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Form Last Revised: January 16, 2013

CITY OF SEATTLE

ORDINANCE _	

COUNCIL BILL

AN ORDINANCE related to land use and zoning; amending Sections 23.24.045, 23.24.046, 23.44.010, 23.44.012, 23.84A.024, 23.84A.046, 23.86.010 of the Seattle Municipal Code to adopt permanent development regulations to promote compatible buildings on undersized single-family-zoned lots;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.24.045 of the Seattle Municipal Code, last amended by Ordinance 123495, is amended as follows:

23.24.045 Unit lot subdivisions

A. The provisions of this Section 23.24.045 apply exclusively to the unit subdivision of land for townhouse, rowhouse and cottage housing developments, as permitted in Single-Family, Residential Small Lot and Lowrise zones, and for single-family dwelling units in Single-Family or Lowrise zones, or any combination of the above types of residential development, as permitted in the applicable zones.

* * *

Section 2. Section 23.24.046 of the Seattle Municipal Code, last amended by Ordinance 123809, is amended as follows:

23.24.046 Multiple single-family dwelling units on a single-family lot

* * *

B. A lot in a single-family zone containing more than one $((\frac{1}{1}))$ existing single-family dwelling unit may be divided in accordance with this ((e))Chapter 23.24 as long as each of the following conditions is satisfied:

- Each existing single-family dwelling unit was legally established by permit or
 is eligible to be established as a nonconforming development in accordance with Section
 23.42.102, Establishing nonconforming status;
- Each existing single-family dwelling unit was constructed prior to February
 1982;
- 3. Each resulting lot has one(((1))), but no more than one(((1))), existing single-family dwelling unit;
- 4. Parking is provided in accordance with Section 23.44.016, Parking location and access, unless the Director determines that at least one (((1)))of the following conditions is present:
- a. Providing parking accessory to an existing single-family dwelling unit is undesirable or impractical because of the location of an environmentally critical area, existing drainage patterns, natural features such as significant trees, or access to a resulting or adjacent lot; or
- b. The short subdivision cannot be configured to provide parking in compliance with Section 23.44.016;

If the Director determines that at least one $(((\frac{1}{1})))$ of the foregoing conditions is present, the Director may waive or modify the parking requirements of Section 23.44.016 as long as the short subdivision does not reduce the number of off-street parking spaces existing prior to the short subdivision. In connection with such waiver or modification, the Director may require access and parking easements as conditions of approval of the short subdivision; and

5. Each resulting lot conforms to all other development standards of the zone unless the Director determines that the short subdivision cannot be approved if such standards are strictly applied and modification or waiver of some or all of such standards would further the

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public interest. If the Director makes such determination, then the Director may waive or modify development standards, provided that:

- a. Each existing single-family dwelling unit shall be set back at least $((\frac{\text{three }()}{3}))$ feet from each common lot line in the short subdivision; and
- b. No resulting lot shall be smaller than ((one thousand eight hundred (\cdot))1,800((\cdot)) square feet in area.
- c. If a structure does not meet development standards as a result of a waiver or modification under this subsection 23.24.046.B the structure shall be regulated as nonconforming to those standards, in accordance with Section 23.42.112.

* * *

- D. ((Short subdivision of a lot under)) When property is divided according to this Section 23.24.046, the Director may waive or modify ((is exempt from)) the requirements of subsection 23.24.040.A.9, ((unless a lot is created that does not have an existing single family dwelling unit)) to the extent necessary to meet the standards of subsection 23.24.046.B.
- Section 3. Subsection 23.44.010 of the Seattle Municipal Code, last amended by Ordinance 123978, is amended as follows:

23.44.010 Lot requirements

* * *

- B. Exceptions to ((M))minimum ((L))lot ((A))area ((R))requirements. The following exceptions to minimum lot area requirements are allowed, ((subject to the development standards for undersized lots in subsection 23.44.010.C₅))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:
 - a. "The Seventy-Five/Eighty Rule"

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calculation is applied.

