

**BEFORE THE HEARING EXAMINER
City of Seattle**

In the Matter of the Appeal of)	Hearing Examiner File:
)	
MARTIN HENRY KAPLAN,)	W-16-004
ARCHITECT AIA (QUEEN ANNE)	OPCD MOTION TO DISMISS
COMMUNITY COUNCIL))	
)	
from a Determination of Non-Significance by)	
the Director, Office of Planning and)	
Community Development, regarding)	
amendments to the Land Use Code)	

The Office of Planning and Community Development (OPCD) respectfully requests that, pursuant to Hearing Examiner Rules (HER) 2.16 and 3.02, the Hearing Examiner (Examiner) dismiss the appeal by Martin Henry Kaplan in the above-captioned matter. Under HER 3.02, the Examiner may dismiss an appeal without a hearing if the appellant fails to state a claim for which the Examiner has jurisdiction to grant relief or the appeal is without merit on its face. The appeal should be dismissed for both reasons.

Background

The decision appealed is a review under the State Environmental Policy Act (SEPA) of proposed Land Use Code amendments by the City Council related to attached accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs), also called backyard cottages. The proposal would:

- Modify certain development standards for siting, designing, and constructing ADUs and DADUs;
- Remove the requirement for one off-street parking space when an ADU or DADU is established;
- Allow an ADU and a DADU on the same lot; and
- Require owner-occupancy for a period of 12 months after an ADU and/or DADU is established.

Copies of the proposed legislation, the OPCD Director’s Report, the SEPA checklist, the SEPA determination decision, and the public notice of the legislation are attached to this motion for reference.

Current regulations allow ADUs and DADUs in single-family zones subject to certain development standards. The proposed legislation is intended to remove identified barriers that have constrained the production of ADUs and DADUs. SEPA review of legislation

proposals is required of proposals that "...contain standards controlling use or modification of the environment," per Section 25.05.704.B.2.a.

Argument

Mr. Kaplan's appeal raises four issues with the Determination of Non-Significance (DNS). First, the appellant alleges that Councilmember Mike O'Brien did not adequately solicit public input in developing the proposal. Second, the appeal restates the proposed amendments to the Land Use Code and makes an unsubstantiated argument that the proposal will have significant impacts. Third, the appeal invokes previous statements by elected officials about potential land use policy changes that are irrelevant under the scope of SEPA. Fourth, the appellant asserts that the responses in Part B of the SEPA checklist, which is for project-specific actions, are evidence that OPCD has not accurately completed the SEPA checklist. OPCD submits that all of these arguments are subject to dismissal for the following reasons:

1. OPCD followed all required public notice procedures pursuant to SMC 23.76.020.C, and additional public involvement conducted by Councilmember O'Brien is outside the scope of interest under SEPA.

The appellant argues that Councilmember Mike O'Brien has failed to include the majority of Seattle residents in seeking public input. This argument is irrelevant to the SEPA determination, is without merit, and should be dismissed. Neither the number of public meetings held nor the public input collected at these meetings affects the adequacy of the SEPA determination under appeal. The public notice published in the Land Use Information Bulletin (LUIB) and the Daily Journal of Commerce (DJC) attached to this motion demonstrates that OPCD followed all codified procedural requirements for public notice of the legislation pursuant to SMC 23.76.020.C. The appellant does not dispute that OPCD followed all required procedures for public notice of the proposed legislation. The appellant merely objects to the format and/or number of public meetings held in January and February 2016, during the phase of proposal development, which is irrelevant to the SEPA determination on the proposed legislation.

Regarding the merits of this argument, the appeal admits that members of the Queen Anne Community Council attended two public meetings about the proposed legislation in January and February 2016. During these meetings, OPCD received several hundred comments and questions from the public. The appellant's claim that "these two meetings...did not include public input" is demonstrably false, as evidenced in the Summary of Public Input report cited in the appeal, which summarizes the responses of the several hundred people that attended these meetings. Regardless, this line of argument is entirely outside the scope of interest under SEPA. Accordingly, it should be dismissed.

2. The appellant provides no information about alleged errors in the decision and no specific objection to the decision being appealed.

OPCD acknowledges that the appeal correctly states that the proposal would modify the regulations in SMC 23.44.041 for accessory dwelling units. However, the appeal notice fails to provide any information whatsoever about any alleged errors in OPCD's determination, which could result in significant adverse impacts that would be likely to result from this legislation.

SMC 23.05.680.A establishes procedures for SEPA appeals of Master Use Permits and Council land use decisions. Subsection 2.b states:

“... The appeal notice shall set forth in a clear and concise manner the alleged errors in the decision...”

Section 3 of the Hearing Examiner Rules of Practice and Procedure addresses appeal filings. Subsection (d)(3) states:

“(d) Contents. An appeal must be in writing and contain the following:

...
(3) A brief statement of the appellant's issues on appeal, noting appellant's specific objections to the decision or action being appealed;”

Merely restating the proposal in question, as the appeal does on page 2, and then suggesting that “we will demonstrate the considerable number of significant impacts from overturning the existing code,” is not sufficient to set forth the alleged errors, and it does not note any specific objections to the decision. Part C.2.b of the appeal provides no specific information on any topics or elements of the environment that the appellant alleges were inadequately considered or evaluated erroneously. This makes it impossible for OPCD to know what errors are alleged, and it is impossible to respond to any alleged deficiency in the determination.

The appellant states that the proposed legislation seeks to overturn existing regulations governing accessory dwelling units. This is incorrect and mischaracterizes the proposal. Accessory dwelling units are already allowed by existing zoning in all single family zones. Contrary to the appellant's assertion, this proposal retains many existing development standards that regulate development on single-family zoned lots, including for accessory dwelling units. First, the proposal retains the existing definitions of a “household” and a “single-family dwelling unit.” Together, these definitions effectively limit the number of unrelated persons that can live on a single-family zoned lot to eight, regardless of any accessory dwelling units on the lot.¹ Second, the proposal makes no change to the maximum lot coverage limit for single-family zoned lots, which regulates the footprint of all structures on a single-family zoned lot, including accessory structures.² Third, the proposed amendments retain the existing requirement that a

¹ There is no limit for related persons under current or proposed regulations.

² The maximum lot coverage limit for lots 5,000 square feet and larger is 35 percent of the lot area. The maximum lot coverage limit for lots under 5,000 square feet is 1,000 square feet plus 15 percent of the lot area.

property owner establishing an accessory dwelling unit must occupy either the principal dwelling unit or the accessory dwelling; the proposed legislation modifies but does not eliminate the owner-occupancy requirement.

The SEPA checklist is required to evaluate only the environmental impacts resulting from the proposed amendments. The proposal makes no changes to the number of people that can live on a single-family zoned lot, and no changes to the total amount of area on a single-family zoned lot that can be covered with one or more structures, relative to what is allowed under current regulations. The appeal fails to articulate any basis for why the modest changes in development standards, when compared to the current Code standards, would have any probable significant adverse impacts. The appeal simply describes the proposed legislation but fails to present any specific topic of error in or objection to the decision.

The appellant refers to previous legislation that allowed development of ADUs and DADUs. But the SEPA determination in question is an evaluation of probable environmental impacts stemming only from the proposed legislation. It is not a discussion of current policy options or past policy decisions. While the proposal may represent a minor shift in policy direction, that is a matter for the City Council to decide and not within the scope of a SEPA determination.

Because the allegations in part C.2.b of the appeal lack any specificity and are entirely unsubstantiated, they should be dismissed.

3. Statements by elected officials are irrelevant and outside the scope of interest under SEPA.

The appellant raises two spurious arguments in part C.2.c. of the appeal that are irrelevant to the adequacy of the SEPA determination. The first argument concerns public statements by Mayor Murray about the Housing Affordability and Livability Agenda (HALA). Statements from elected officials are immaterial to the DNS on the proposed legislation and are completely outside the scope of interest under SEPA. The SEPA analysis concerns only the proposed legislation or action at hand, and therefore a statement made by an elected official is not material to the SEPA determination. Discussion of the HALA recommendations, or other HALA-related legislative proposals other than the proposed modifications to development standards for ADUs and DADUs is completely irrelevant to the SEPA determination in question.

The appellant argues that Mayor Murray made assurances that “there would be no upzones and changes to any single-family zoned land in Seattle.” Even if public statements were relevant to a SEPA determination of probable environmental impacts, which they are not, the appellant’s assertion that the proposal contradicts Mayor Murray’s assurances is incorrect. The proposed legislation does not change the zoning of any land. The proposal modifies development standards for ADUs and DADUs, which are already allowed by right on single-family zoned lots in Seattle.

The appellant further argues that Councilmember Mike O'Brien has claimed that the proposed legislation will lead to construction of affordable housing but contends there are no professional or expert studies to support that claim. This argument should be dismissed because statements by Councilmember O'Brien are immaterial to the SEPA determination. Only the material in the proposed legislation, the SEPA checklist, and the SEPA determination can serve as the basis for appeal. The appellant argues that "experts agree that removing the barriers [to the development of accessory dwelling units] will in fact produce market rate housing." This claim is not substantiated, and no specific experts are identified. The appellant also claims that, under the proposed legislation, "current single family homes on single-family zoned lots will become duplexes and triplexes." This argument should be dismissed because duplexes and triplexes are forms of multifamily housing that are not allowed in single-family zones currently or under the proposed legislation. In any case, there is nothing in the appeal statement that relates any of these concerns to a probable significant adverse environmental impact.

Nothing in the SEPA materials claims that the proposed legislation will produce rent-restricted affordable housing. Data and observation suggest that ADUs and DADUs produced to date generally rent at market-rate prices. However, due to their smaller size, accessory dwelling units tend to offer a housing option that is affordable to a wider range of households and income levels relative to single-family houses in the same neighborhood. This fact does not mean that ADUs and DADUs provide a form of housing for low- or very low-income households, nor that the City ever made such a claim. This argument should be dismissed because it is without merit and unsubstantiated and has no bearing on environmental impacts.

4. Because the proposed legislation is a nonproject action under SMC 25.05.704 and 25.05.774, completion of Part B of the SEPA checklist is not required.

The appeal asserts in part C.2.d that OPCD completed the SEPA checklist without accuracy because questions in the checklist are answered with "Not applicable." The proposed legislation is a nonproject action as described in SMC 25.05.704.B.2 and 25.05.0774. Part B of the SEPA checklist, which applies to project-specific actions, is therefore not applicable. OPCD did not commit an error in answering Part B questions with "Not applicable." WAC 197-11-315 provides for the lead agency to determine that questions in Part B do not contribute meaningfully to the analysis of the proposal. Part D of the SEPA checklist, which applies to nonproject actions, was completed entirely and accurately, a fact that the appellant does not dispute.

