

SDOT

Director's Rule 12-2015

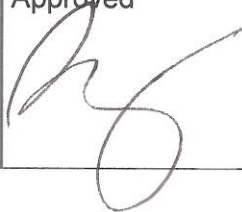
Applicant: CITY OF SEATTLE Seattle Department of Transportation (SDOT)	Page 1 of 9	Supersedes: SDOT Director's Rule 00-1;
	Publication: 12/14/2015	Effective: 1/1/2016
Subject: Shoreline Street Ends – Definitions, Objectives, Permit Application Requirements, Community Street End Development, Permitted Private Uses, SDOT Review of Application, Inspection and Survey, Permit Fee Formula, Permit Fee Reduction, and Permit Fee Review	Code and Section Reference: Seattle Municipal Code, Sections 15.04.035, 15.04.	
	Type of Rule: Code Interpretation	
	Ordinance Authority: SMC 3.12.020	
Index: Street and Sidewalk Use; Street Use Permits; First Amendment Activities	Approved 	Date 1.14.16

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1.0 REFERENCES

- 1.1 Ordinance 119673, as amended by Ordinances 123611 and 124532
- 1.2 Seattle Municipal Code (SMC) Title 15, Street and Sidewalk Use Code
- 1.3 Resolution 29370
- 1.4 SMC Title 23, Land Use Code
- 1.5 SMC Chapter 25.05, Environmental Policies and Procedures

2.0 DEFINITIONS

- 2.1 “Adjacent property” means and includes the property abutting the margin of and contiguous to the public places. (SMC 15.02.042)
- 2.2 “Applicant” means the individual or entity that has applied for a permit to use the public place on their or another individual’s or entity’s behalf. (SMC 15.02.042)
- 2.3 “Director” means the Director of the Seattle Department of Transportation or authorized representative. (SMC 15.02.044)
- 2.4 “Permit,” “use permit,” and “street use permit” each mean a permit to use or occupy a portion of the public place issued by SDOT under to SMC Chapter 15.04.
- 2.5 “Public place” means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles, and plazas that are not privately owned. (SMC 15.02.046)
- 2.6 “SDOT” means the Seattle Department of Transportation.
- 2.7 “Shoreline street end” means the land portions of street segments that provide or could provide if improved, the public with visual or physical access to a body of water and its shoreline, which are listed on Exhibit A to Resolution 29370 that adopted policies guiding the development of public access improvement to shoreline street ends. (SMC 15.02.046)
- 2.8 “Use” means exercising dominion or control over, or occupying all or part of, a public place with or without the right to do so. (SMC 15.02.048)

3.0 OBJECTIVES

- 3.1 In managing the City's Shoreline Street Ends, SDOT is guided by SMC 15.04.035.D.2 that provides the highest and best use of these street ends is for public use SDOT has the discretion to deny a permit that would preclude public access, or alternatively condition a permit to require that public access be maintained. Existing encroachments may be permitted, but the full use by the public is the ultimate goal.
- 3.2 When the rule is citing sections of the SMC, the code language is referenced by a citation to the SMC after the rule heading or section that is citing the code.

4.0 PERMIT APPLICATION REQUIREMENTS

- 4.1 An adjacent property owner, a community organization, individual volunteers, or another group of neighborhood sponsors may apply for a permit to improve a shoreline street end for public access or views on an application form obtained from SDOT. Whenever possible, plans should minimize impervious surface, minimize stormwater runoff, and preserve native vegetation. All applications must provide the following standard information as an attachment to the application form or request:
 - 4.1.1 A map, drawing, or photos that show the existing conditions of the shoreline street end being proposed for use. Features to be shown include, but are not limited to: trees, shrubs, or other vegetation; topography or spot elevations; any structure of any kind both in and adjacent to the public place; signs; and any unusual surface treatment. If submitting a map or drawing, it should be drawn to scale.
 - 4.1.2 A plan drawing or schematic plan of all improvements proposed for the street end. Improvements to be shown include, but are not limited to, the following: any structure of any kind; any new vegetation or rearrangement of existing vegetation; green stormwater infrastructure, including for example, swales and rain gardens; grading; any new surface material including gravel; and proposed signs, art, or any painted words or symbols. All proposed plans should provide either physical or visual access to the water and parking in compliance with the Americans with Disabilities Act (ADA). If the topography of the site is not suitable to accommodate access for persons with disabilities, the applicant must provide a written explanation to SDOT as to the reason ADA access cannot be achieved. The drawing or plans should be drawn to scale and be of professional quality.