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platting action or building permit application applying this exception.

property tax segregation, platting or building permit and has an area of at least 75 percent of the minimum required lot area and at least 80 percent of the mean lot area of the lots on the same block face and within the same zone in which the lot is located (Exhibit A for 23.44.010), or 2) If the lot is or was created by subdivision, short subdivision or lot boundary adjustment, is at least 75 percent of the minimum required lot area, and is at least 80 percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone (Exhibit A for 23.44.010).)) The Seventy-Five Eighty Rule lot area exception may be applied to allow separate development of lots already in existence in their current configuration, or new lots resulting from a full subdivision, short subdivision or lot boundary adjustment. In order to qualify, a lot must have an area at least 75 percent of the minimum required for the zone and also at least 80 percent of the mean area of the lots within the same block front, subject to the following qualifications: 1) In order to be counted as a separate lot for the purposes of calculating the mean area of the lots on a block front, a lot must be entirely within a Single Family zone, must either be developed as a separate building site or else currently qualify for separate development, and must have at least ten feet of frontage on the street along which the 2) Lots developed with institutional uses, parks or nonconforming nonresidential uses may be excluded from the calculation, however there must be at least one lot on the block front used for the calculation other than the property that is the subject of the

((1) If the lot 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,

((face))front.

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- 3) For purposes of this subsection 23.44.010.B.1.a, if the platting pattern is irregular, the Director will determine which lots are included within a block
- 4) A determination whether a lot qualifies for this exception shall be made on the basis of facts in existence as of the date of application for a short plat or building permit for that lot.
- 5) New lots created pursuant to subsection 23.44.010.B.1.a.2 shall comply with the following standards:
- a) for a lot that is subdivided or short platted, the configuration requirements of subsections 23.22.100.C.3 and 23.24.040.A.9 or with the modification provisions of subsections 23.22.100.D and 23.24.040.B, as applicable; or
- b) for an existing lot that is reconfigured under the provisions of Chapter 23.28, the configuration requirements of subsection 23.28.030.A.3 or with the ((or)) modification provisions of subsection 23.28.030.A.4.
- b. The lot area deficit is the result of a dedication or sale of a portion of the lot to the City or ((s))State for street or highway purposes, payment was received for only that portion of the lot, and the lot area remaining is at least((50 percent of the minimum required)) 2,500 square feet.
- c. The lot would qualify as a legal building site under subsection 23.44.010.B but for a reduction in the lot area due to court-ordered adverse possession, and the amount by which the lot was so reduced was less than 10 percent of the former area of the lot. This exception does not apply to lots reduced to less than ((50 percent of the minimum area required under subsection 23.44.010.A))2,500 square feet in area.
- d. "The Historic Lot Exception." The lot has an area ((at least 50 percent of the minimum required under section 23.44.010.A)) of at least 2,500 square feet, and was

contiguous lot after January 17, 1987, or

July 24, 1957, by deed, contract of sale, mortgage, platting or building permit, ((and falls into one of the following categories))subject to the following limitations:

((1) The lot has not been held in common ownership with any

established as a separate building site in the public records of the ((e))County or City prior to

2) The lot is or has been held in common ownership with a contiguous lot after January 17, 1987 and is or has been developed with a principal structure that is wholly within the lot's boundaries, but only if no portion of any contiguous lot is required to meet the least restrictive of lot area, lot coverage, setback or yard requirements that were in effect at the time of the original construction of the principal structure, at the time of its subsequent additions, or that are in effect at the time of redevelopment of the lot (Exhibit B for 23.44.010), or

3) The lot is or has been held in common ownership with a contiguous lot after January 17, 1987 and is not developed with all or part of a principal structure, but only if no portion of the lot is required to meet the least restrictive of lot area, lot coverage, setback or yard requirements that were in effect for a principal structure on the contiguous lot at the time of the construction of the principal structure, at the time of its subsequent additions, or that are in effect at the time of the development of the lot (Exhibit B for 23.44.010). If any portion of the lot to be developed has been used to meet the parking requirement in effect for a principal structure on a contiguous lot, such parking requirement must continue to be met on the lot to be developed or alternative parking that meets the requirements of this Land Use Code must be provided for the contiguous lot.

4) For purposes of subsection 23.44.010.B.1.d, removal of all or any part of a principal structure or destruction by fire or act of nature on or after January 18, 1987, does not qualify the lot for this minimum lot area exception (Exhibit C for 23.44.010)

except that minor features containing no interior floor area including but not limited to eaves and unenclosed decks extending onto an adjacent property do not serve to tie the properties together for purposes of this exception, and these features may be removed to allow separate development of the lots if they otherwise qualify; or))

1) A lot is considered to have been established as a separate

building site by deed or contract of sale only if, as a result of that transaction, the lot was held, or was under contract to be held, under separate ownership from all abutting lots.

