the top drawing in Figure B, below. Other configurations of access, however, may result in benefits such as decreasing the amount of impervious surface, providing more ground floor living space, and promoting site development opportunities such as increased landscaping. Further, requiring access on the rear or side lot line may pose a problem if there are environmentally critical areas in the side or rear setbacks, or that prevent full use of the lot. The change would grant DPD more discretion to achieve the desired results.

Figure B



23.45.512 Multifamily – Density limits – Lowrise zones

The first proposed change would amend Table A to allow SF residences, if built green per 23.45.510.C, to be exempt from density limits if they are proposed on lots too small for one single family residence to meet the density standard of one unit per 1,600 square feet. The need for the change is based on a proposal to build a single family residence on a site in an LR2 zone that had an area of 1,000 square feet. The lot was thus too small to build a single family house, since the LR2 zone has a density standard of 1 unit per 1600 square feet, with no rounding up allowed if the quotient is less than one, per 23.86.002.A.3. The owner was required to apply for a variance to build a single family unit on the property but the Code would allow a rowhouse, townhouse or small apartment building instead, without a variance, if it met the standards for building "green" in 23.45.510.C. Since the policy intent of exempting rowhouses and townhouses from density limits is to encourage them to be built to green building standards, it seems reasonable to extend that policy to single family houses. The proposal would require that the lot be existing as of the effective date of the current regulations for Lowrise zoning, April 19, 2011, to prevent possible deliberate platting of smaller lots that would have insufficient area to meet the minimum density standard for one unit.

23.45.514 Multifamily – Structure height

Two changes are proposed. Subsection 23.45.514.F.4 would be changed to specify that calculation of the four feet of additional height allowed for the partially below grade story is to be calculated based on an average height above existing grade. The purpose of the four-foot allowance is to facilitate parking and other uses that are partially below ground, and the use of an existing grade average will make the calculation clearer, particularly with respect to lots with a difference in grade.

The second change, to add a new subsection 23.45.514.J.12, would allow a minor height exception for insulation material or soil for landscaping located above the structural roof surface to exceed the height limit, provided that the roof surface is enclosed by a parapet or wall that already qualifies for the existing height exception up to 4 feet above the maximum height for such rooftop features. The proposal is to allow an additional two feet or the height of the parapet allowed in the zone, whichever is greater. The addition of insulation or soil to a roof is common in modern construction and these additions are invisible behind screening walls or parapets. The Code already allows a similar exception for "green roofs" up to 2 feet above the height limit in 23.45.514.I, since the features needed to make a green roof work properly required a deeper roof system than a structure constructed with a regular roof.

23.45.518 Multifamily – Setbacks and separations

The proposed change would add a clarifying footnote 2 to Table A for 23.45.518 to explain that side setback averaging applies only to additions to existing or to changes of use within an existing structure if nonconformity is increased. The current table does not clearly state how to average side setbacks for existing structures if additions are built on the structures or if the use changes from a use not requiring setback averaging to one that does. By interpretation, DPD has applied the average only to the addition. Thus, for example, if a townhouse 40 feet or less in length has a 5-foot setback, so that it meets Code, then a 10-foot addition must set back 15 feet to

meet the 7-foot average for the entire structure. If the use of an existing structure changes from a rowhouse with no required side setback, for example, to a use requiring setbacks, then this can be permitted if DPD determines that nonconformity is not increased or if a variance is approved.

23.45.526 Multi-family – LEED, Built Green, and Evergreen Sustainable Development standards

Higher density and FAR are allowed under Section 23.45.526.A for structures if a commitment is made to develop them to "green" building standards, but this commitment is not applied to additions. Applicants could circumvent the intent of the code by first building a non-green building to the lower FAR and density allowance, then coming in to add units or floor area and arguing that the addition should get the higher density and FAR without meeting the green building. The proposed amendment would limit the provision to exempt additions to buildings that were in existence when the standard took effect. This closes a potential loophole in the Code and better meets the intent of rewarding green building practices.

23.45.529 Multi-family – Design standards

The proposed change would amend subsection 23.45.529.C. The amendment concerns the percentage requirement for façade openings (windows or doors) on street facing facades. In some cases, the minimum façade transparency requirement for certain types of housing on corner lots is placing an unanticipated and unworkable requirement on the design of housing located on corner lots. Within an individual townhouse or rowhouse housing unit (as opposed to the composition of a multi-unit apartment structure), there is limited flexibility for the arrangement of rooms and circulation corridors. When a townhouse or rowhouse dwelling unit is on a corner lot, two of its facades are subject to a minimum façade transparency requirement of 20% under current Code. In the 2013 omnibus amendments (Ordinance 124378) an averaging option was introduced so that the 20% requirement could be averaged across the two street facing facades on a corner lot. In practice the introduction of averaging has not provided the flexibility needed to allow reasonably feasible project designs for townhouse and rowhouse units.

The proposed amendment would therefore reduce the transparency requirement for townhouse and rowhouse housing types only, and only for the corner housing unit. The reduction would be from 20% to 10% of the façade area that must consist of doors or windows. Additionally, the amendment would allow for alternative design treatments instead of doors or windows that create design interest, to satisfy the requirement. Alternative design treatments are already allowed to satisfy the related and similar façade articulation requirement in the same subsection of the code. However, the amendment would not allow both the 10% reduction and the alternate design treatment to be used together.

When the design standards were created at the time of the 2010 Multi-family code update (Ordinance 123495), the impacts on constructability for the specific circumstance of ground-related townhouse or rowhouse units on a street corner were not known. The amendment would not alter the intent or purpose of the Design Standards. The amendment would apply in very limited and specific circumstances.

23.45.532.A Multi-family – Standards for ground floor commercial uses in MR and HR zones

Section 23.45.532.A does not clearly state what requirements should apply for development and/or structures with "ground floor commercial" uses that are located in an MR/RC or HR/RC zone. The proposed change would add a statement that properties located in the MR/RC or HR/RC with ground floor commercial uses are subject to the requirements of Chapter 23.46 instead of section 23.45.532. The proposed change is also added to footnote 3 of Table A for 23.45.504, which addresses ground floor commercial uses in the MR and HR zones.