The Hearing Examiner has previously ruled on this argument. In Hearing Examiner File W-13-008, Matter of the Appeal of Dennis Saxman (2014), the Hearing Examiner concludes that:

"...the proposed legislation is a nonproject action under SMC 25.05.705 and 25.05.774; and WAC 197-11-315 does not require that Part B be completed if the lead agency determines that the questions in Part B do not contribute meaningfully

to the analysis of the proposal. In this case, the questions in Part B to which DPD has responded 'not applicable' do not contribute meaningfully to the analysis of the proposal, because there is no specific site or construction project which has been proposed. There is no evidence to show that DPD's evaluation of the proposal as a nonproject proposal was in error or that the proposal's impacts were not disclosed because the proposal was evaluated as a nonproject proposal."

Hearing Examiner decision W-13-008 concerned an appeal of a DNS issued by the Department of Planning and Development (DPD) for a proposal to amend the Land Use Code to modify development standards, design review thresholds, and definitions related to micro-housing. The micro-housing proposal, like the current proposed amendments to regulations for ADUs and DADUs, did not involve a specific site or construction project. The current proposal would affect the regulations for single-family zoned parcels, of which there are more than 125,000 citywide, and is thus exactly like the nonproject proposal considered in W-13-008. The appellant's argument with respect to completion of the SEPA checklist is without merit and should be dismissed as it was in Hearing Examiner File W-13-008.

Conclusion

For the reasons stated above, this appeal should be dismissed. Short of complete dismissal, DPD requests that the Hearing Examiner order the appellant to supplement the appeal with specific statements of error so that OPCD may determine how to respond in any scheduled hearing.

Entered this 8th day of July, 2016.



Geoff Wentlandt, Strategic Advisor
Office of Planning and Community Development

Attachments: Proposed legislation, OPCD Director's Report, SEPA checklist, SEPA decision, public notice

cc. Martin Henry Kaplan, appellant
Jeff Eustis, appellant legal counsel

Other Land Use Action for publication in the LUIB & DJC on May 19, 2016

**NOTICE OF LAND USE CODE TEXT AMENDMENT
TO REMOVE BARRIERS TO THE CREATION OF BACKYARD COTTAGES
AND ACCESSORY DWELLING UNITS
AND DETERMINATION OF NON-SIGNIFICANCE
Pursuant to SMC 25.05.340 and WAC 197-11-340**

The City of Seattle Office of Planning and Community Development (OPCD) is proposing to amend the Land Use Code, SMC Chapter 23.44, to modify development standards related to accessory dwelling units (ADU) and detached accessory dwelling units (DADU), also known as backyard cottages.

ENVIRONMENTAL DETERMINATION

After review of a completed environmental checklist and other information on file, OPCD has determined that the amendments described above will not have a probable significant adverse environmental impact, and has issued a Determination of Non-Significance under the State Environmental Policy Act (no Environmental Impact Statement required).

HOW TO COMMENT

Comments regarding this DNS or potential environmental impacts may be submitted through June 2, 2016. Comments may be sent to:

**City of Seattle, OPCD
Attn: Nick Welch
PO Box 34019
Seattle WA 98124-4019
nicolas.welch@seattle.gov**

HOW TO APPEAL

Appeals of the decision to issue a Determination of Non-Significance (DNS) must be submitted to the Office of the Hearing Examiner by 5:00 p.m. June 9, 2016. Appeals should be addressed to the Hearing Examiner and must be accompanied by an \$85.00 filing fee in a check payable to the City of Seattle. The appeal must be sent to:

**City of Seattle
Hearing Examiner
PO Box 94729
Seattle WA 98124-4729**

INFORMATION AVAILABLE

Copies of the DNS and the proposal may be obtained at the SDCI Public Resource Center, 700 5th Avenue, Suite 2000 in the Seattle Municipal Tower. The DNS and proposal will be available on the City's website no later than Thursday, May 19, at <http://web1.seattle.gov/dpd/luib/>.

The Public Resource Center is open 8:00 a.m. to 4:00 p.m. on Monday, Wednesday, and Friday, and 10:30 a.m. to 4:00 p.m. on Tuesday and Thursday.

Questions regarding the proposed amendments can be directed to Nick Welch at (206) 684-8203 or nicolas.welch@seattle.gov.

**CITY OF SEATTLE
DETERMINATION OF NON-SIGNIFICANCE BY
THE OFFICE OF PLANNING & COMMUNITY DEVELOPMENT (OPCD)**

Applicant Name: City of Seattle
Address of Proposal: Certain single-family zoned lands within Seattle

SUMMARY OF PROPOSED ACTION

The proposal is to amend various provisions of the Land Use Code related to attached accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs), also called backyard cottages. The proposal would:

- Modify certain development standards for siting, designing, and constructing accessory dwelling units and backyard cottages;
- Remove the requirement for one off-street parking space when an accessory dwelling unit or backyard cottage is established;
- Allow an accessory dwelling unit and a backyard cottage on the same lot; and
- Require owner-occupancy for a period of 12 months after an accessory dwelling unit and/or backyard cottage is established.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS

 DNS with conditions

 DNS involving non-exempt grading, or demolition,
or involving another agency with jurisdiction.

BACKGROUND

Since 1994, the City of Seattle passed legislation to allow ADUs that are inside or attached to the principal residence in single-family zones. In 2006 the City Council adopt Ordinance 122190 allowing DADUs for homeowners living in southeast Seattle as a pilot program. DADUs were allowed citywide in 2010 through adoption of Ordinance 123141. Section 23.44.041 of the Seattle Municipal Code (SMC) includes regulations for ADUs and DADUs. The proposed code changes modify certain provisions of Section 23.44.041 pertaining to development standards and other regulations for ADUs and DADUs. The proposed changes do not alter the locations where ADUs and DADUs are allowed.

Public Comment

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed Land Use Code changes during future Council meetings and hearings.

OPCD has considered public comment on the proposal in several public forums. In October 2015, OPCD released a report discussing a range of potential policy options, and received written and e-mailed comments on the report. In January and February 2016 two community meetings were held to receive public comment on potential code changes. In addition, two public lunch and learn events were held in City Council chambers in April of 2015 and December, 2015, both of which included public comment periods.

A summary of public input received is found in the report “Removing Barriers to Backyard Cottages and Accessory Dwelling Units Summary of Public Input” dated March 2016.

ANALYSIS - SEPA

This proposal is adoption of legislation and is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the proponent, dated May 16, 2016. The information in the checklist, a copy of the proposed code changes, the Director’s Report and Recommendation, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

This is a substantive change to the Land Use Code, to adjust certain development standards in the single-family zones pertaining to ADUs and DADUs. The proposed amendments may result in potential impacts and warrant further discussion.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed Land Use Code amendments would result in no immediate adverse short-term impacts because the adoption would be a non-project action. The discussion below evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials

The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. At the non-project stage, it is not possible to meaningfully assess the potential impacts on the natural environment from these modifications, in the absence of a known proposed development of an ADU or a DADU. Development of specific projects on individual sites is subject to the City’s

existing regulations, such as the Stormwater, Grading and Drainage Ordinance, the Environmentally Critical Areas Ordinance, and Noise Ordinance.

The eligible locations for ADUs or DADUs would not be significantly altered by the proposal, and the proposal does not alter any procedures or regulations related to natural environment protections. New ADUs and DADUs are currently allowed in single-family zones under existing regulations and will continue to be allowed under the proposed code changes. Single-family zones are located in areas of the city designated for single-family residential uses on the City's Comprehensive Plan Future Land Use map. These are areas typically characterized by a high level of existing development and urbanization. Therefore, additional development of ADUs and DADUs in single-family zones is not expected to have a disproportionate impact on elements of the natural environment.

Built Environment

Land & Shoreline Use, Height/Bulk/Scale, Transportation, Public Services and Utilities

The proposed changes are not expected to create significant impacts on existing and planned land and shoreline use. ADUs and DADUs are currently allowed as accessory uses to principal single-family dwelling units in single-family zones, and that would not change under the proposal. Detached accessory dwelling units are not allowed to be constructed on lots in the Shoreline District.

The changes are not expected to significantly alter the scale of new developments that add an ADU or a DADU, compared to what would otherwise occur under existing regulations. The proposal may result in minor increases to the height of certain new DADU structures; it may result in DADU structures containing approximately 200 more square feet than could be constructed today; and it could allow DADU structures that occupy a greater percentage of a rear yard than under existing regulations. Taken together these adjustments amount to very minor and incremental increases to the height/bulk/scale of potential structures in single-family zones. These potential increases do not result in an increase in the total overall allowed lot coverage limit for single-family residential development that regulates the amount and area of a lot that can be covered with a structure. Height limits for DADU structures under the proposal height limit adjustments would remain lower than the allowed height limit for principal structures in single-family zones.

The proposed changes are not expected to significantly alter the overall intensity of use and activity on single-family lots in single-family zones compared to what could occur under existing regulations. The proposed Land Use Code changes are intended to encourage the production of ADU and DADUs. Measures to encourage increased production include changes to allow both an ADU and DADU on the same lot, and the reduction to the owner-occupancy requirement to a term of one year. The proposal could result in a higher production rate as is intended. As discussed in the SEPA checklist, it is also reasonable to assume that the average total household size for lots with an ADU and/or a DADU are likely to be incrementally greater than the average household size for a principal single-family residence alone. (Although it is important to note that no change is proposed to the maximum allowed household size of 8 unrelated persons, which is applied to all persons living on the lot including the ADU and/or the DADU.) These

potential increases to production rates and effective household sizes are considered. The SEPA checklist response to question 5 characterizes how the potential magnitude of increase to the rate of ADU and DADU production is small relative to the total quantity of single-family zoned lots in Seattle. It is apparent that even if rates of ADU and DADU production are increased, the incremental amount would result in minimal or negligible impacts on public services or utilities. Potential increased rates of production would remain consistent with the City's 20 year comprehensive plan projections for population growth.

The proposed changes are not expected to significantly impact transportation systems including roads, transit and non-motorized transportation infrastructure. As discussed above, the potential increased production of ADUs and DADUs would result in a very small and incremental increase in the intensity of use, such that any resultant increase to the number of trips generated would be very small. Additionally, as discussed in the SEPA checklist, the observed pattern of ADU and DADU locations across the city is distributed, and not concentrated in any one area. This pattern is not expected to change. The distributed pattern of ADU and DADU units further moderates any potential impact on transportation systems in an area.

The proposed legislation could result in minor localized impacts to the availability of on-street parking. The proposal would remove the requirement for the creation of a new off-street parking space at the time an ADU or DADU is permitted. This change could result in an increase in the demand for on-street parking in local areas or blocks where an ADU or DADU is located, if the ADU or a DADU occupant possesses a vehicle. As discussed in the checklist, the availability of on-street parking in Seattle's single-family neighborhoods varies. Single-family neighborhoods with greater constraints on on-street parking supply tend to be neighborhoods with a greater variety of transportation options closer to job centers.