2) If two contiguous lots have been held in common ownership at any time after January 18, 1987, and a principal structure extends onto or over both lots, neither lot qualifies for the exception. If the principal structure does not extend onto or over both lots, but both were used to meet yard or lot coverage standards in effect at the time the structure was built or expanded, neither lot qualifies for the exception unless the vacant lot is not needed to meet the current standards.

3) Lots that do not otherwise qualify for this exception cannot qualify as a result of removal of all or part of a principal structure or destruction by fire or act of nature on or after January 18, 1987, except that lots may qualify as a result of removal of minor features containing no interior space, including but not limited to eaves and unenclosed decks.

4) If two or more abutting lots with a mean area less than 3,200 square feet were under common ownership and undeveloped with any principal structure as of February 1, 2013, and no permit application was submitted for separate development of any of the lots prior to that date, no more than one of those lots may qualify for the lot area exception in this subsection 23.44.010.B.1.d.

5) If parking for a principal structure on one lot has been provided on an abutting lot, and that parking is required under Chapter 23.54, the parking requirement for

the house must be legally met on the same lot as the existing principal structure in order for either lot to qualify for the exception.

- 6) The structure depth of any structure on a lot that meets the conditions outlined in subsection 23.44.010.B.1.d but has a total area less than 3,200 square feet shall not exceed two times the width of the lot. If a side yard easement is provided according to subsection 23.44.014.D.3, then the area of the easement may be included as a part of the width of the lot, for purposes of compliance with this subsection 23.44.010.C.3.
- e. The lot is within a Clustered Housing Planned Development pursuant to Section 23.44.024, a Planned Residential Development pursuant to Section 23.44.034, or a development approved as an environmentally critical areas conditional use pursuant to Section 25.09.260.
- f. The lot is or was created by short subdivision of a lot containing more than one existing single family dwelling unit pursuant to Section 23.24.046.
- g. If a lot qualifies for an exception to the lot area requirement under subsections a, b, c or d of this subsection 23.44.010.B.1, the boundaries between that lot and contiguous lots on the same block face that also currently qualify for separate development may be adjusted through the lot boundary adjustment process in a way that maintains the existing lot areas, increases the area of a qualifying substandard lot without reducing another lot below the minimum, or causes the areas of the lots to become more nearly equal, provided that the number of parcels qualifying for separate development is not increased. Lots resulting from such a lot boundary adjustment that do not meet the minimum lot area requirement qualify for an exception to that requirement.

2. Limitations($(\frac{1}{2})$)

a. Development may occur on a substandard lot containing a riparian corridor, a shoreline habitat and shoreline habitat buffer, a wetland and wetland buffer, or a steep

Environmentally Critical Areas, if the following conditions apply:

1) The substandard lot is not held in common ownership with an ((adjacent))abutting lot or lots at any time after October 31, 1992, or

slope and steep slope buffer pursuant to the provisions of Chapter 25.09, Regulations for

2) The substandard lot is held in common ownership with an ((adjacent))abutting lot or lots, or has been held in common ownership at any time after October 31, 1992, if proposed and future development will not intrude into the environmentally critical area or buffer.

b. Lots on totally submerged lands do not qualify for any minimum lot area exceptions.

((C. Development of any principal structure on lots that meet the conditions outlined in subsection 23.44.010.B.1.d but have a total area less than 3,750 square feet shall comply with the height standards of Section 23.44.012.A.3.

 \underline{D} .)) \underline{C} . Maximum ((\underline{L})) \underline{I} ot ((\underline{C})) \underline{c} overage. The maximum lot coverage permitted for principal and accessory structures is as follows:

Lot Size	Maximum Lot Coverage
Less than 5,000 square feet (sq. ft.)	1,000 sq. ft. ((+)) <u>plus</u> 15((%)) <u>percent</u> of
	lot area
5,000 sq. ft. or more	35((%)) percent of lot area

For purposes of computing maximum lot coverage, only those portions of a lot that measure at least 10 feet in ((any direction))all directions shall be included in lot coverage calculations, except for portions of a lot that are used for access or that are granted a waiver under subsections 23.22.100.D, 23.24.040.B, or 23.28.030.A.4 for the purpose of providing access.