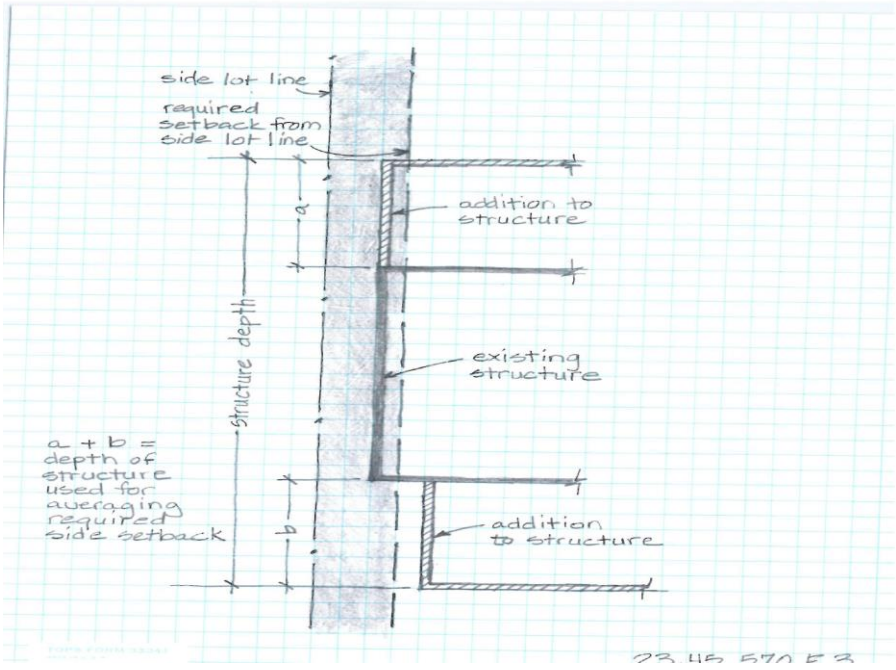
23.45.536 Multi-family – Parking location, access, and screening

Subsection 23.45.536.C.1 currently states "*Except as otherwise expressly required or permitted in subsections C or D of this Section 23.45.536...*" Subsection C regulates access to parking from an alley or a street. Current subsection D addresses parking screening. Prior to 2011, subsection D set forth a series of exceptions for parking location and access. In 2011 Ordinance 123495 updated Section 23.45.536 and the original subsection D was deleted, so that previous subsection E (screening) became the current subsection D. The reference in C.1 is thus proposed to be changed to reference only subsection C to address parking access but not screening.

23.45.570 Multifamily - Institutions

Subsection 23.45.570.F.3 currently requires that an institution maintain a 5-foot side setback except in the case of a side lot line that abuts a residentially zoned lot or side street, where the setback is 10 feet. These required setbacks increase for portions of a structure that exceed a structure depth of 65 feet, according to the matrix in Table C for 23.45.570, based on differences in structure depth and height. Subsection F.3.b then allows an option to average the additional setbacks required according to the table, instead of just applying the full setback per the table to the portion of the structure in excess of 75 feet. However, the option for averaging is not clearly stated. Subsection F.3.b is proposed to be changed to clarify how to apply the setback standard. The second sentence is redrafted to state that the entire additional setback may be applied to the portion of the structure that exceeds 65 feet in depth, or the additional setback may be averaged over the entire structure depth. Thus, referring to Figure C below, the new additions to the structure (portions a and b) may be averaged to meet the required additional setback, instead of averaging the entire structure depth.

Figure C



The concept is that if the existing structure is nonconforming with respect to a setback, it is not reasonable to require the entire structure to meet the required setback, as a new addition would require a much greater setback than the maximums in the Code. In this situation, it makes more sense to require that only the new addition or additions provide the setback. The last sentence of F.3.b is deleted and the reference to table C is moved to the first sentence. This proposal would remove the term "wall," which is not actually defined in the Code, from the entire subsection. Table C is also clarified by changing the title to read "additional side setback in feet" instead of just "side setback in feet" to make it clear that the matrix only applies to the portion of the structure in excess of 65 feet.

23.46.002 Residential-Commercial – Scope of provisions

The current Section 23.46.002.B is confusing as to what the development standards apply to a structure with ground floor commercial use. The proposed changes would clarify that all structures in multifamily zones with an RC designation are to comply with the development standards for apartment structures in the base multifamily zone. This would clarify, for example, that a townhouse cannot have a commercial use on the ground floor, as such an arrangement would no longer meet the definition of a townhouse, in which dwelling units must occupy space from the ground to the roof of the structure. Existing Section 23.46.002.C stating that the development standards of the RC zone apply to all commercial uses is proposed to be eliminated if more specific language is added to Section 23.46.002.B.

23.47A.004 Commercial – Permitted and prohibited uses

Amendments are proposed to Table A for 23.47A.004, Line I.1, to correct footnote errors that occurred when Ordinance 124610 (King County Youth Service Center Ordinance) was adopted in October of 2014 with an extended effective date of April 1, 2014.

A new footnote is proposed to be added to Table A for 23.47A.004 to clarify that commercial uses with drive-in lanes are subject to the development standards for drive-in lanes in Section 23.47A.028. They would not be allowed in zones where the drive-in lanes themselves are prohibited. The Code generally separates use requirements from development standards, and this correction would make that clear for drive-in businesses.

23.47A.012 Commercial – Structure height

Section 23.47A.012.A.1.a allows a structure to exceed the height limit by up to 4 feet if, in part, a residential use is located on a street level, street facing facade and the first floor of the structure at or above grade is at least 4 feet above sidewalk grade. The current Code does not clearly state how to analyze a floor that is just slightly <u>below</u> sidewalk grade. The floor above would easily meet 23.47A.012.A.1.a.1.b if the floor below is slightly below sidewalk grade, but it is not clear that the 4 feet of additional height should be allowed for a structure that has a floor just slightly below grade. The proposed change would amend Section 23.47A.012.A.1.a.1.b to read similar to Section 23.45.514.F, providing a similar height bonus as in the multi-family zones. The change would be similar to subsection 23.45.514.F.4, which requires that the average height of the facades of the partially below grade story not exceed 4 feet, measured from the lesser of existing or finished grade. Thus, a partially below grade story would have to be designed so that its floor was a few feet below grade, instead of potentially just a few inches.

A second change, to 23.47A.012.C.2, would allow in commercial zones the same minor height exception for insulation material or soil for landscaping located above the structural roof surface to exceed the height limit that is discussed under Section 23.45.514 above.