None of the above described potential minor effects of the proposed legislation would result in significant adverse environmental or cumulative impacts on the built environment when compared with development that could occur in the absence of the proposed legislation. Without a specific project proposal, it is not feasible to quantify the specific levels of impact on a citywide basis of these proposed regulations. Future projects developed pursuant to the provisions of the proposal will require permits, review and project approvals as provided for in the Seattle Municipal Code.

Conclusion

The proposed code amendments to adjust development standards for ADUs and DADUs in single-family zones are expected to have minimal impacts on both the natural and the built environment. The proposed regulations do not substantially alter the scale or intensity of development compared to what could be built with existing regulations. The proposed changes may result in minor alterations to the height/bulk/scale or specific configurations of new DADUs in single-family zones. The proposed changes could result in a small increase in the rate of ADU and DADU production compared to what could occur under existing regulations. The amount of impact stemming from such an increase are not be expected to lead to any significant adverse impacts. In addition, the existing regulatory framework, i.e., the Land Use Code, The Shoreline Master Program, Environmentally Critical Areas Ordinance, will address impacts of development proposals on a project-specific basis.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist, code amendment, and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).

- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: On File Date: 5/19/16
Geoff Wentlandt, Strategic Advisor
Office of Planning & Community Development

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

A. Background

1. Name of proposed project, if applicable:

Land Use Code Amendments: Backyard Cottages & Accessory Dwelling Units

2. Name of applicant:

City of Seattle

3. Address and phone number of applicant and contact person:

City of Seattle Office of Planning and Community Development

700 5th Avenue

Seattle, Washington 98104

Contact: Nick Welch, Senior Planner

(206) 684-8203

4. Date checklist prepared:

May 16, 2016

5. Agency requesting checklist:

City of Seattle Office of Planning and Community Development

6. Proposed timing or schedule (including phasing, if applicable):

The proposed code changes may be considered by the City Council in June 2016.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

- Removing Barriers to Backyard Cottages: DPD Report and Analysis (October 2015)
- Removing Barriers to Backyard Cottages & Accessory Dwelling Units: Summary of Public Input (March 2016)

- Removing Barriers to Backyard Cottages & Accessory Dwelling Units: Director’s Report (May 2016)
- Backyard Cottages Annual Report (December 2014)
- Backyard Cottages Annual Report (April 2011)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None. This is a non-project action that affects multiple parcels in single-family zones across Seattle. No other proposal would directly affect this area.

10. List any government approvals or permits that will be needed for your proposal, if known.

The proposed amendments will require approval by the City Council and the Mayor.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

This is a non-project proposal. This proposal would amend various provisions of the Land Use Code related to attached accessory dwelling units and detached accessory dwelling units, also called backyard cottages. The proposal would:

- modify development standards for siting, designing, and constructing accessory dwelling units and backyard cottages;
- remove the requirement for one off-street parking space when an accessory dwelling unit or backyard cottage is established;
- allow an accessory dwelling unit and a backyard cottage on the same lot; and
- require owner-occupancy for a period of 12 months after an accessory dwelling unit and/or backyard cottage is established.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposal is a non-project action that would affect multiple parcels in single-family zones throughout Seattle.

B. Environmental Elements

1. Earth

a. General description of the site:

Not applicable. This is a non-project action that affects multiple parcels in Single-family zones throughout Seattle. Refer to the Director's Report for more information about the specific locations of current attached and detached accessory dwelling units and lots eligible for their creation.

b. What is the steepest slope on the site (approximate percent slope)?

Not applicable. This is a non-project action that affects multiple parcels in single-family zones throughout Seattle. Detached accessory dwelling units are not allowed in steep slope areas pursuant to the Environmentally Critical Areas regulations contained in Section 25.09.180 of the Seattle Municipal Code.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle. The proposal would not directly result in filling, excavation, or grading.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle. The proposal would not directly result in clearing, construction, or use.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle. The proposal would not directly result in creation of any impervious surfaces.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle. The proposal will not directly result in emissions to the air.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

3. Water

a. **Surface Water:**

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable. This is a non-project action that affects multiple parcels in the City of Seattle.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable. The proposal is a non-project action that affects multiple parcels in the City of Seattle.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Not applicable. This is a non-project action. Parcels located in a floodplain are regulated by the City's Environmentally Critical Areas regulations in Chapter 25.09 of the Seattle Municipal Code.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable. The proposal is a non-project action affecting multiple parcels throughout the City of Seattle

b. **Ground Water:**

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

2) Could waste materials enter ground or surface waters? If so, generally describe.

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

Not applicable.

4. Plants

a. Check the types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- orchards, vineyards or other permanent crops.
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

Not applicable. The proposal is a non-project action affecting multiple parcels in the Seattle. A variety of vegetation can be found throughout Seattle.

b. What kind and amount of vegetation will be removed or altered?

Not applicable. The proposal is a non-project action affecting multiple parcels throughout Seattle.

c. List threatened and endangered species known to be on or near the site.

None known. This is a non-project action affecting multiple parcels throughout Seattle.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

- e. **List all noxious weeds and invasive species known to be on or near the site.**

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

5. Animals

- a. **List any birds and other animals which have been observed on or near the site or are known to be on or near the site.**

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle. A variety of birds and animals can be found throughout Seattle.

- b. **List any threatened and endangered species known to be on or near the site.**

Not applicable.

- c. **Is the site part of a migration route? If so, explain.**

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

- d. **Proposed measures to preserve or enhance wildlife, if any:**

Not applicable. The proposal is a non-project action affecting multiple parcels in the City of Seattle.

- e. **List any invasive animal species known to be on or near the site.**

Not applicable. This is a non-project action affecting multiple parcels throughout Seattle.

6. Energy and Natural Resources

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

Not applicable. This is a non-project action affecting multiple parcels throughout Seattle.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

Not applicable. This is a non-project action affecting multiple parcels throughout Seattle.

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**

Not applicable. This is a non-project action affecting multiple parcels throughout Seattle.

7. Environmental Health

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.**

Not applicable. This is a non-project action affecting multiple parcels throughout Seattle.

1) Describe any known or possible contamination at the site from present or past uses.

Not applicable.

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

4) Describe special emergency services that might be required.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle. Detached accessory structures are not allowed on lots within 200 feet of a shoreline.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of

the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

Agriculture was a historic use of some parcels with the City of Seattle.

- 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

No.

c. Describe any structures on the site.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

d. Will any structures be demolished? If so, what?

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

e. What is the current zoning classification of the site?

This proposal is a non-project action affecting parcels throughout Seattle zoned for single-family use.

f. What is the current comprehensive plan designation of the site?

Not applicable. The proposed amendments affect parcels throughout the City of Seattle.

g. If applicable, what is the current shoreline master program designation of the site?

This proposal is a non-project action affecting multiple parcels in Seattle. Detached accessory dwelling units are not permitted in the Shoreline District.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.

This non-project action may affect some parcels within or containing environmentally critical areas. The proposal would not alter the regulations for environmentally critical areas set out in Chapter 25.09 of the Seattle Municipal Code.

i. Approximately how many people would reside or work in the completed project?

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

j. Approximately how many people would the completed project displace?

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

k. Proposed measures to avoid or reduce displacement impacts, if any: _

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

- m. **Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

9. Housing

- a. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- b. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- c. **Proposed measures to reduce or control housing impacts, if any:**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

10. Aesthetics

- a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- b. **What views in the immediate vicinity would be altered or obstructed?**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- c. **Proposed measures to reduce or control aesthetic impacts, if any:**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

11. Light and Glare

- a. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- b. **Could light or glare from the finished project be a safety hazard or interfere with views?**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- c. **What existing off-site sources of light or glare may affect your proposal?**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

- d. **Proposed measures to reduce or control light and glare impacts, if any:**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

12. Recreation

a. **What designated and informal recreational opportunities are in the immediate vicinity?**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

b. **Would the proposed project displace any existing recreational uses? If so, describe.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

c. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

13. Historic and cultural preservation

a. **Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

b. **Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

c. **Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

d. **Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle.

14. Transportation

a. **Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

Not applicable. This is a non-project action affecting multiple parcels throughout the City.

b. **Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

c. **How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?**

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle. The proposal would remove the existing requirement for one off-street parking space when an attached or detached accessory dwelling unit is established.

- d. **Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

No.

- e. **Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle. However, some of the parcels that will be affected by the proposed regulations are or will be in the immediate vicinity of water or rail transportation.

- f. **How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This proposal is a non-project action affecting multiple parcels in Seattle.

- g. **Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

No.

- h. **Proposed measures to reduce or control transportation impacts, if any:**

None.

15. Public Services

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

Not applicable. This proposal is a non-project action affecting multiple parcels throughout the City of Seattle. The proposal is not likely to result in significant increase in demand for public services because no change is proposed to the existing maximum household size limit for a single-family lot.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

None.

16. Utilities

- a. **Circle utilities currently available at the site:**

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle.

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable. This proposal is a non-project action affecting multiple parcels in Seattle. No utilities or construction activities are proposed.

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:



Nick Welch
Senior Planner
City of Seattle
Office of Planning and Community Development

Date Submitted: May 16, 2016

D. Supplemental sheet for nonproject actions

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

Overall, this non-project proposal would not result in any direct impacts to water or air; production, storage, or release of toxic or hazardous substances; or production noise because it does not directly propose development.

Construction of attached accessory dwelling units and detached accessory dwelling units is already allowed on most single-family zoned lots. The proposal would increase by approximately 10 percent the number of single-family zoned lots where a detached accessory dwelling unit can be constructed by reducing the minimum lot size for detached accessory dwelling units. The proposal would also make it slightly easier to create accessory dwelling units by modifying development standards, modifying the existing owner-occupancy requirement, and removing the off-street parking requirement. Together, these changes could increase the production of attached and detached accessory dwelling units in Seattle. Construction activities associated with the creation of additional accessory dwelling units are not likely to result in significant adverse impacts on water or air

quality. Any development of accessory dwelling units will have to comply City regulations for management of stormwater runoff and other construction practices and requirements, including the Noise Control Ordinance.

Proposed measures to avoid or reduce such increases: None proposed.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

This non-project proposal would result in no direct impacts to plants, animals, fish and marine life because it does not directly propose development. The proposed amendments could result in an increase in the production of attached accessory dwelling units and detached accessory dwelling units, which could slightly affect habitats for plants, animals, fish, and marine life. While the proposed amendments modify some development standards for detached accessory dwelling units, no change is proposed to the overall lot coverage limit or yard requirements for single-family residential development that currently regulate the amount and area of a lot that can be covered with a structure. The locations where the proposal would have an effect are single-family zones in Seattle, which are already urbanized areas. Existing regulations including the stormwater and erosion control codes, the Shoreline Management Act, and the Environmentally Critical Areas Ordinance are anticipated to be sufficient to mitigate any impacts to plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life: None proposed.