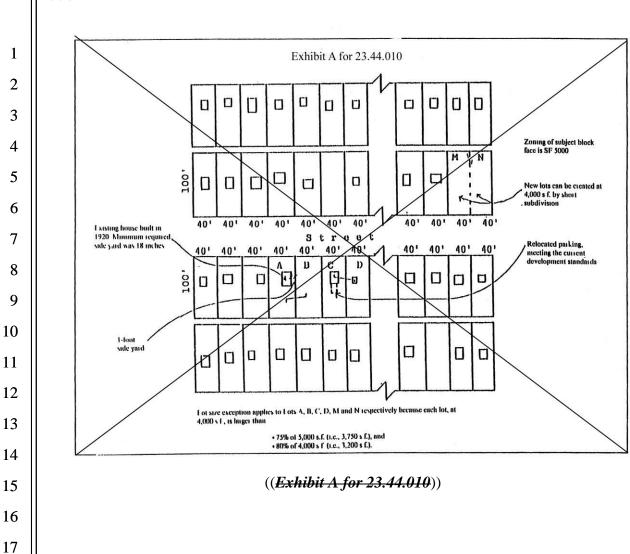
 $((E))\underline{D}$. Lot $((C))\underline{c}$ overage $((E))\underline{e}$ xceptions $((\cdot,\cdot))$

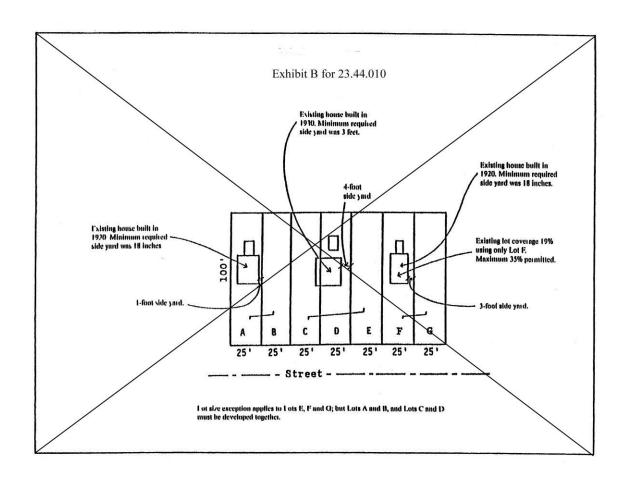
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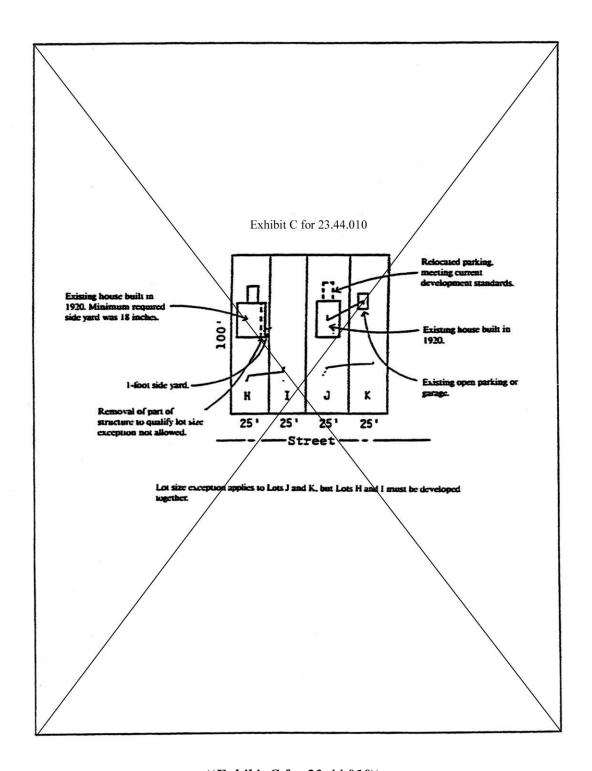
1. Lots ((A)) <u>a</u> butting ((A)) <u>a</u> lleys. For purposes of computing the lot coverage