A third change, to Section 23.47A.012.C.4, would allow eaves and canopies to extend from the roofs of stair and elevator penthouses that are permitted to extend above the base height limit as permitted rooftop features. The eaves and canopies would not add to height but might increase

the apparent bulk of stair and elevator penthouses. To control any appearance of increased bulk, the these features would be counted toward the 20 percent maximum coverage limit for rooftop features or 25 percent maximum if the total includes stair and elevator penthouses or screened mechanical equipment.

23.47A.013 Commercial – Floor area ratio

Section 23.47A.013.A.4, which sets forth the requirements for FAR limits when applied to lots in more than one zone, or "split zoned" lots, is unclear where the split zoning is between multi-family and commercial zones. Section 23.45.510.A.3, the similar standard for split zoned lots in multi-family zones, says that the FAR limit for each zone applies to the portion of the lot located in that zone, and the floor area on the portion of the lot with the lower FAR limit may not exceed the amount that would be permitted if it were a separate lot. For commercial zones, the current language just says that the FAR limit for each zone applies to the portion of the lot located in that zone. Thus, in multi-family, the Code can be interpreted to state that by prohibiting shifting floor area to the portion of the property with the lower limit, the intent is to allow shifting to the portion of the property with the higher limit. The proposal is to change Section 23.47A.013.A.4 to allow a similar approach for commercial zones by using the same language as in 23.45.510.A.3, but with an additional clause to prevent shifting floor area to the commercial zone from the multi-family zone if doing so would allow more commercial space on the commercial portion of the lot than could be achieved if it was separate.

A second change would further clarify subsections 23.47A.013.D.1 and D.2. In the previous omnibus ordinance 124378, subsection D was amended to clarify references to exemption of "gross floor area below grade." A related section in measurements, 23.86.007.A, discusses how to measure "underground stories or portions of stories" for purposes of exempting from FAR. Since this terminology was not used in 23.47A.013.D, it was not clear what was subject to exemption. The changes in Ord. 124378 added an exemption from FAR for portions of a story that extend no more than 4 feet above grade in 23.47A.013.D.2. However, in D.1, a reference to gross floor area below grade was changed to gross floor area underground, which still retains the ambiguous reference to gross floor area instead of "story" as used in the measurements section. Thus, a further change to D.1 is proposed to substitute "underground stories or portions of stories" for "gross floor area below grade." The exemption provided for partially underground stories no more than 4 feet above existing or finished grade in subsection D.2 would be retained. The changes would make the regulations for FAR exemptions in the commercial zones similar to the existing exemptions in the multi-family zones and would also make the terminology the same as in the measurements regulations in Chapter 23.86.

23.47A.014 Commercial - Setback requirements

The current Code language provides for setbacks for structures on a commercial zoned lot that abuts a lot in a residential zone or is across an alley from a residential zone if the commercial zoned structure contains a residential use. In some cases, the abutting lot is "split zoned," and includes both residentially zoned property and commercial zoning. The proposal is to clarify subsections 23.47A.014.B.2 and B.3 to provide the same setbacks for these abutting split zoned lots that would apply to a lot zoned entirely residential, provided that that the commercial zoning

on the abutting lot is less than 25 percent of the width or depth of the abutting lot. See Figures D and E below:

Figure D

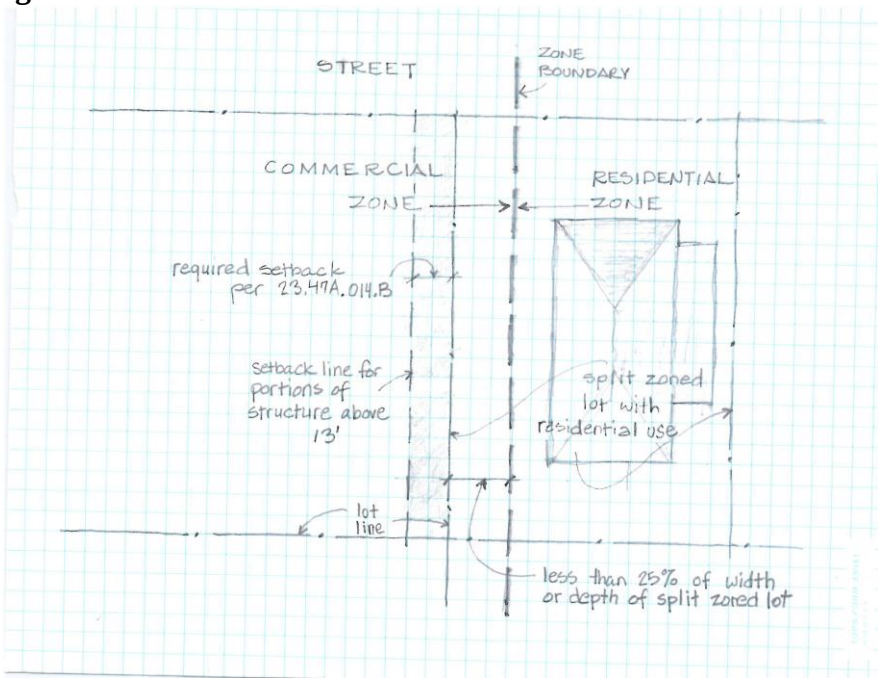
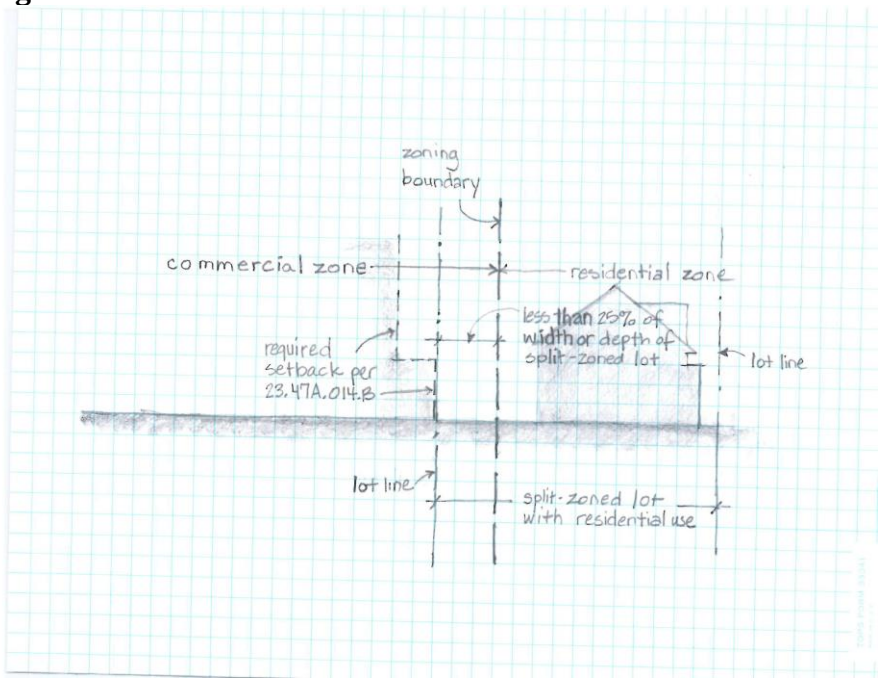