3. How would the proposal be likely to deplete energy or natural resources?

This non-project proposal would result in no direct impacts to energy or natural resources because it does not directly propose development and is not likely to indirectly cause significant adverse depletion of energy or natural resources. To the extent that the proposed amendments result in an increase in the production of attached and detached accessory dwelling units, the proposal could, on certain single-family zoned lots, result in higher energy or resource use. The incremental difference in energy and resource use is not likely to be significant because new structures must comply with the Seattle Energy Code and other standards for energy efficiency, and because the proposal does not affect the maximum number of people that can live on a single-family zoned lot.

Proposed measures to protect or conserve energy and natural resources: None proposed.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

No significant impacts to environmentally sensitive areas or areas designated for government protection are likely to result from this non-project proposal because the proposed amendments would not alter the existing regulations for accessory dwelling units in environmentally critical areas. The proposed amendments would not alter the regulations for Environmentally Critical Areas as set out in Chapter 25.09 of the Seattle Municipal Code, which prohibit or limit development in sensitive areas such as wetlands, floodplains, fish and wildlife habitat conservation areas, and riparian corridors. Detached accessory dwelling units cannot be constructed on lots in the Shoreline District. The locations where the proposal would have an effect are single-family zones in Seattle, which are already urbanized areas.

The proposal is not likely to generate significant adverse impacts on historic landmarks, historic districts, or cultural resources. The proposed amendments would not alter the requirement that an attached accessory dwelling unit must be located within the allowable building envelope for a single-family house. Accordingly, a single-family house without an attached accessory dwelling unit and a single-family house with an attached accessory dwelling unit tend to be indistinguishable from the exterior. The proposed amendments make only minor modifications to the allowed scale and location of detached accessory dwelling units; these minor

modifications are not likely to result in detached accessory dwelling units that affect public views of historic or cultural sites.

Proposed measures to protect such resources or to avoid or reduce impacts: None proposed.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposal would not result in any direct impacts to land and shoreline use because it is a non-project action. The proposal would not alter the existing prohibition on detached accessory dwelling units on lots entirely or partially within the Shoreline District.

The City of Seattle Comprehensive Plan includes several adopted goal and policies directing the City to address housing affordability and provide a diversity of housing options. The Comprehensive Plan also includes policies for land use in single-family areas. Among these goals and policies are the following:

- Goal HG4: “Achieve a mix of housing types that are attractive and affordable to a diversity of ages, incomes, household types, household sizes, and cultural backgrounds.”
- Goal HG6: “Encourage and support accessible design and housing strategies that provide seniors the opportunity to remain in their own neighborhood as their housing needs change.”
- Policy H18: “Promote methods of more efficiently using or adapting the city’s housing stock to enable changing households to remain in the same home or neighborhood for many years. Strategies may include sharing homes, accessory units in single-family zones, housing designs that are easily augmented to accommodate children (“grow houses”), or other methods considered through neighborhood planning.”
- Policy H20: “Promote and foster, where appropriate, innovating and non-traditional housing types such as co-housing, live/work housing and accessory dwelling units, as alternative means of accommodating residential growth and providing affordable housing options.”
- Policy LU64: “In order to create attractive and affordable rental opportunities and provide greater flexibility for homeowners, permit accessory dwelling units in single-family zones, subject to regulations design to limit impacts and protect neighborhood character.”

Furthermore, the proposed Seattle 2035 Comprehensive Plan Update currently under consideration by the City Council includes the following policies:

- Policy H 3.4 directing the City to “Promote use of customizable modular designs and other flexible housing concepts to allow for households’ changing needs, including in areas zoned for single-family use.”
- Policy LU 7.5 directing the City “Encourage accessory dwelling units and other housing types that are attractive and affordable to a broad range of households and incomes and that are compatible with the development pattern and building scale in single-family areas.”

No change is proposed to the maximum household size limit that regulates the number of persons that can live on a single-family lot. Under the proposal, the existing household size limit of eight unrelated persons would continue to apply to a single-family lot, including any attached or detached accessory dwelling units on the lot. Therefore, the proposal is not likely to result in a higher population density in single-family zones than anticipated in previous legislation that allowed either an attached accessory dwelling unit or a detached accessory dwelling on a single-family lot. It is reasonable to assume, however, that on average the number of persons living on a single-family zoned lot with an attached and/or detached accessory dwelling unit is likely to be incrementally greater than those living on a single-family lot without an attached or detached accessory dwelling unit. This increment is considered in conjunction with the magnitude of any potential increase in

production of attached and detached accessory dwelling units and is not expected to significantly affect the overall population density in single-family zones citywide.

While the proposed amendments would not change the types of construction or uses allowed in single-family zones, the proposal could increase the production of attached and detached accessory dwelling units over amounts currently observed under existing regulations. Elements of the proposal that could increase production are:

- modification of certain development standards and requirements to make detached accessory dwelling units easier to permit and construct;
- modification of the owner-occupancy requirement such that the owner is required to live on site for a 12-month period instead of permanently;
- an increase in the number of lots eligible for a detached accessory dwelling unit by approximately 10 percent; and
- removal of the requirement for the creation of an off-street parking space when an attached or detached accessory dwelling unit is established.

Annual reports surveying current production of attached and detached dwelling units in Seattle suggest that, to date, approximately 1,050 attached accessory dwelling units and approximately 220 detached accessory dwelling units have been permitted and/or constructed through the end of 2015. Since 2010, the annual production rate for detached accessory dwelling units has averaged 34 units/year and only once exceeded 40 units in a single year. There are approximately 124,000 single-family zoned lots in Seattle in use for single-family residential development. Under current regulations, only one percent of single-family lots have added an attached or detached accessory dwelling unit. It would be speculative to project a specific increase in the production rate of accessory dwelling units resulting from this proposal. However, because the proposed amendments are incremental modifications of existing regulations, it is reasonable to assume that the production rate of attached and detached accessory dwelling units will be moderate and not constitute a dramatic or exponential shift from currently observed patterns.

For the purposes of analysis and discussion, OPCD considered a scenario in which as many as five percent of the approximately 75,000 single-family lots eligible for a detached accessory dwelling unit added an attached and/or detached accessory dwelling unit. If produced over a 20-year period, this quantity of new accessory dwelling units would translate to less than a sixfold increase over currently observed annual production rates. A production rate increase of this magnitude is greater than what can be reasonably expected as a result of this proposal — but even if realized would have only a minor effect on single-family zones as a whole. This theoretical less-than-sixfold production rate increase, which would result in less than 4,000 new accessory dwelling units in single-family zones citywide, remains consistent with the Seattle 2035 Comprehensive Plan Update, which estimates that of the 12 percent of the population and housing growth¹ expected in Seattle over the next 20 years will occur outside of urban centers and villages. The majority of single-family lots where attached and detached accessory dwelling units can be constructed are located outside urban centers and villages.

The proposal could result in changes to the height, bulk, and scale of detached accessory dwelling units constructed on lots zoned for single-family use. Slight increases to the maximum height limit and the maximum size of detached accessory dwelling units could result in structures that are incrementally closer to or appear visually larger from neighboring structures. However, the proposal would not alter the existing maximum lot coverage limit, which regulates the total amount of a single-family lot that can be covered with structures. Because the proposed change to the rear yard coverage limit applies only to one-story structures, it is not likely to have adverse impacts on the visibility of detached accessory dwelling units from neighboring structures, and

¹ 120,000 people and 70,000 housing units

it could encourage lower structures. Overall, the height, bulk, and scale of detached accessory dwelling units would continue to be compatible with existing goals and policies for single-family zones. The height limit for principal dwelling units in single-family zones is 35 feet. The proposal would increase the maximum height limit for detached accessory dwelling units over current standards by at most two feet; under the proposal, the maximum height limits would be 17, 23, and 25 feet for lots less than 30, between 30 and 50, and greater than 50 feet in width, respectively. This proposed increment of increase height would have at most minor additional impacts related to the scale or compatibility of new accessory structures in single-family zones when compared to redevelopment of principal dwelling units in single-family zones.

The proposed changes are not likely to result in adverse impacts to SEPA-protected views because these views are generally not located in single-family zones and because detached accessory dwelling units are located in the rear yard and subject to a lower maximum height limit than the maximum height limit for principal dwelling units on a single-family lot. Incremental increases in the shading of public places and the right-of-way could occur as a result of taller or larger detached accessory dwelling units created on lots where the rear yard abuts a public place or right-of-way.

There is some potential for attached or detached accessory dwelling units to be used for short-term rental purposes. Short-term rentals are currently allowed for any dwelling unit in single-family zones. This proposal would not significantly increase the prevalence of short-term rentals in single-family zones. The City is currently considering regulations that would limit the number of days that certain dwelling units could be rented on a short-term basis. Use of attached and detached accessory dwelling units for short-term rental purposes would not have greater impacts than the use of attached and detached accessory dwelling units for long-term rental purposes.

Proposed measures to avoid or reduce shoreline and land use impacts: Maintain existing prohibition on detached accessory dwelling units in the Shoreline District.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

This proposal is not likely to result in significant adverse impacts in the form of increased demands on transportation or public services and utilities.

The proposal does not alter the existing household size limit that regulates the number of people that can live on a single-family zoned lot. As discussed in question 5, any potential increase in the production of attached and detached accessory dwelling units resulting from the proposal is expected to be minor and is not expected to significantly alter the overall expected pattern or amount of growth. While the proposed changes may incrementally increase the rate of production of attached or detached accessory dwelling units, the proposal is not likely to increase this rate of production such that occupants of new attached or detached accessory dwelling units have an appreciable increase in the demand for transportation or public services or utilities.

The distribution of attached and detached accessory dwelling units permitted and constructed to date is illustrated in the Backyard Cottage Annual Reports (2011 and 2014), Removing Barriers to Backyard Cottages: DPD Report and Analysis (October 2015), and the Director's Report accompanying this proposal. These reports indicate that the distribution of accessory dwelling units is relatively even throughout the single-family zones in Seattle. There is no appreciable concentration of attached or detached accessory dwelling units in a single area, zone, or neighborhood. This distributed pattern of production of accessory dwelling units is likely to continue even if overall production of accessory dwelling units increases. The distributed nature of attached and detached accessory dwelling unit production further moderates any potential impacts to transportation systems, public services, and utilities because the proposal is not likely to result in a concentration of accessory dwelling units in a single area. Any localized adverse impacts on

transportation systems due to incremental vehicle or transit trips resulting from this proposal are negligible, as are any localized impacts on utility infrastructure such as water, drainage, sewer, or electrical services.