- 4.1.3 Any map, drawing, or plan required under this section that is prepared by an engineering or design professional should be signed by that professional.
- 4.1.4 A written description of the proposed use and how the public will benefit.
- 4.1.5 A written description of the surrounding land use patterns.

5.0 COMMUNITY-LED STREET END IMPROVEMENTS

- 5.1 An individual, a community organization, or another group of neighborhood sponsors may request a street end be open and accessible to the public by applying for a permit and submitting a written request to SDOT according to Section 4.0 of this rule. The organization must include in its application a plan showing:
 - 5.1.1 That the permitted access of the adjacent property owners will not be compromised;
 - 5.1.2 The proposed maintenance plan for the street end; and
 - 5.1.3 That their plan is compatible with any approved neighborhood development plan which exists at the time of application.
- 5.2 If a public access plan is approved by SDOT, private uses that are not the exclusive means of access to an abutting property and that conflict with the plan must be removed by the property owner. SDOT has the discretion to revoke a permit and require the private improvement be removed whether or not it has been previously permitted. If SDOT removes the private uses, the adjacent property owner will be billed the cost of removal plus 15 percent to cover administrative expenses. (SMC 15.04.072 and 15.46.010)
- 5.3 Public access improvements shall be maintained as follows:
 - 5.3.1 A local community group or other sponsors of new public access improvements shall provide ongoing maintenance. SDOT may participate in the maintenance with the goal to encourage 'stewardship' of these public areas by the surrounding communities.
 - 5.3.2 The local community group or other sponsors of new public access improvements shall make every reasonable effort to ensure that the public places are maintained at or better than the same standard as other public places in the area. The installation of low maintenance, drought-resistant, native landscaping is encouraged.

5.3.3 SDOT reserves the right to enter into agreements with any agency or individual for the purpose of maintaining street ends, and will coordinate with the Parks Department and related State and Federal agencies to encourage maintenance of public access and landscaping improvements.

5.3.4 For emergency or major unanticipated repair, SDOT may assist the community in providing clean up, damage, and repair relief to the public features of that street end as practical within the available budget.

5.4 Public access signage shall be provided as follows:

5.4.1 All shoreline street ends that are accessible to the public will be signed.

5.4.2 Signs will be installed by SDOT or its designated agent, and shall be clearly visible to the public.

5.4.3 The public place boundaries will be clearly marked as needed.

6.0 SDOT-LED STREET END IMPROVEMENTS

5.1 The Shoreline Street End Cost Center funds improvements to designated shoreline street ends.

5.1.1 Shoreline street end improvements led by SDOT will be consistent with existing neighborhood plans.

5.1.2 Property owners within a minimum of 200 feet of the shoreline street end will be notified in advance of substantial improvements to a shoreline street end.

5.1.3 Routine maintenance activities on a shoreline street end are within SDOT's purview as managers of the public place and do not require notice.

7.0 TREES IN SHORELINE STREET ENDS

7.1 Trees in shoreline street ends, whether improved or unimproved, are protected and regulated trees as provided for in SMC 15.43 "Street Tree Ordinance." Guidance related to these permitted activities can be found in SDOT's "Street Tree Manual."

7.2 Permits are required to plant, prune, or remove any tree in the public place, including shoreline street ends.

7.3 Trees planted in improved shoreline street ends will be considered SDOT assets and SDOT will maintain the trees.

8.0 PERMITTED PRIVATE USES

- 8.1 An applicant for a private use of a shoreline street end must submit an application to SDOT according to Section 4.0 of this rule. Owners of property adjacent to Shoreline Street Ends have the right to use the street end for access to their properties.
- 8.2 Floating Homes, Boats and Other Structures. The use of submerged rights-of-way is covered by other sections of the Street and Sidewalk Use Code, Title 15, and is not subject to the Shoreline Street Ends provisions. Shore-based uses of the right-of-way that support floating homes and preclude the public are, however, subject to these provisions.
- 8.3 Private uses, include but are not limited to structures, rockeries, fences, hedges/greenery, private gardens/patios, or recreational equipment that blocks shore access or views, are subject to Shoreline Street Use Annual permit fees as established in the SDOT Street Use Permit Fee Schedule.
- 8.4 Maritime industrial land uses that show an operational/business need for an adjacent shoreline street end that would be incompatible with both the business operation and safe access by the public will be considered to be a higher priority use of the street end than public access. Such land uses, whether by private entities or non-City public agencies, shall be subject to the Shoreline Street End permit fee. The fee may be calculated using a Maritime Industrial Use Discount Factor to reflect City policy that supports maritime industrial land uses as established in the SDOT Street Use Permit Fee Schedule.