Figure E



23.47A.016 Commercial – Landscaping and screening standards
In a prior amendment to this section, a new subsection 23.47A.016.D.2 was added, and former subsection 2 was renumbered to 3, but former subsections 3 and 4 retained their old numbers, and new numbers 4 and 5 were also added in brackets. The old numbers 3 and 4 and the brackets are proposed to be deleted to resolve the odd dual numbering of these subsections.

23.47A.032 Commercial - Parking location and access
Section 23.47A.032.A.1.a generally requires alley access from an improved alley or from an alley if the Director determines that alley access is feasible and desirable. However, some lots have minimal frontage on an alley such that the driveway standards for commercial zones could not be met if alley access is required. The Code currently allows the Director discretion to permit street access if alley access is not feasible. The amendment would clarify that in cases of minimal alley frontage, access may come from the street. As an example, if there is only 10 feet of frontage on an alley and driveway standards for a commercial use require a minimum of 12 feet for a driveway accommodating one-way traffic, then the property would qualify for street access.

A second change would move subsection 23.47A.032.B.1.d to a new subsection 23.47A.032.B.4, to clarify that accessory parking located off-site is allowed in both Neighborhood Commercial and Commercial zones. The current Code organization suggests that off-site parking is allowed only in NC zones or in C zones on lots in certain locations, but the intent was simply to establish a distance limit for off-site parking, which has always been permitted in both the C zones as well as NC zones.

23.47A.039 Commercial – Provisions for pet daycare centers
The proposed change would allow pet grooming services to board animals but if they choose to add a boarding service, they would be subject to the regulations for pet daycare centers. A change to the definition of "pet grooming facilities" is also proposed to make this clear.

23.48.010 Seattle Mixed – Structure height
The proposed change, to height exceptions for rooftop features in 23.48.010.H.2, would allow in Seattle Mixed zones the same minor height exception for insulation material or soil for landscaping located above the structural roof surface to exceed the height limit that is discussed under Section 23.45.514 above.

23.49.008 Downtown Zoning – Structure height
The proposed change, to height exceptions for rooftop features in 23.49.008.D.1.a, would allow in Downtown zones the same minor height exception for insulation material or soil for landscaping located above the structural roof surface to exceed the height limit that is discussed under Section 23.45.514 above.

23.49.010 Downtown Zoning – General requirements for residential uses

Subsection 23.49.010.C.1 begins with a statement that cross references the common recreation area standards of subsection 23.49.010.B.1 and suggests that that assisted living facilities are subject to those standards, yet the same sentence later says that common recreation area requirements do not apply to assisted living facilities. To reconcile the conflict, the reference to subsection B is proposed to be deleted, as assisted living facilities have their own communal area standards in subsection C.2.

23.49.013 Downtown Zoning – Bonus floor area for amenities
Ordinance 124172 (South Lake Union amendments) amended Section 23.49.011.A.2, and subsection k became j, and subsection l (lower case L) became k. However, Ordinance 124172 did not amend Section 23.49.013.B.4.c, which refers to those subsections. Section 23.49.013.B.4.c is proposed to be changed to properly cross reference Section 23.49.011.A.2, with the cross-reference to subsection A.2.k changed to "j" and the cross-reference to subsection A.2.l changed to "k."

23.49.178 Downtown Zoning – Pioneer Square Mixed, structure height
The existing subsection 23.49.178.D says, at the end of the second sentence, ". . . unless all of the conditions of subsections 23.49.178.D.1-5 are satisfied." However, there are six listed conditions in 23.49.178.D, so the proposed change would read ". . . 23.49.178.D.1-6 . . ."

23.49.242 Downtown Zoning – International District Residential, development standards
Section 23.49.242 establishes various development standards for structures and most of the standards, when referring to height, exclude rooftop features from the height calculation. In subsection 23.49.242.D.2, which requires upper-level setbacks for structures exceeding 85 feet in height, there is no reference to rooftop features. There is no apparent basis for including rooftop features in height measurement in this subsection but not in the others. The proposed change would therefore exclude rooftop features from height measurement when calculating upper-level setbacks.

Map 1I following Section 23.49.338 Parking Uses Permitted
A more legible Map 1I is proposed. No change in content is proposed.

23.50.020 Industrial – Structure height exceptions and additional restrictions
The proposed change, to height exceptions for rooftop features in 23.50.020.A.2, would allow in Industrial zones the same minor height exception for insulation material or soil for landscaping located above the structural roof surface to exceed the height limit that is discussed under Section 23.45.514 above.

23.53.006 Requirement for Street, Alleys and Easements – Pedestrian access and circulation
Existing subsection 23.53.006.C requires sidewalks within Urban Centers and Urban Villages "whenever new lots are created . . ." and "whenever development is proposed". The use of the word "and" creates the impression that both a platting action and development must occur before a sidewalk is required. However, if the language is compared to subsection 23.53.015.A.1,

regulating street improvement requirements for existing streets in residential and commercial zones, for example, the word "or" is used, so that street improvements are triggered either by platting or by proposed development. It is most reasonable to apply the pedestrian access and circulation improvement requirements of 23.53.006.C in the same way as street improvements.

23.53.015 Requirement for Street, Alleys and Easements – Improvement requirements for existing streets in residential and commercial zones

If an existing street does not meet the minimum width requirements but is improved with existing curbs, subsection 23.53.015.D.1.b allows a setback to be provided in lieu of dedication of additional right of way. The Code specifically allows underground structures to be approved in this setback area, with the agreement of Seattle Department of Transportation (SDOT). However, the current language does not state whether upper-level portions of a structure may also extend over such a setback. However, DPD has interpreted existing language to allow such extensions on the basis that if structural building overhangs may be approved over actual right-of-way (See SMC 23.53.035), similar features should be allowed over setbacks provided in lieu of dedication. SDOT has agreed so long as vertical clearance is provided. Although there is no specific allowance for such features under the Code, they can be justified under the various exceptions to street improvement requirements provided in subsection 23.53.015.D.3. To clarify the current language, the proposed change would add a sentence to subsection 23.53.015.D.1.b.1 that allows upper level portions of a structure to extend over the required setback, with the proper vertical clearance, in the same way that underground portions of the structure are now permitted by this section in the setback.