Minor adverse impacts could occur to the availability of on-street parking as a result of the proposed removal of the off-street parking requirement. These impacts could occur if the proposal results in the creation of attached or detached accessory dwelling units that do not have an off-street parking space and the occupants of those accessory dwelling units park a vehicle on the street. These impacts are not likely to be significant.

In some areas of Seattle the supply of on-street parking is abundant; in some areas where the supply of on-street parking is constrained, good transit service is available that allows some people not to own a vehicle. Furthermore, some single-family zoned lots already have multiple off-street parking spaces that could be available to occupants of accessory dwelling units, and some property owners who create accessory dwelling units could choose to add an off-street parking space despite no requirement to do so.

Proposed measures to reduce or respond to such demand(s): None proposed.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposal does not conflict with local, state, or federal laws or requirements for environmental protection.

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to land use and zoning, amending Sections 23.04.014, 23.44.041, and 23.84A.032 of the Seattle Municipal Code to remove barriers to the creation of attached and detached accessory dwelling units.

..body

WHEREAS, the City Council adopted Resolution 31547 in September 2014 directing the

Department of Planning and Development to explore policy changes that would increase the production of attached accessory dwelling units and detached accessory dwelling units, including regulatory changes, incentives, and marketing and promotion; and

WHEREAS, the Housing Affordability and Livability Agenda (HALA) Advisory Committee

made recommendations in July 2015 to the Mayor and City Council, including recommendation SF.1a to remove code barriers to accessory dwelling units and backyard cottages by removing the parking requirement, removing the owner-occupancy requirement, allowing a single lot to have both an attached and detached accessory dwelling unit, and making minor modifications to existing development standards for detached accessory dwelling units; and

WHEREAS, the City Council adopted Resolution 31609 in September 2015 declaring its intent

to consider strategies to increase the availability of affordable housing in Seattle, outlining an overarching policy framework and timeline for the Mayor's HALA recommendations, and establishing the Council Work Plan for HALA Recommendations, which included strategy (h) to remove barriers to the development of detached and attached accessory dwelling units; and

1 WHEREAS, attached accessory dwelling units have been allowed on single-family lots since
2 1994, and detached accessory dwelling units have been allowed on single-family lots
3 since 2010, subject to certain development standards; and

4 WHEREAS, since 2010 only approximately 220 detached accessory dwelling units have been
5 constructed, accounting for less than one percent of eligible single-family lots; NOW,
6 THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. Section 23.44.014 of the Seattle Municipal Code, last amended by Ordinance
9 124952, is amended as follows:

10 **23.44.014 Yards**

11 Yards are required for every lot in a single-family zone. A yard that is larger than the
12 minimum size may be provided.

13 A. Front (~~Yards.~~)yards

14 1. The front yard depth shall be either the average of the front yards of the single-
15 family structures on either side or 20 feet, whichever is less.

16 2. On any lot where the natural gradient or slope, as measured from the front line
17 of the lot for a distance of 60 feet or the full depth of the lot, whichever is less, is in excess of 35
18 percent, the required front yard depth shall be either 20 feet less ~~((one))~~1 foot for each ~~((one))~~1
19 percent of gradient or slope in excess of 35 percent~~((7))~~ or the average of the front yards on either
20 side, whichever is less.

21 3. In the case of a through lot, each yard abutting a street, except a side yard, shall
22 be a front yard. Rear yard provisions shall not apply to the lot, except pursuant to Section
23 23.40.030 or 23.40.035.

1 4. A larger yard may be required in order to meet the provisions of Section
2 23.53.015, Improvement requirements for existing streets in residential and commercial zones.

3 B. Rear ~~((Yards))~~yards. The rear yard shall be ~~((twenty-five-))~~25~~((-))~~feet.

4 1. The minimum required rear yard for a lot having a depth of less than ~~((one~~
5 ~~hundred twenty five-))~~125~~((-))~~ feet shall be ~~((twenty-))~~20~~((-))~~ percent of the lot depth and in no
6 case less than ~~((ten-))~~10~~((-))~~ feet.

7 2. When the required rear yard abuts upon an alley along a lot line, the centerline
8 of the alley between the side lot lines extended shall be assumed to be a lot line for purposes of
9 the provision of rear yard and the determination of lot depth~~((;))~~, provided~~((;))~~ that at no point
10 shall the principal structure be closer than ~~((five-))~~5~~((-))~~ feet to the alley.

11 3. When a lot in any single-family zone abuts at the rear lot line upon a public
12 park, playground, or open water, not less than ~~((fifty-))~~50~~((-))~~ feet in width, the rear yard need
13 not exceed the depth of ~~((twenty-))~~20~~((-))~~ feet.

14 C. Side yards. The side yard shall be 5 feet except as follows:

15 1. In the case of a reversed corner lot, the key lot of which is in a single-family
16 zone, the width of the side yard on the street side of the reversed corner lot shall not be less than
17 10 feet; or

18 2. If any side street lot line is a continuation of the front lot line of an abutting
19 single-family zoned lot, whether or not separated by an alley, the width of the street side yard
20 shall not be less than 10 feet.

21 D. Exceptions from standard yard requirements. No structure shall be placed in a required
22 yard except pursuant to the following:

1 1. Garages. Garages may be located in a required yard subject to the standards of
2 Section 23.44.016.

3 2. Certain ~~((Accessory Structures))~~ accessory structures in ~~((Side))~~ side and ~~((Rear~~
4 ~~Yards.))~~ rear yards

5 a. Except for detached accessory dwelling units, any accessory structure
6 that complies with the requirements of Section 23.44.040 may be constructed in a side yard that
7 abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed corner
8 lot within 5 feet of the key lot and not abutting the front yard of the key lot, upon recording with
9 the King County ~~((Department of Records and Elections))~~ Recorder's Office an agreement to this
10 effect between the owners of record of the abutting properties.

11 b. Except for detached accessory dwelling units, any detached accessory
12 structure that complies with the requirements of Section 23.44.040 may be located in a rear yard,
13 provided that on a reversed corner lot, no accessory structure shall be located in that portion of
14 the required rear yard that abuts the required front yard of the adjoining key lot, nor shall the
15 accessory structure be located closer than 5 feet from the key lot's side lot line unless the
16 provisions of subsections 23.44.014.D.2.a or 23.44.016.D.9 apply.

17 c. Detached accessory dwelling units may be located in a rear yard subject
18 to the requirements of subsection 23.44.041.B.

19 3. A single-family structure may extend into one side yard if an easement is
20 provided along the side or rear lot line of the abutting lot ~~((;))~~ sufficient to leave a ~~((10-foot))~~ 10-
21 foot separation between that structure and any principal structure on the abutting lot. The ~~((10~~
22 ~~foot))~~ 10-foot separation shall be measured from the wall of the principal structure that is
23 proposed to extend into a side yard to the wall of the principal structure on the abutting lot.

1 a. No structure or portion of a structure may be built on either lot within
2 the ~~((10-foot))~~10-foot separation, except as provided in this ~~((section))~~Section 23.44.014.

3 b. Accessory structures and features of and projections from principal
4 structures~~((s))~~ such as porches, eaves, and chimneys are permitted in the ~~((10-foot))~~10-foot
5 separation area if allowed by subsection 23.44.014.D. For purposes of calculating the distance a
6 structure or feature may project into the ~~((10-foot))~~10-foot separation, assume the property line is
7 5 feet from the wall of the principal structure proposed to extend into a side yard and consider
8 the 5 feet between the wall and the assumed property line to be the required side yard.

9 c. No portion of any structure, including any projection, shall cross the
10 property line.

11 d. The easement shall be recorded with the King County ~~((Department of~~
12 ~~Records and Elections))~~Recorder's Office. The easement shall provide access for normal
13 maintenance activities to the principal structure on the lot with less than the required ~~((5-foot))~~5-
14 foot side yard.

15 4. Certain ~~((Additions))~~additions. Certain additions may extend into a required
16 yard if the existing single-family structure is already nonconforming with respect to that yard.
17 The presently nonconforming portion must be at least 60 percent of the total width of the
18 respective facade of the structure prior to the addition. The line formed by the existing
19 nonconforming wall of the structure is the limit to which any additions may be built, except as
20 described below. Additions may extend up to the height limit and may include basement
21 additions. New additions to the nonconforming wall or walls shall comply with the following
22 requirements (Exhibit A for 23.44.014):

1 a. Side (~~Yard~~)yard. If the addition is a side wall, the existing wall line
2 may be continued by the addition except that in no case shall the addition be closer than 3 feet to
3 the side lot line;

4 b. Rear (~~Yard~~)yard. If the addition is a rear wall, the existing wall line
5 may be continued by the addition except that in no case shall the addition be closer than 20 feet
6 to the rear lot line or centerline of an alley abutting the rear lot line;

7 c. Front (~~Yard~~)yard. If the addition is a front wall, the existing wall line
8 may be continued by the addition except that in no case shall the addition be closer than 15 feet
9 to the front lot line;

10 d. If the nonconforming wall of the single-family structure is not parallel
11 or is otherwise irregular(~~(;)~~) relative to the lot line, then the Director shall determine the limit of
12 the wall extension, except that the wall extension shall not be located closer than specified in
13 subsections 23.44.014.D.4.a, 23.44.014.D.4.b, and 23.44.014.D.4.c.

14 e. Roof eaves, gutters, and chimneys on such additions may extend an
15 additional 18 inches into a required yard, but in no case shall such features be closer than 2 feet
16 to the side lot line.

17 5. Uncovered porches or steps. Uncovered, unenclosed porches or steps may
18 project into any required yard(~~(;)~~) if they are no higher than 4 feet above existing grade, no closer
19 than 3 feet to any side lot line, and no wider than 6 feet and project no more than 6 feet into
20 required front or rear yards. The width of porches and steps (~~(are to)~~)shall be calculated
21 separately.

1 6. Certain features of a structure. Unless otherwise provided elsewhere in this
2 Chapter 23.44, certain features of a principal or accessory structure, except for accessory
3 dwelling units, may extend into required yards if they comply with the following:

4 a. External architectural details with no living area, such as chimneys,
5 eaves, cornices, and columns, may project no more than 18 inches into any required yard;

6 b. Bay windows are limited to 8 feet in width and may project no more
7 than 2 feet into a required front, rear, and street side yard;

8 c. Other projections that include interior space, such as garden windows,
9 may extend no more than 18 inches into any required yard, starting a minimum of 30 inches
10 above finished floor, and with maximum dimensions of 6 feet in height and 8 feet in width;

11 d. The combined area of features permitted by subsections
12 23.44.014.D.6.b and 23.44.014.D.6.c may comprise no more than 30 percent of the area of the
13 facade.