- a. The area of a lot with an alley or alleys abutting any lot line may be increased by $\frac{1}{2}$ of the width of the abutting alley or alleys.
- b. The total lot area for any lot may not be increased by the provisions of this ((s))Section 23.44.010 by more than 10 percent.
- 2. Special ((S)structures and ((P))portions of ((S))structures. The following structures and portions of structures are not counted in lot coverage calculations:
- a. Access ((\(\frac{1}{8}\))\(\frac{1}{2}\) in tidges. Uncovered, unenclosed pedestrian bridges 5 feet or less in width and of any height necessary for access;
- b. Barrier-free ((A))access. Ramps or other access for the disabled or elderly that comply with Washington State Building Code, Chapter 11;
- c. Decks. Decks or parts of a deck that are 36 inches or less above existing grade;
- d. Freestanding $((S))\underline{s}$ tructures and $((B))\underline{b}$ ulkheads. Fences, freestanding walls, bulkheads, signs and other similar structures;
- e. Underground ((S))<u>s</u>tructures. An underground structure, or underground portion of a structure;
- f. Eaves and ((G))gutters. The first 36 inches of eaves and gutters that project from principal and accessory structures;
- g. <u>Solar collectors and swimming pools.</u> Solar collectors that comply with Section 23.44.046 and swimming pools that comply with Section 23.44.044.





((Exhibit B for 23.44.010))



 $((Exhibit\ C\ for\ 23.44.010))$

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Section 4. Section 23.44.012 of the Seattle Municipal Code, last amended by Ordinance 123978, is amended as follows:

subsections 23.44.012.A.2 and 23.44.012.A.3, the maximum permitted height for any structure

that can be drawn within the lot lines of the lot ((The maximum permitted height for any

structure on a lot of any width that)) is less than ((3,750))3,200 square feet ((that qualifies for

separate development according to the provisions in section 23.44.010.B.1.d)) the maximum

permitted height for any structure on that lot is 22 feet, unless the structure's height is further

restricted by other code provisions. Additional height may be permitted as a special exception,

up to the maximum that would apply to a lot of the same width under subsection 23.44.012.A.1

dwelling units on adjacent lots within 50 feet of the property on average, or less, and the number

of stories is comparable to what is provided in those adjacent single-family dwelling units or

1. Except as permitted in ((S)) subsection 23.44.041.B, and except as provided in

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

3. For a lot of any width, if the area of the largest rectangle or other quadrilateral

a. The height of the structure is comparable to the heights of single-family

1) More than 20 percent of the houses on either side of the block

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23.44.012 **Height** ((L))limits

width is 25 feet.

not located in a required yard is 30 feet.

A. Maximum ((H))height ((E))established((-))

or 23.44.012.A.2, if both of the following criteria are met:

less, unless one of the following applies:

are two or more stories in height; or

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	2) There has been a trend over the last five years within the	
general vicinity of construction	on of new houses with greater height, or additions that increased the	<u>1e</u>
height of existing houses; or		

3) The additional height allows for deeper setbacks from property lines and/or reduced lot coverage, such that the impacts of the structure are less adverse than the impacts of a house built to the full footprint allowed by yard and lot coverage standards but limited to a height of 18 feet; or

4) Topography and vegetative cover are present such that additional height on the subject lot is mitigated relative to neighboring houses.

b. The development is reasonably compatible with the surrounding neighborhood and negative impacts on the surrounding neighborhood are mitigated. This includes but is not limited to concerns such as location on the lot, bulk and scale, privacy, shadow impacts, pedestrian environment, and preservation of trees and other vegetation, however the development is not required to match the architectural style of adjacent homes.

- 4. The method of determining structure height and lot width is detailed in Chapter 23.86, Measurements.
- B. Pitched ((R))roofs. The ridge of a pitched roof on a principal structure may extend up to ((five ())5(())) feet above the maximum height limit, as determined under subsection 23.44.012.A above. All parts of the roof above the height limit must be pitched at a rate of not less than 4:12 (Exhibit A for 23.44.012). No portion of a shed roof, except on a dormer, shall be permitted to extend beyond the maximum height limit, as determined under subsection 23.44.012.A above. Roof forms including but not limited to barreled and domed roofs may be allowed under this subsection 23.44.012.B if the Director determines that the roof form remains within the massing of a pitched roof form such as a gable or gambrel roof that would otherwise be allowed by this subsection 23.44.012.B (Exhibit B for 23.44.012).