23.54.015 Quantity and Design Standards for Access and Off-Street Parking – Required Parking

The amendment proposed for subsection 23.54.015.K.7 would remove a reference to a non-existent fund for "public" bicycle parking and instead allow bicycle parking in the right of way subject to approval by SDOT.

23.54.025.F Quantity and Design Standards for Access and Off-Street Parking – Offsite parking

The changes would correct a cross referencing error inn subsection F.4 and make minor style changes.

23.54.030 Quantity and Design Standards for Access and Off-Street Parking – Parking space standards

The first proposed change is to the introductory paragraph of Section 23.54.030. Prior to Ordinance 123209, the first phase of amendments to the Multi-family Chapter, the introductory paragraph provided that all parking spaces provided must meet quantity and design standards, such as dimensions for spaces and maneuvering in and out of parking spaces, "whether or not the spaces are required by this Code". In Ord. 123209, Section 56, this language was changed to apply more narrowly only to required parking. However, a sentence exempting non-required residential parking from the standards in subsections 23.54.030.A and B for parking space dimensions and standards was also added. Thus, it could not have been intended to simply

exempt all non-required parking from standards or the sentence addressing residential parking would not have been added. The proposed change would restore the former language prior to 123209 to make it clear that non-required non-residential parking must also meet the quantity and design standards for parking, except that non-required parking for live-work units would be added to the existing exemptions from subsections A and B applicable to non-required residential parking.

The second change would amend subsection 23.54.030.B to change parking space requirements of 23.54.030.B for live-work units. While live-work units are defined as non-residential uses in the Code, requiring commercial standards for all parking stalls serving live-work units is too restrictive. If each live-work unit has only one stall, and commercial standards apply, then each stall must be accessible under the Americans with Disabilities Act (ADA) and, if the units are subdivided so there is only one unit and one parking space per lot, each space must also be barrier free (van size) of 16 feet wide by 19 feet deep, per Building Code standards. The intent was to have non-residential customer parking available on the site of live-work units. The change would allow parking limited to the resident or residents of a live-work unit to meet residential standards but would continue to require live-work parking spaces intended for the non-residential use within the live-work unit to meet non-residential standards.

23.58A.044 Incentive Provisions – Regional Development Credits Program
An incorrect cross reference in subsection 23.58A.044.H.2 is proposed to be corrected. This subsection currently references 23.58A.044.F.1.b, but there is no such subsection. The reference should be to subsection 23.58A.044.H.1.b instead.

23.66.020 Special Review Districts – Special review boards
Minor style changes are proposed.

23.67.060 Southeast Seattle Reinvestment Area – Public notice requirements for rezone applications
The proposed change would remove an outdated reference to publication of notice in a community newspaper in the area affected by the proposal, and instead provide for publication of notice in accordance with Chapter 23.76. Several other clean-up proposals of this type are included in this omnibus legislation, to bring all City regulations into agreement with changes made in Ordinance 123913, which updated most notice requirements in 2012.

23.76.006 Procedures for Master Use Permits and Council Land Use Decisions – Master Use Permits required
State law allows street vacations to be exempt from a consolidated permit process, including Seattle's Master Use Permit (MUP) process, if the local government has determined that special circumstances warrant a different review process. It has been the practice to exempt street vacations from MUP review but the proposed amendment, to add a new subsection F to 23.76.006, would clarify this practice in the Land Use Code.

23.76.012 Procedures for Master Use Permits and Council Land Use Decisions – Notice of application

The first proposed amendment would change Section 23.76.012.B.4.a to require mailed notice for special exceptions, which are a type of specialized land use review similar to variances and conditional use permits, which already require mailed notice. The omission of special exceptions from the list in this section was likely inadvertent. Adding the requirement of mailed notice for them will provide greater and more effective notice to concerned single-family neighbors about small lot developments, as Ordinance 124475 has added a special exception process to develop single family zoned lots that qualify for a minimum lot area exception but have a total area less than 3,200 square feet.

A second proposed change would add a new subsection 23.76.012.F to require annual updating of the mailing list for the Land Use Information Bulletin.

23.76.026 Procedures for Master Use Permits and Council Land Use Decisions – Vesting

The vesting for Design Review projects that have more than one Early Design Guidance (EDG) meeting, as currently written, vests them to the date of the meeting rather than the date of the EDG application. However, the intent was to treat a project with two or more meetings the same as the more typical project with only one meeting and allow the project to vest to the date of EDG application, provided that a MUP application is then filed within 150 days of the first meeting, which allows a reasonable time for multiple meetings to occur. The proposed amendment would thus change the language from "date of the meeting" to "date of application" as intended and correspond to the vesting for projects that have only one EDG.

23.76.032 Procedures for Master Use Permits and Council Land Use Decisions – Expiration and renewal of Type I and II Master Use Permits

The proposed change would delete subsection 23.76.032.A.1.g, which provides an option for applicants to extend the term of a Master Use Permit that either issued or approved for issuance from the three year term allowed in the first sentence of subsection A.1 to a maximum of six years. The optional 6-year term was established by City Ordinance during the recession and was intended as a temporary measure. The ability to seek a 6-year term has sunset and the proposal is to remove the provisions from the Code.

23.84A.002 Definitions – "A"

The definition of "animal shelters and kennels" is proposed to be amended to clarify that boarding of small animals as part of a pet daycare center or pet grooming service does not require reclassifying those uses to an animal shelter or kennel.