14 7. Covered (~~Unenclosed Decks~~)unenclosed decks and (~~Roofs Over~~
15 ~~Patios~~)roofs over patios. Covered, unenclosed decks and roofs over patios, if attached to a
16 principal structure, may extend into the required rear yard, but shall not be within 12 feet of the
17 centerline of any alley, or within 12 feet of any rear lot line that is not an alley lot line, or closer
18 to any side lot line in the required rear yard than the side yard requirement of the principal
19 structure along that side, or closer than 5 feet to any accessory structure. The height of the roof
20 over unenclosed decks and patios shall not exceed 12 feet. The roof over such decks or patios
21 shall not be used as a deck.

1 8. Access (~~(Bridges))~~bridges. Uncovered, unenclosed pedestrian bridges 5 feet or
2 less in width and of any height necessary for access(~~(,))~~ are permitted in required yards, except
3 that in side yards an access bridge must be at least 3 feet from any side lot line.

4 9. Barrier-free (~~(Access))~~access. Access facilities for the disabled and elderly that
5 comply with Washington State Building Code, Chapter 11 are permitted in any required yard.

6 10. Freestanding (~~(Structures))~~structures and (~~(Bulkheads.))~~bulkheads

7 a. Fences, freestanding walls, bulkheads, signs, and similar structures 6
8 feet or less in height above existing or finished grade, whichever is lower, may be erected in any
9 required yard. The (~~(6-foot))~~6-foot height may be averaged along sloping grade for each (~~(6-foot~~
10 ~~long))~~6-foot-long segment of the fence, but in no case may any portion of the fence exceed 8
11 feet. Architectural features may be added to the top of the fence or freestanding wall above the
12 (~~(6-foot))~~6-foot height if the features comply with the following: horizontal architectural
13 feature(s), no more than 10 inches high, and separated by a minimum of 6 inches of open area,
14 measured vertically from the top of the fence, are permitted if the overall height of all parts of
15 the structure, including post caps, is no more than 8 feet. Averaging the (~~(8-foot))~~8-foot height is
16 not permitted. Structural supports for the horizontal architectural feature(s) may be spaced no
17 closer than 3 feet on center.

18 b. The Director may allow variation from the development standards listed
19 in subsection 23.44.014.D.10.a, according to the following:

- 20 1) No part of the structure may exceed 8 feet; and
21 2) Any portion of the structure above 6 feet shall be predominately
22 open, such that there is free circulation of light and air.

1 c. Bulkheads and retaining walls used to raise grade may be placed in any
2 required yard when limited to 6 feet in height, measured above existing grade. A guardrail no
3 higher than 42 inches may be placed on top of a bulkhead or retaining wall existing as of
4 February 20, 1982. If a fence is placed on top of a new bulkhead or retaining wall, the maximum
5 combined height is limited to ~~((9½))~~9.5 feet.

6 d. Bulkheads and retaining walls used to protect a cut into existing grade
7 may not exceed the minimum height necessary to support the cut or 6 feet, whichever is greater.
8 If the bulkhead is measured from the low side and ~~((it-))~~exceeds 6 feet, an open guardrail of no
9 more than 42 inches meeting Building Code requirements may be placed on top of the bulkhead
10 or retaining wall. A fence must be set back a minimum of 3 feet from such a bulkhead or
11 retaining wall.

12 e. If located in shoreline setbacks or in view corridors in the Shoreline
13 District as regulated in Chapter 23.60A, structures shall not obscure views protected by Chapter
14 23.60A, and the Director shall determine the permitted height.

15 11. Decks in ~~((Yards))~~yards. Decks no higher than 18 inches above existing or
16 finished grade, whichever is lower, may extend into required yards.

17 12. Mechanical equipment. Heat pumps and similar mechanical equipment, not
18 including incinerators, are permitted in required yards if they comply with the requirements of
19 Chapter 25.08, Noise Control. Any heat pump or similar equipment shall not be located within 3
20 feet of any lot line. Charging devices for electric cars are considered mechanical equipment and
21 are permitted in required yards if not located within 3 feet of any lot line.

22 13. Solar ~~((Collectors))~~collectors. Solar collectors may be located in required
23 yards, subject to the provisions of Section 23.44.046.

1 14. Front ~~((Yard Projections))~~yard projections for ~~((Structures))~~structures on
2 ~~((Lots))~~lots 30 ~~((Feet))~~feet or ~~((Less))~~less in ~~((Width))~~width. For a structure on a lot that is 30
3 feet or less in width, portions of the front facade that begin 8 feet or more above finished grade
4 may project up to 4 feet into the required front yard, provided that no portion of the facade,
5 including eaves and gutters, shall be closer than 5 feet to the front lot line (Exhibit B for
6 23.44.014)~~((;))~~ and ~~((provided further that))~~no portion of the ~~((façade))~~facade of an existing
7 structure that is less than 8 feet or more above finished grade already projects into the required
8 front yard.

9 15. Front and rear yards may be reduced by 25 percent, but no more than 5 feet, if
10 the site contains a required environmentally critical area buffer or other area of the property that
11 cannot be disturbed pursuant to subsection 25.09.280.A~~((of Section 25.09.280))~~.

12 16. Arbors. Arbors may be permitted in required yards under the following
13 conditions:

14 a. In any required yard, an arbor may be erected with no more than a 40
15 square foot footprint, measured on a horizontal roof plane inclusive of eaves, to a maximum
16 height of 8 feet. Both the sides and the roof of the arbor shall be at least 50 percent open, or if
17 latticework is used, there shall be a minimum opening of 2 inches between crosspieces.

18 b. In each required yard abutting a street, an arbor over a private
19 pedestrian walkway with no more than a ~~((30 square foot))~~30-square-foot footprint, measured on
20 the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of 8 feet.
21 The sides of the arbor shall be at least 50 percent open, or if latticework is used, there shall be a
22 minimum opening of 2 inches between crosspieces.

23 17. Stormwater management

1 a. Above-grade green stormwater infrastructure (GSI) features are allowed
2 without yard restrictions if:

3 1) Each above-grade GSI feature is less than 4.5 feet tall,
4 excluding piping;

5 2) Each above-grade GSI feature is less than 4 feet wide; and

6 3) The total storage capacity of all above-grade GSI features is no
7 greater than 600 gallons.

8 b. Above-grade GSI features larger than what is allowed in subsection
9 23.44.014.D.17.a are allowed within a required yard if:

10 1) Above-grade GSI features do not exceed 10 percent coverage of
11 any one yard area;

12 2) No portion of an above-grade GSI feature is located closer than
13 2.5 feet from a side lot line;

14 3) No portion of an above-grade GSI feature is located closer than
15 20 feet from a rear lot line or centerline of an alley abutting the rear lot line; and

16 4) No portion of an above-grade GSI feature is located closer than
17 15 feet from the front lot line.

18 18. If the side yard of a lot borders on an alley, a single-family structure may be
19 located in the required side yard, provided that no portion of the structure may cross the side lot
20 line.

21 19. A structure may be permitted to extend into front and rear yards as necessary
22 to protect exceptional trees and trees over 2 feet in diameter pursuant to Section 25.11.060.

1 E. Additional ~~((Standards))~~standards for ~~((Structures))~~structures if ~~((Allowed))~~allowed in
2 ~~((Required Yards))~~required yards. Structures in required yards shall comply with the following:

3 1. ~~((Accessory))~~Except for detached accessory dwelling units, accessory
4 structures, attached garages, and portions of a principal structure shall not exceed a maximum
5 combined coverage of 40 percent of the required rear yard. In the case of a rear yard abutting an
6 alley, rear yard coverage shall be calculated from the centerline of the alley.

7 2. Any accessory structure located in a required yard shall be separated from its
8 principal structure by a minimum of 5 feet. This requirement does not apply to terraced garages
9 that comply with Section 23.44.016.D.9.b.

10 3. Except for detached accessory dwelling units ~~((in subsection 23.44.041.B))~~,
11 any accessory structure located in a required yard shall not exceed 12 feet in height or 1,000
12 square feet in area.

13 4. Detached accessory dwelling units are subject to the requirements of subsection
14 23.44.041.B.

15 F. Setback standards from access easements. Setbacks are required for principal
16 structures according to the standards in subsection 23.53.025.C.2 and 23.53.025.D.6.

17 Section 2. Section 23.44.041 of the Seattle Municipal Code, last amended by Ordinance
18 124843, is amended as follows:

19 **23.44.041 Accessory dwelling units**

20 A. ~~((Accessory dwelling units, general))~~General provisions. The Director may authorize
21 an accessory dwelling unit, and that dwelling unit may be used as a residence, only under the
22 following conditions:

1 1. A lot with or proposed for a ~~((single family dwelling))~~principal dwelling unit
2 may have no more than one attached accessory dwelling unit within a principal structure and
3 one detached accessory dwelling unit.

4 2. The owner(s) of the lot shall comply with the owner occupancy requirements
5 of subsection 23.44.041.C.

6 3. Any number of related persons may occupy each unit ~~((in))~~on a single-family
7 zoned lot~~((dwelling unit))~~ with ~~((an))~~one or more accessory dwelling units~~((s))~~ provided that, if
8 unrelated persons occupy ~~((either))~~any unit, the total number of persons occupying ~~((both))~~all
9 units may not altogether exceed eight.

10 4. ~~((All))~~Attached accessory dwelling units are ~~((required))~~subject to ~~((meet-))~~the
11 following ~~((development-))~~standards: ~~((in Table A for 23.44.041, unless modified in subsection~~
12 ~~23.44.041.B:))~~

13 a. The gross floor area of an attached accessory dwelling unit cannot
14 exceed 1,000 square feet, excluding garage and storage area, unless the portion of the structure
15 in which the accessory dwelling unit is located was in existence as of June 1, 1999.

16 b. Only one entrance to the structure may be located on each street-facing
17 facade of the dwelling unit, unless two entrances on the street-facing facade existed on January
18 1, 1993, or unless the Director determines that topography, screening, or another design solution
19 is effective in de-emphasizing the presence of a second entrance.

((Table A for 23.44.041 Development Standards for All Accessory Dwelling Units	
a. Maximum gross floor area	Attached accessory dwelling units are limited to 1,000 square feet, including garage and storage area.¹ Detached accessory dwelling units are limited to 800 square feet, including any garage and storage area provided in the same structure as the accessory dwelling unit, but excluding areas below grade, measured as set forth in Section 23.86.007.