* * *

Section 5. Section 23.84A.024 of the Seattle Municipal Code, last amended by Ordinance 123913, is amended as follows:

23.84A.024 "L"

* * *

"Lot" means, except for the purposes of a TDR sending lot for Landmark TDR or housing TDR, a sending lot for South Downtown Historic TDR or South Downtown Historic TDP, and a sending lot for open space TDR, ((one or more platted or unplatted)) a parcel((s)) of land that qualifies for separate development or has been separately developed. A lot is the unit to which the development standards or each zone are typically applied. A lot must abut((ting)) upon and be accessible from a private or public street sufficiently improved for vehicle travel or abut((ting)) upon and be accessible from an exclusive, unobstructed permanent access easement. A lot may not be divided by a street or alley (Exhibit A for 23.84A.024).

- 1. For purposes of a TDR sending lot for Landmark TDR, "lot" means the parcel described in the ordinance approving controls for the sending lot.
- 2. For purposes of a sending lot for housing TDR, "lot" means the smallest parcel or combination of contiguous parcels, as described in the County real property records at any time after January 4, 1993, that contain the structure or structures that make the TDR eligible for transfer.
- 3. For purposes of a sending lot for South Downtown Historic TDR or South Downtown Historic TDP, "lot" means the smallest parcel or combination of contiguous parcels, as described in the County real property records at any time after March 31, 2011, that contain the contributing structure or structures that make the TDR or TDP eligible for transfer.
- 4. For purposes of a sending lot for open space TDR, the definition of lot in Section 23.49.017 applies.

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"Lot line, front" means, in the case of ((an interior)) a lot with frontage on a single street, the lot line separating the lot from the street, and in the case of a ((corner)) lot with frontage on more than one street, other than a through lot, the lot line separating the lot from any abutting street, provided the other lot line(s) that abut streets are considered to be side street lot line(s). In the case of a through lot, the lot lines separating the lot from the streets that are parallel or within 15 degrees of parallel to each other are both front lines. For new development on a lot with no street frontage, the front lot line shall be the lot line designated by the project applicant in accordance with Section 23.86.010. If the area of the front yard based on a front lot line determined according to this definition is less than 20 percent of the total lot area and also less than 1,000 square feet in area, the Director may require that a different lot line be designated as the front lot line in order to provide structural setbacks, building separations and open space more consistent with those of other lots in the vicinity.

* * *

Section 6. Section 23.84A.046 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.84A.046 "Y"

* * *

"Yard, front" means an area from the ground upward between the side lot lines of a lot, extending from the front lot line to a line on the lot parallel to the front lot line, the horizontal depth of which is specified for each zone. In addition, the front yard includes all portions of the lot that are within the specified distance from the street along which the front lot line extends, even if separated from the street by an intervening lot. In the case of an irregularly-shaped lot, the front yard shall be a portion of the property determined according to subsection 23.86.010.B.

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extending from the rear lot line to a line on the lot parallel to the rear lot line, the horizontal depth of which is specified for each zone. <u>In the case of an irregularly-shaped lot, the rear yard shall be a portion of the property adjacent to the rear lot line, determined according to subsection 23.86.010.C.</u>

"Yard, rear" means an area from the ground upward between the side lot lines of a lot,

* * *

Section 7. Section 23.86.010 of the Seattle Municipal Code, last amended by Ordinance 123046, is amended as follows:

23.86.010 Yards

A. Measuring ((\mathbb{R}))required ((\mathbb{Y}))yards. Required yard dimensions shall be horizontal distances, measured perpendicular to the appropriate lot lines (Exhibit A for 23.86.010((A))). For lots with no street frontage, the applicant may designate the front lot line provided that under the resulting orientation, the area of the front yard is at least 20 percent of the area of the lot, or 1,000 square feet, whichever is less. If a lot with frontage on more than one street is developed with an existing principal structure, the presumed orientation of the lot for the purpose of yard standards shall be the orientation under which the existing structure is most conforming to current yard standards.

* * *

Section 8. 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.

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2	Passed by the City Council the	_ day of, 2013, and		
3	signed by me in open session in authentication of its passage this			
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7		Presidentof the City Council		
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9	Approved by me this day of _	, 2013.		
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12		Michael McGinn, Mayor		
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14	Filed by me this day of	, 2013.		
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17	(Cool)	Monica Martinez Simmons, City Clerk		
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