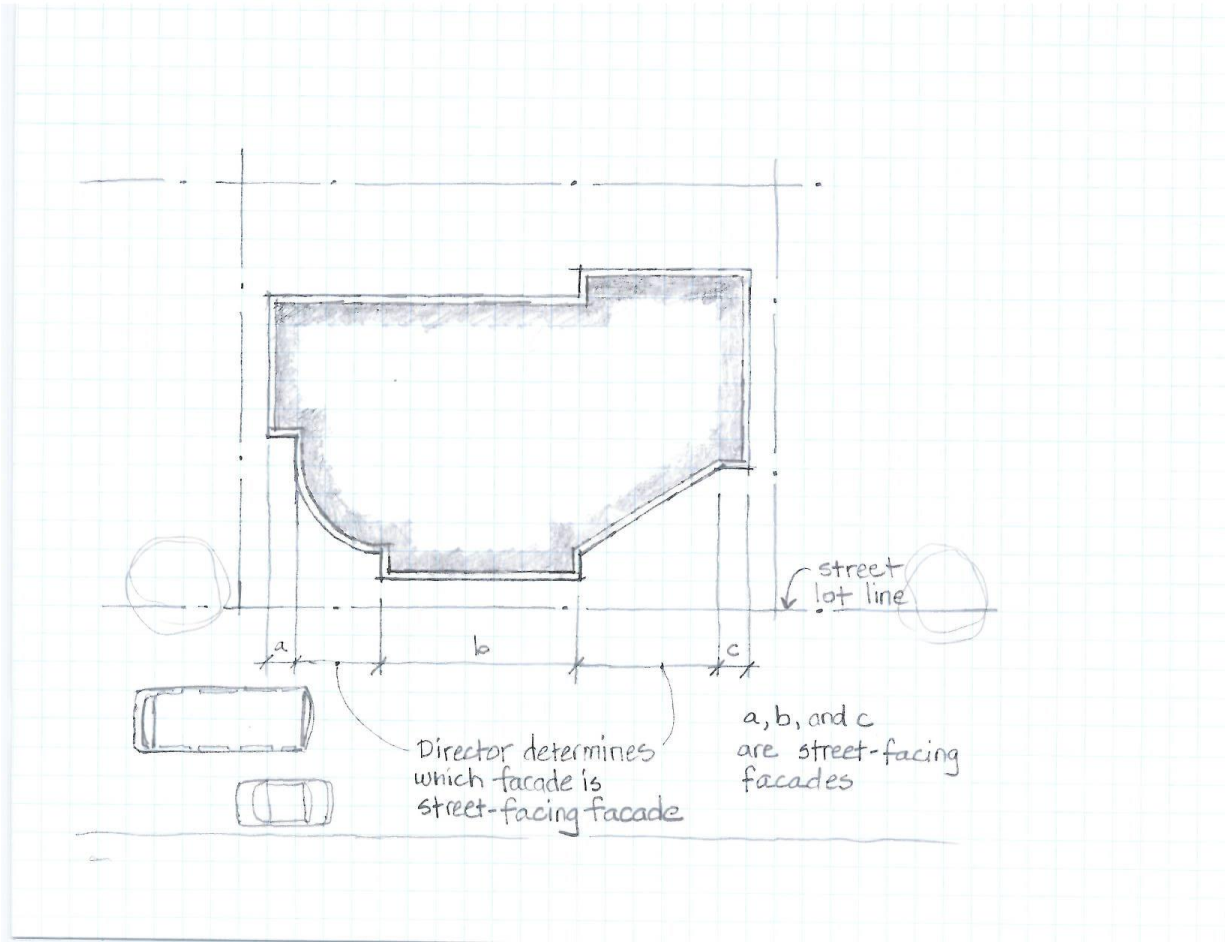
23.84A.008 Definitions - "D"

A change is proposed to the definition of the term "deck" to make clear that safety railings required for life safety purposes under the Building Code are included as part of an allowed deck. Decks are permitted in required yards and setbacks subject to certain standards, including generally a height limit of 18 inches above existing or finished grade. However, the current standards do not address whether a railing or similar feature is allowed as part of the deck.

23.84A.012 Definitions - "F"

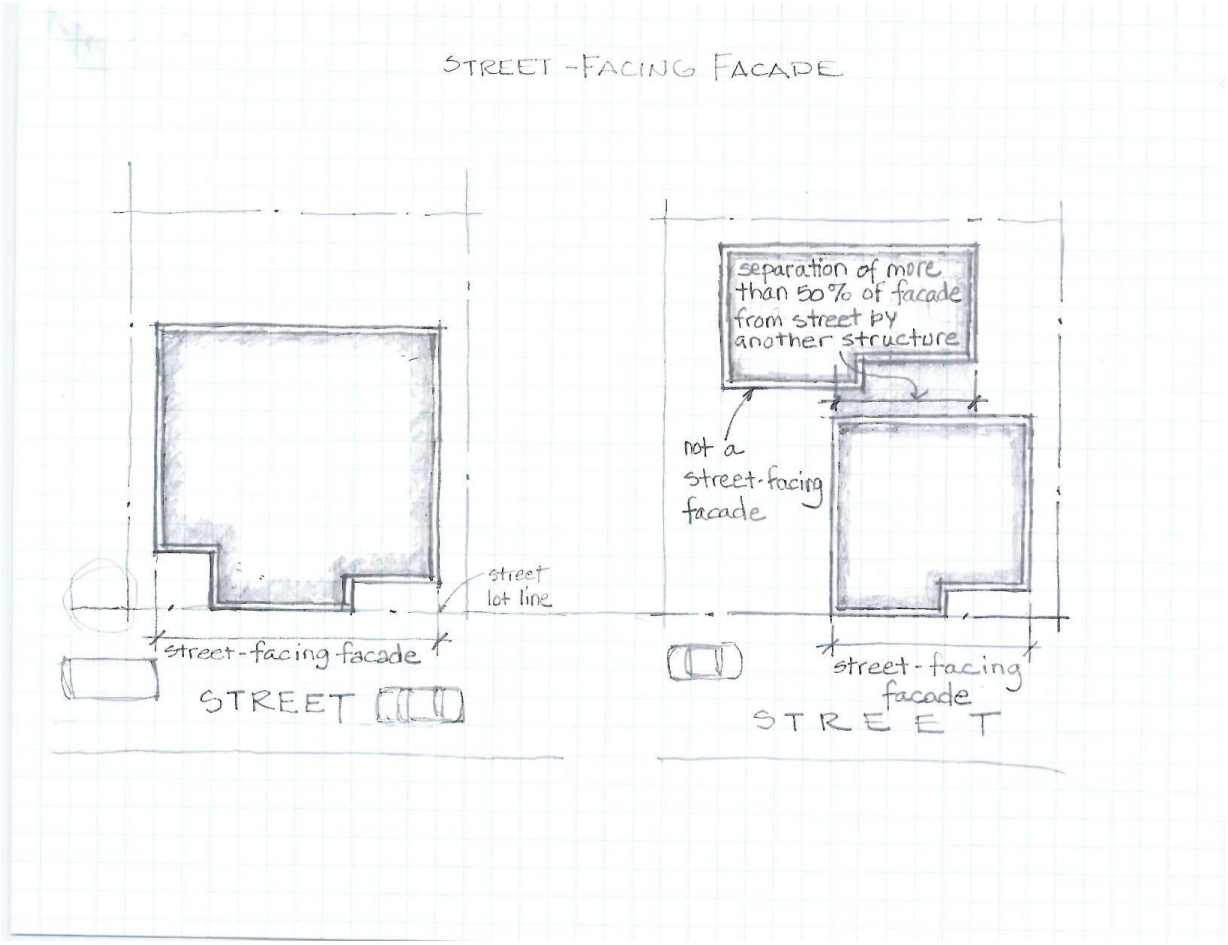
Section 23.45.529 imposes design standards for "street facing facades" of structures in multifamily zones that are exempt from design review regulations. It is not clear how to apply these to a street facing facade if the building is partly behind another structure other than a fence, ramp, solar collector or sign. In that case, part of the facade is still exposed to the street and could be treated as a street facing facade. However, DPD has interpreted Section 23.45.529 as not applicable to a structure any part of which is behind another structure. The proposed revision to the definition of "facade, street facing" would define any facade as street facing if it extends the full length of the structure and faces a street lot line. If a façade is at an angle to the street lot line or is curved or otherwise not directly parallel to the street lot line, the Director of DPD would have discretion to determine the street facing façade. See Figure F below.