~~((Table A for 23.44.041
Development Standards for All Accessory Dwelling Units~~

~~b. Entrances~~

~~Only one entrance to the structure may be located on each street-facing facade of the dwelling unit.²~~

~~Footnotes to Table A for 23.44.041:~~

~~¹The gross floor area of an attached accessory dwelling unit may exceed 1,000 square feet only if the portion of the structure in which the accessory dwelling unit is located was in existence as of June 1, 1999, and if the entire accessory dwelling unit is located on one level, except that a garage for the accessory dwelling unit may be located on a different level.~~

~~²More than one entrance may be allowed if: a) two entrances on the street-facing facade existed on January 1, 1993; or b) the Director determines that topography, screening, or another design solution is effective in de-emphasizing the presence of a second entrance.))~~

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~~5. ((Except on lots located within areas that are defined as either an urban center or urban village in the City's Comprehensive Plan, one off-street parking space is required for the accessory dwelling unit and may be provided as tandem parking with the parking space provided for the principal dwelling unit.))~~Parking. No parking is required for any attached or detached accessory dwelling units. An existing required parking space may not be eliminated to accommodate an accessory dwelling unit unless it is replaced elsewhere on the lot. ((~~Except for lots located in either Map A for 23.54.015, University District Parking Overlay Area or Map B for 23.54.015, Alki Area Parking Overlay Area, the Director may waive the off-street parking space requirement for an accessory dwelling unit if:~~

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~~a. The topography or location of existing principal or accessory structures on the lot makes provision of an off-street parking space physically infeasible; or~~

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~~b. The lot is located in a restricted parking zone (RPZ) and a current parking study is submitted showing a utilization rate of less than 75 percent for on-street parking within 400 feet of all property lines of the site.))~~

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~~B. ((Accessory dwelling units, detached, additional provisions. A detached accessory dwelling unit is also known as a backyard cottage.))~~Detached accessory dwelling units. The Director may authorize a detached accessory dwelling unit((~~, and that unit may be used as a~~

1 ~~residence, only under the conditions set forth in subsection 23.44.041.A and~~) subject to the
 2 following ~~((additional))~~ conditions:

3 1. Detached accessory dwelling units are not permitted on a lot if any portion of
 4 the lot is within the Shoreline District established pursuant to Section 23.60.010.

5 2. Detached accessory dwelling units are required to meet the additional
 6 development standards ~~((set forth))~~ in Table ~~((B))~~A for 23.44.041.

7

Table ((B))<u>A</u> for 23.44.041 Development standards for detached accessory dwelling units¹	
a. Minimum lot size	((4,000)) <u>3,200</u> square feet
b. Minimum lot width	25 feet
c. Minimum lot depth	70 feet ²
d. Maximum lot coverage	The provisions of Section 23.44.010 apply.
e. Maximum rear yard coverage	A detached accessory dwelling unit <u>more than 15 feet in height</u> , together with any other accessory structures and ((other)) portions of the principal structure, is limited to a maximum combined coverage of 40 percent of the rear yard. <u>A detached accessory dwelling unit 15 feet or less in height may cover an additional 20 percent of the rear yard, provided that rear yard coverage for all structures other than the detached accessory dwelling unit does not exceed 40 percent. In the case of a rear yard abutting an alley, rear yard coverage shall be calculated from the centerline of the alley.</u>
f. Maximum ((gross floor area)) <u>size</u>	((800)) <u>1,000</u> square feet, including <u>gross floor area and covered decks and covered porches above 18 inches, but excluding garage and storage area</u> ((but excluding covered porches and covered decks that are less than 25 square feet in area,)) and underground areas measured as set forth in Section 23.86.007.
g. Front yard	A detached accessory dwelling unit may not be located within the front yard required by subsection 23.44.014.A, except on a through lot pursuant to Section 23.40.030 or Section 23.40.035 and row i of this Table ((B)) <u>A</u> for 23.44.041.

**Table ((B))A for 23.44.041
 Development standards for detached accessory dwelling units¹**

h. Minimum side yard	The provisions of subsection 23.44.014.C apply.((⁷)) ³				
i. Minimum rear yard	A detached accessory dwelling unit may be located within a required rear yard if it is not within 5 feet of any lot line, unless the lot line is adjacent to an alley, in which case a detached accessory dwelling unit may be located at that lot line. ^{3, 4, ((⁷))⁵}				
j. Location of entry	Entrances to <u>a</u> detached accessory dwelling unit((s)) may ((not)) be located on <u>any</u> facade((s)). If located on a facade facing ((the nearest)) <u>a</u> side lot line or ((the)) <u>a</u> rear lot line, <u>the entrance may not be within 10 feet of that lot line unless ((the nearest side))that lot line ((or rear lot line)) abuts an alley or other public right-of-way.</u>				
k. Maximum height limits((⁵)) ^{6,7}	Lot width (feet)				
	Less than 30	30 ((or greater)) up to ((35)) <u>50</u>	((Above 35 up to 40))	((Above 40 up to 50)) ⁶	50 or greater
(1) Base structure height limit_(feet)	((12)) <u>14</u>	((14)) <u>16</u>	((15))	((16))	((16)) <u>18</u>
(2) Height allowed for pitched roof above base structure height limit_(feet)	3	7	((7))	((6))	7
(3) Height allowed for shed or butterfly roof above base structure height limit (feet); see Exhibit A for 23.44.041	3	4	((4))	((4))	4
l. Minimum separation from principal structure	5 feet				

Footnotes to Table ((B))A for 23.44.041:

¹ The Director may allow an exception to standards a through f(;) and h((; i and)) through j pursuant to subsection 23.44.041.B.3((;)) for converting existing accessory structures.

² For lots that do not meet the lot depth requirement((;)) but have a greater width than depth and an area greater than 5,000 square feet, a detached accessory dwelling unit is permitted, provided the detached accessory dwelling unit is not located in a required yard.

Table ((B))A for 23.44.041
Development standards for detached accessory dwelling units¹

³ External architectural details with no living area, such as chimneys, eaves, cornices, and columns, may project no closer than 3.5 feet from any lot line. Bay windows are limited to 8 feet in width and may project no closer than 3 feet from any lot line. Other projections that include interior space, such as garden windows, must start a minimum of 30 inches above finished floor, have a maximum dimension of 6 feet in height and 8 feet in width, and may project no closer than 3.5 feet from any lot line

⁴ If the lot line is adjacent to an alley and a detached accessory dwelling unit includes a garage with a vehicle entrance that faces the alley, the garage portion of the structure may not be located within 12 feet of the centerline of the alley.

~~((4))⁵~~ On a reversed corner lot, no detached accessory dwelling unit shall be located in that portion of the required rear yard that abuts the required front yard of the adjoining key lot.

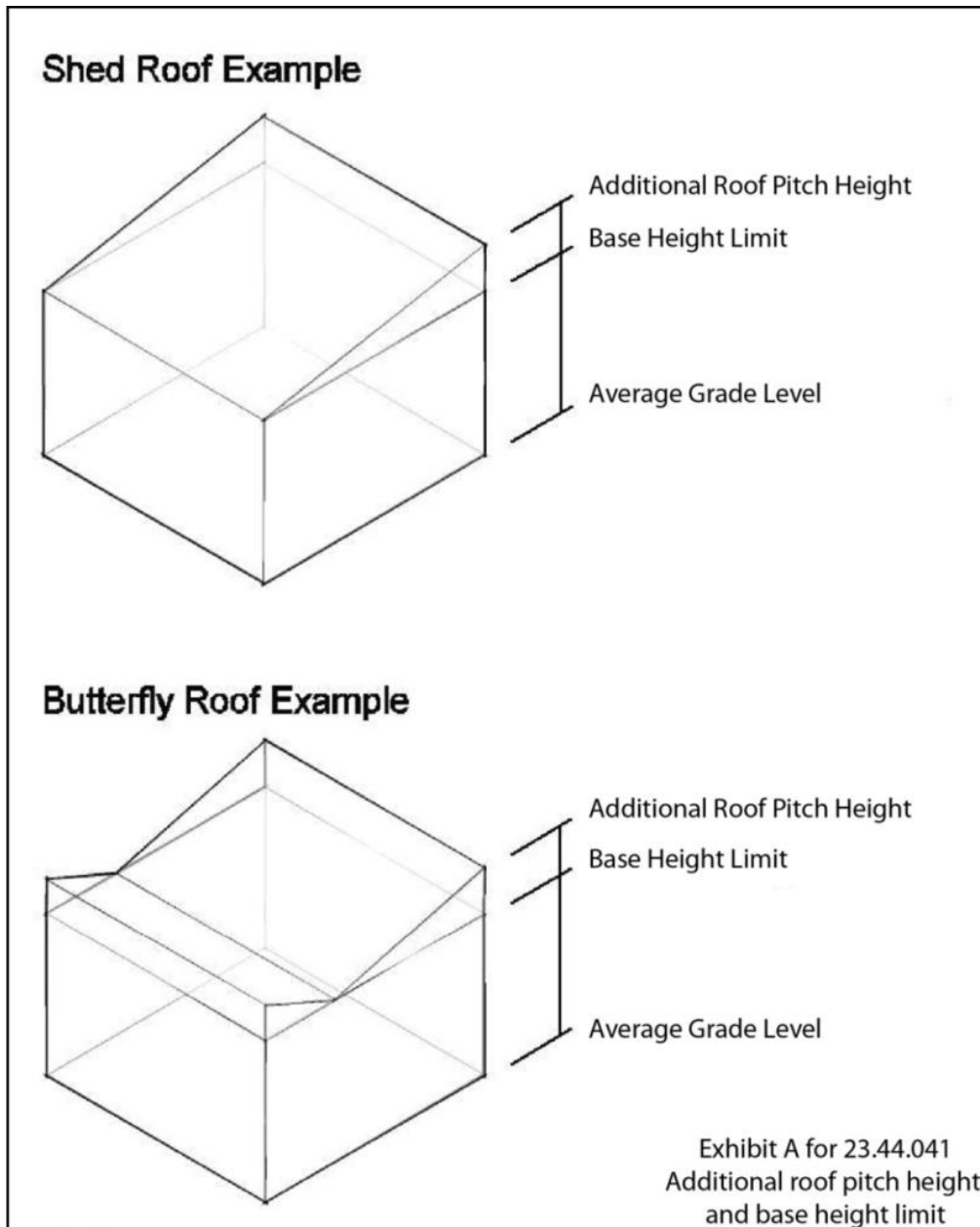
~~((5))⁶~~ Features such as chimneys, antennas, and flagpoles may extend up to 4 feet above the maximum allowed height.

~~((6))⁷~~ ~~((Detached accessory dwelling units on lots that have a width greater than 40 feet up to 50 feet may be built to the maximum height limit applicable in the column for lots greater than 50 feet when the detached accessory dwelling unit is located on a lot with a rear lot line that is adjacent to an alley.))~~ Projections that accommodate windows and result in additional interior space, including dormers, clerestories, and skylights, may extend no higher than the ridge of a pitched roof permitted pursuant to row k of this table provided that all of conditions of subsection 23.44.012.C.3 are satisfied.