9.0 SDOT APPLICATION REVIEW

- 9.1 When a completed application is received by SDOT it will be reviewed for conformance with the application requirements. If the application is incomplete, the applicant shall be notified of missing items. When the application is determined to be complete, the Street Use Division of SDOT will review the application for compliance with the following:
 - 9.1.1 Consistency with the adopted shoreline street end policies (Resolution 29370 and SMC 15.04.035.D) and all other pertinent and successor legislation and departmental rules and procedures.
 - 9.1.2 The safety of the general public. If any part of the proposed street end project could impact the public safety, the applicant will be requested to revise the project to meet public safety requirements, as determined by SDOT.

- 9.1.3 If the proposed project is not exempt from SEPA review under SMC Chapter 25.05, the applicant will be required to complete an environmental checklist.
- 9.1.4 If the project includes work in the water, permits may be required by the Army Corps of Engineers, Department of Natural Resources, Department of Fish and Wildlife, and other federal, state, or local agencies.
- 9.1.5 A shoreline street end permit will not be issued until the applicant has obtained: a shoreline substantial development permit or a shoreline permit exemption from the Department of Planning and Development, and any other required permits required by SMC Title 23, the Land Use Code.
- 9.2 SDOT will require that physical or visual access to the water and parking for persons with disabilities are included in plans where the topography is suitable, and that ADA standards be met. Where the topography allows, SDOT will require that space be allocated for appropriate low-impact development and green stormwater infrastructure improvements.
- 9.3 SDOT may require public notice be given to property owners within a minimum of 200 feet of the shoreline street end in advance of proposed substantial improvements to a shoreline street end (SMC 15.04.030)
- 9.5 SDOT may grant, grant with modifications or conditions, or deny the permit application.

10.0 INSPECTION AND SURVEY

- 10.1 SDOT may periodically inspect and verify obstructions/private uses on shoreline street ends.
- 10.2 If SDOT is requested by a property owner to provide inspection services in order to verify a modification of their encroachment into the street end so that the associated permit fee can be modified, a deposit will be collected from the property owner. Any inspection time will be charged to the deposit at SDOT's hourly inspection rate as established in the current SDOT Street Use Permit Fee Schedule.
- 10.3 The property owner(s) may submit a written request to establish right-of-way margins to SDOT. Such a request will require a deposit for a survey. Any inspection time will be charged to the deposit at SDOT's hourly inspection rate as established in the current SDOT Street Use Permit Fee Schedule. The total cost of the survey will be at the expense of the property owner who requested the survey.

11.0 PERMIT FEE FORMULA

- 11.1 The Shoreline Street End permit fee methodology was established by City Council by Ordinance 123611, as amended by Ordinance 124532, and as may be subsequently amended. The permit fee methodology consists of five factors: the Use Area in square feet (sf), the Demand Probability, the Land Value per sf, the Rate of Return, and the Maritime Industrial Use Discount, that when multiplied together will produce the annual permit fee amount. These factors are further defined in the Street Use Permit Fee Schedule.
- 11.2 SDOT will update the fee for each encroachment annually based on the adjacent land values from the King County Assessor's Office and the Rate of Return from the City Appraiser.
- 11.3 The Demand Probability factor (DPF) has been established by Ordinance 123611 as recommended by the City Appraiser for a majority of the shoreline street ends.

12.0 PERMIT FEE REDUCTION

- 12.1 An adjacent property owner may reduce the permit fee by reducing the area of private use of the Shoreline Street End.
- 12.2 An adjacent property owner can apply for a credit for maintaining publicly accessible areas of the shoreline street end. The application must be accompanied by a maintenance plan.
- 12.3 The amount of the credit will be determined by agreement between the property owner and SDOT. The credit will be based on the contribution towards public use of the street end.

13.0 PERMIT REVIEW REQUEST

- 13.1 A Shoreline Street End permittee may request that the Director of SDOT or the Director's designee review their permit as provided by SMC 15.04.112.
- 13.2 Written requests for review should identify how the Shoreline Street End use provides public access or a public safety benefit.