Figure F



Interior facades, separately defined as facades that face another building on the same lot, would also be defined as street facing facades if 50 percent or more of the façade faces the street lot line instead of being separated from the street lot line by another lot at least 10 feet wide or by any structure with interior floor area. See Figure G below.

Figure G



23.84A.032 Definitions - "R"

The current language in the Definitions chapter includes a definition of the term "common recreational area" but most Code sections regulating this feature refer to "common recreation area," so the proposed change is to use the word "recreation" instead of "recreational."

23.84A.038 Definitions - "T"

The proposed change to the definition of "TDR site, arts facility" would change the name of the "Seattle Office of Arts and Cultural Affairs" to its current name, the Seattle Office of Arts and Culture.

23.86.006 Measurements – Structure height measurement

The proposed change would add a new subsection 23.86.006.D (currently a "reserved" subsection) to 23.86.006 stating that stories or portions of stories of a structure that are below existing lot grade are not analyzed for purposes of structure height measurement. The existing language of Section 23.86.006 does not address whether to consider, for purposes of height measurement, portions of a building that are below existing lot grade. Analysis of below-grade portions of a structure is clearly not contemplated by the measurement technique but should be stated more clearly. An issue arose with a proposed structure that would have its exposed exterior rear wall set back from the rear lot line, but with an extension toward the rear lot line that was buried except for the roof of the buried area. The exterior wall was determined to be the exposed portion set back from the rear lot line, so no measurement of average grade would be allowed from the "patio" roof top of the otherwise buried wall segment that extended underground beyond the exposed exterior wall. To do so would give the proposed building a height advantage not contemplated by policy.

A second change would remove an incorrect citation in subsection 23.86.006.G to 12.60A.952. While amendments have been adopted by City Council for a new Shoreline Code that would be Chapter 23.60A of the Land Use Code, these amendments have not yet been approved by the State Department of Ecology and therefore existing Chapter 23.60 remains in effect.

23.86.010 Measurements – Yards

Clarification is proposed for 23.86.010.C.3, which regulates measurement of a rear yard when the rear lot line is not "essentially parallel to any part of the front lot line." The clarification would state explicitly that the lot depth is to be measured to the line required to be drawn for rear yard measurement, which is a 10-foot line drawn from side lot line to side lot line, parallel to and at a maximum distance from the front lot line, rather than to a lot corner, a point at the maximum rear of the lot, or to an actual rear property line. The proposed language is similar to existing language for measuring the rear yard and lot depth for a lot with a curved front lot line, which is addressed in subsection 23.86.010.C.4. Related changes are proposed to Section 23.86.016 for measuring lot depth.

23.86.012 Measurements – Multifamily zone setback measurement

The proposed changes would correct two issues with subsection 23.86.012.A: 1) The subsections are proposed to be renumbered as 1, 2, and 3, not a, b, and c, to conform to appropriate style standards for the Seattle Municipal Code; 2) Current subsection 23.86.012.A.c says that setbacks are measured horizontally from the lot line to the point that the structure meets the ground, but this language does not clearly specify how to measure a modulated structure or one that cantilevers on the second floor, for example. The proposed change would clarify that setback measurement is required from the lot line to the façade of the structure nearest to that lot line, except that structural features allowed to project into the setback are excluded from the calculation of average and minimum setbacks.

23.86.016 Measurements – Structure and lot depth measurement

The proposal would clarify that Section 23.86.016, determining lot depth, applies wherever the Code includes a development regulating lot depth and not just "in certain zones" that are not

specifically named as in the current language. Exhibit D for 23.86.016, describing how to measure lot depth if a rear lot line is "not parallel to front lot line for entire distance," is proposed to be deleted entirely, as the illustration does not match the title and does not accurately describe a measurement practice. The reference to the exhibit is deleted from subsection 23.86.016.D.4, as well.

23.86.028 Measurements – Blank facades

Current Section 23.86.028.B requires the length of blank facades to be measured at 5 feet above the elevation of the property line at the sidewalk. However, the development standards for blank facades for the various zones in which they are regulated, such as 23.47A.008.A.2.b, states that blank segments of a facade are determined between 2 feet and 8 feet above the sidewalk, and blank facade segments may not exceed 20 feet in width. This creates an interpretive issue if there is a window, for example, within the area between 2 feet and 8 feet above the sidewalk but the area at exactly 5 feet is a wall. It is not reasonable to conclude that there is a blank facade if there are windows above or below the 5-foot line required by Section 23.86.028.B within the 2-8 foot area. DPD has therefore interpreted these regulations to define a blank facade as a solid wall between 2 and 8 feet above the sidewalk, and an area would not be considered blank facade if there was wall at 5 feet but windows or other interruption above or below that 5-foot line. Section 23.86.028.B is thus proposed to be clarified to remove the requirement that blank facades be measured at exactly 5 feet above the sidewalk level and instead allow measurement of the total area between 2 feet and 8 feet above the sidewalk level.

23.88.020 Rules; Interpretation – Land use interpretations

The current language in Section 23.88.020, particularly subsection 23.88.020.F, suggests that formal interpretations of the Land Use Code relating to shoreline project applications may be appealed to the State Shoreline Hearings Board, but under the Shoreline Management Act the Shoreline Hearings Board has no authority to consider such appeals. The proposed changes would make the land use code interpretation process consistent with what is allowed by state law. Thus, code interpretations relating to projects that are appealable to the City's Hearing Examiner would also be appealable to the Hearing Examiner, but some shoreline code interpretations would be appealable only to court, similar to interpretations that are related to other types of applications that are not appealable to the Hearing Examiner, such as a building permit application.

25.05 SEPA Amendments

The State Department of Ecology has updated its rules for the State Environmental Policy Act (SEPA) found in Washington Administrative Code (WAC) 197-11. Since the state WAC controls over local SEPA ordinances, the changes to Chapter 197-11 require updating and amendment of Seattle's local SEPA regulations, to the extent that those regulations use the same language found in the WAC. The rationale for the changes to SEPA is found on pages 1 and 2 of the Department of Ecology's "Concise Explanatory Statement" of changes to the SEPA rules, Publication no. 14-06-012 dated April 2014. The Ecology summary is quoted below:

"This rule making is specifically mandated by 2012 2ESSB 6406(Chapter 1, 2012 Laws 1st Special Session). This is the second round of rule updates under this bill. The legislature directed ecology to:

- Update, but not decrease, the thresholds for all other project actions in Chapter 197-11-800 WAC that were not previously updated under the first round of updates completed 12-31-2012.
- Propose methods for integrating SEPA with provisions of the Growth Management Act.
- Create categorical exemptions for minor code amendments that do not lessen environmental protection.
- Review the updates resulting from rulemaking in 2012.

The proposed rule amendments include:

- Expanded use of NEPA documentation by lead agencies.
- Update of definition for "lands covered by water".
- For adoption of increased flexible thresholds for minor new construction, more specific requirements regarding cultural resources and an increase in notice to 60 days.
- Expanded minor new construction exemptions for installation or removal of tanks and solar energy projects.
- New exemption for small maintenance dredging projects.
- Update of exemption for land use decisions to provide that most land use decisions will be exempt for otherwise exempt projects, with some limited exceptions.
- New exemption for formation of special districts.
- New exemption for text amendments of ordinances or codes that do not change environmental standards.
- Update of utility exemption for water pipe size to align with industry standards.
- Allow Department of Natural Resource (DNR) Rock sales on state owned land.
- Clarified and expanded Washington State Department of Transportation (WSDOT) maintenance exemptions.
- Environmental checklist updates as well as removing the text of the checklist from the City's SEPA regulations and replacing it with a statement that City Departments shall use a checklist "substantially in the form set forth in Washington Administrative Code (WAC) 197-11-960; the change allows some flexibility between Departments in formatting of the checklist while maintaining its required contents.
- Other minor updates, clarifications and technical corrections.

In addition to the changes to SEPA required by the amendment to the State rules, changes are proposed to Section 25.05.510, regulating public notice, to remove the requirement for publication of notice in a community newspaper with distribution in the area impacted by the proposal. Many areas do not have such newspapers, and it makes sense to rely on the City's official newspaper and the Land Use Information Bulletin, as well as posted notice where required by existing regulations. Similar changes were made to the Land Use Code public notice

requirements by Ordinance 123913 in 2012. Further changes to Section 245.05.510 would update and modernize various references and descriptions of notice procedures.

25.06.030, 25.06.050 Floodplain Development – Definitions and Identification of areas of special flood hazard

Ordinance 124447, effective in April 2014, included many minor amendments and clarifications to the Regulations for Environmentally Critical Areas, SMC Chapter 25.09, and to the Floodplain Development regulations in Chapter 25.06. Two of these cleanup amendments were to the definition and identification of areas of special flood hazard. The references to the 1995 Federal Flood Insurance Rate Maps (FIRM) were removed and replace with a more general reference to the "most current map provided by the Federal Emergency Management Agency (FEMA" in an attempt to provide a more general reference and avoid future amendments to these sections. However, the state Department of Ecology (DOE) advises that the more specific references are required by FEMA and cannot be made more general. The most current maps are still the 1995 maps. New maps are working their way through the FEMA approval process, so these sections will have to be updated to reference new maps in the near future.

25.08.425 Noise Control – Sounds created by construction and maintenance equipment

Subsection 25.08.425.A establishes time periods in which exterior sound level limits may be exceeded by construction or maintenance equipment in multifamily, Residential-Commercial, and Neighborhood Commercial zones. The proposed change would remove an existing clause that allows more extended evening hours from 7 p.m. to 10 p.m. for exceeding these limits if no property in residential use exists within 100 feet of the property generating the sound, except for parking lot maintenance and public projects. There is no definition that explains how to determine if property is in residential use and may create unnecessary arguments about the use of property as well as excess noise. The change would simply require the standard exterior sound level limits to be met after 7 p.m. The exception for maintaining existing public parking lots addresses the issue of cleaning and maintenance of large parking lots, such as those serving the Northgate Mall, where it is necessary to work later in the evening when fewer mall customers are using the lot. The exception for public project provides greater flexibility for those projects.

A second change would distinguish the maximum sound level standard for powered equipment used in maintenance or repair of commercial zoned property from the standard for residential property. The change better reflects the policy with respect to regulation of noise produced by maintenance equipment.

25.08.590 Noise Control – Granting of variance

The proposed change would allow DPD to issue a citation for failure to comply with conditions of a noise variance or with permit conditions relating to noise, as an alternative to a stop work order or notice of violation, for incidents that are either a single incident or occasional. The citation process is a less severe penalty that would allow DPD to make the point that conditions are to be followed without moving immediately to substantial penalties.

25.08.655 Noise Control – Major Public Project Construction Variance

The proposed change to subsection 25.08.955.D would remove the requirement for public comment in the one-year review of a major public project construction variance and give DPD the authority to revoke it as well as modify the conditions. DPD takes comments during the entire duration of a construction variance. The specific requirement for an opportunity specifically at the one year mark has been redundant in practice as comments have already been offered. DPD reviews all comments received and considers them in decision-making.

Recommendation

Adoption of these Land Use Code amendments will help to facilitate easier understanding and improved administration and application of the Land Use Code and related land use regulations. DPD recommends approval of the proposed legislation.