~~((⁷The exceptions from standard yard requirements in subsection 23.44.014.D.6.a shall also apply)).~~

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1 **Exhibit A for 23.44.041**
2 **Additional roof pitch height and base height limit**



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5 3. Conversion of ~~((accessory-))~~ structures. An existing ~~((accessory-))~~ structure that
6 is not located in a required front yard, or that is located in a front yard where Section 23.40.030
7 or 23.40.035 applies, may be converted into a detached accessory dwelling unit if the structure
8 complies with the minimum standards set forth in Sections 22.206.010 through 22.206.140 of

1 the Housing and Building Maintenance Code and with the Seattle Residential Code, if work
2 requiring a permit is performed on the structure or has previously been performed without a
3 permit. The Director may allow an exception to one or more of the development standards for
4 accessory dwelling units contained in subsection 23.44.041.A.4 and standards a through ~~((f))~~e,
5 ~~h~~~~((i and))~~ through j, and f for conversion of existing accessory structures listed in Table ~~((B))~~A
6 for 23.44.041, provided the conversion does not increase the structure's nonconformity with the
7 standard ~~((and))~~. An existing accessory structure can be converted if the applicant can
8 demonstrate that the accessory structure was constructed prior to June 1, 1999, as an accessory
9 structure. If an accessory structure constructed prior to June 1, 1999, was replaced to the same
10 configuration in accordance with the standards of Section 23.42.112, then the replacement
11 structure also qualifies for conversion under this subsection 23.44.041.B.3. For purposes of this
12 subsection 23.44.041.B.3, the term “conversion” means either keeping the accessory structure
13 intact or removing and rebuilding the accessory structure, provided that any expansion or
14 relocation of the accessory structure complies with the development standards for detached
15 accessory dwelling units.

16 C. Owner occupancy

17 1. Requirement~~((:))~~ and duration

18 a. An owner ~~((with at least a 50 percent interest in the property))~~ must
19 occupy either the principal dwelling unit or the accessory dwelling unit for six or more months
20 of each calendar year as the owner’s permanent residence. ~~((The Director may waive this~~
21 ~~requirement for up to three years if a letter is submitted that provides evidence to the Director~~
22 ~~showing good cause why the requirement for owner occupancy should be waived. Good cause~~
23 ~~may include job dislocation, sabbatical leave, education, or illness.))~~

1 b. The requirement set forth in subsection 23.44.041.C.1.a is required for
2 a 12-month period from the date of the final building permit inspection for the accessory
3 dwelling unit.

4 2. Violation. If an owner is unable or unwilling to fulfill the requirements of
5 subsection 23.44.041.C.1, the owner shall remove those features of the accessory dwelling unit
6 that make it a dwelling unit. Failure to do so will constitute a violation of this Title 23 and the
7 owner will be subject to penalties pursuant to Sections 23.90.018, 23.90.019, and 23.90.020.

8 3. Covenant recording. Prior to issuance of a permit establishing an accessory
9 dwelling unit, the owner(s) shall sign under oath and record in the King County Recorder a
10 covenant by the owner(s) to the City of Seattle stating that the owner(s) agree to restrict use of
11 the principal and accessory dwelling units in compliance with the requirements of this
12 subsection 23.44.041.C and notify all prospective purchasers of those requirements. Falsely
13 certifying to the terms of the covenant or failure to comply with the terms of the covenant is
14 subject to penalties pursuant to Sections 23.90.018, 23.90.019, and 23.90.020.

15 The covenant shall run with the land and be binding upon the property owner, his/her heirs and
16 assigns, and ~~((upon))~~ any parties subsequently acquiring any right, title, or interest in the
17 property, until the owner-occupancy requirement in subsection 23.44.041.C.1.b is satisfied. The
18 covenant shall be in a form prescribed by the Director that includes the legal description of the
19 ~~((principal use))~~ lot. The property owner(s) shall return the original covenant with recording
20 stamp to the Department before the building permit for the accessory dwelling unit is issued.

21 4. Covenant release. ~~((At))~~ Prior to meeting the owner-occupancy requirement in
22 subsection 23.44.041.C.1.b, at the request of a property owner and after an inspection finding

1 that an accessory dwelling unit has been removed from the owner's property, the Department
2 shall record a release of any previously recorded covenant for that accessory dwelling unit.

3 D. Single-family status unaffected. A single-family lot with an attached accessory
4 dwelling unit and/or detached accessory dwelling unit shall be considered a single-family
5 (~~residence~~)use for purposes of rezone criteria (Section 23.34.011).

6 Section 3. Section 23.84A.032 of the Seattle Municipal Code, last amended by
7 Ordinance 124378, is amended as follows:

8 **23.84A.032 “R”**

9 * * *

10 "Residential use" means any one or more of the following:

11 1. "Accessory dwelling unit" means one or more rooms that

12 a. are located within (~~an owner-occupied~~)a single-family dwelling
13 unit(~~(s)~~) or within an accessory structure on the same lot as (~~an owner-occupied~~)a single-
14 family dwelling unit;

15 b. meet the standards of Section 23.44.041, or 23.45.545, or Chapter
16 23.47A, as applicable;

17 c. are designed, arranged, and intended to be occupied by not more than
18 one household as living accommodations independent from any other household; and

19 d. are so occupied or vacant.

20 2. "Adult family home" means an adult family home defined and licensed as
21 such by The State of Washington in a dwelling unit.

22 3. "Apartment" means a multifamily residential use that is not a cottage housing
23 development, rowhouse development, or townhouse development.

1 4. "Artist's studio/dwelling" means a combination working studio and dwelling
2 unit for artists, consisting of a room or suite of rooms occupied by not more than one household.

3 5. "Assisted living facility" means a use licensed by The State of Washington as
4 a boarding home pursuant to RCW 18.20, that contains at least two assisted living units for
5 people who have either a need for assistance with activities of daily living (which are defined as
6 eating, toileting, ambulation, transfer [e.g., moving from bed to chair or chair to bath], and
7 bathing) or some form of cognitive impairment but who do not need the skilled critical care
8 provided by nursing homes. See "Assisted living unit."

9 6. "Carriage house" means a dwelling unit in a carriage house structure.

10 7. "Carriage house structure" means a structure within a cottage housing
11 development, in which one or more dwelling units are located on the story above an enclosed
12 parking garage at ground level that either abuts an alley and has vehicle access from that alley,
13 or is located on a corner lot and has access to the parking in the structure from a driveway that
14 abuts and runs parallel to the rear lot line of the lot. See also "Carriage house."

15 8. "Caretaker's quarters" means a use accessory to a non-residential use
16 consisting of a dwelling unit not exceeding 800 square feet of living area and occupied by a
17 caretaker or watchperson.

18 9. "Congregate residence" means a use in which rooms or lodging, with or
19 without meals, are provided for nine or more non-transient persons not constituting a single
20 household, excluding single-family dwelling units for which special or reasonable
21 accommodation has been granted.

22 10. "Cottage housing development" means a use consisting of cottages arranged
23 on at least two sides of a common open space or a common amenity area. A cottage housing

1 development may include a carriage house structure. See "Cottage," "Carriage house," and
2 "Carriage house structure."

3 11. "Detached accessory dwelling unit" means an accessory dwelling unit in an
4 accessory structure.

5 12. "Domestic violence shelter" means a dwelling unit managed by a nonprofit
6 organization, which unit provides housing at a confidential location and support services for
7 victims of domestic violence.

8 13. "Floating home" means a dwelling unit constructed on a float that is moored,
9 anchored, or otherwise secured in the water.

10 14. "Mobile home park" means a tract of land that is rented for the use of more
11 than one mobile home occupied as a dwelling unit.

12 15. "Multifamily residential use" means a use consisting of two or more dwelling
13 units in a structure or portion of a structure, excluding accessory dwelling units.

14 16. "Multifamily residential use, low-income disabled" means a multifamily
15 residential use in which at least 90 percent of the dwelling units are occupied by one or more
16 persons who have a handicap as defined in the Federal Fair Housing Amendments Act and who
17 constitute a low-income household.

18 17. "Multifamily residential use, low-income elderly" means a residential use in
19 which at least 90 percent of the dwelling units are occupied by one or more persons 62 or more
20 years of age who constitute a low-income household.

21 18. "Multifamily residential use, low-income elderly/low-income disabled"
22 means a multifamily residential use in which at least 90 percent of the dwelling units (not
23 including vacant units) are occupied by a low-income household that includes a person who has

1 a handicap as defined in the Federal Fair Housing Amendment Act or a person 62 years of age
2 or older, as long as the housing qualifies for exemptions from prohibitions against
3 discrimination against families with children and against age discrimination under all applicable
4 fair housing laws and ordinances.

5 19. "Nursing home" means a use licensed by The State of Washington as a
6 nursing home, which provides full-time convalescent and/or chronic care for individuals who,
7 by reason of chronic illness or infirmity, are unable to care for themselves, but that does not
8 provide care for the acutely ill or surgical or obstetrical services. This definition excludes
9 hospitals or sanitariums.

10 20. "Rowhouse development" means a multifamily residential use in which all
11 principal dwelling units on the lot meet the following conditions:

12 a. each dwelling unit occupies the space from the ground to the roof of
13 the structure in which it is located;

14 b. no portion of a dwelling unit, except for an accessory dwelling unit or
15 shared parking garage, occupies space above or below another dwelling unit;

16 c. each dwelling unit is attached along at least one common wall to at
17 least one other dwelling unit, with habitable interior space on both sides of the common wall, or
18 abuts another dwelling unit on a common lot line;

19 d. the front of each dwelling unit faces a street lot line;

20 e. each dwelling unit provides pedestrian access directly to the street that
21 it faces; and

22 f. no portion of any other dwelling unit, except for an attached accessory
23 dwelling unit, is located between any dwelling unit and the street faced by the front of that unit.

1 21. "Single-family dwelling unit" means a detached structure having a permanent
2 foundation, containing one dwelling unit, except that the structure may also contain an attached
3 accessory dwelling unit and/or there may be a detached accessory dwelling unit on the same lot
4 where expressly authorized pursuant to this Title 23. A detached accessory dwelling unit is not
5 considered a single-family dwelling unit for purposes of this Chapter 23.84A.

6 22. "Townhouse development" means a multifamily residential use that is not a
7 rowhouse development, and in which:

8 a. each dwelling unit occupies space from the ground to the roof of the
9 structure in which it is located;

10 b. no portion of a dwelling unit occupies space above or below another
11 dwelling unit, except for an attached accessory dwelling unit and except for dwelling units
12 constructed over a shared parking garage; and

13 c. each dwelling unit is attached along at least one common wall to at
14 least one other dwelling unit, with habitable interior space on both sides of the common wall, or
15 abuts another dwelling unit on a common lot line.

16 * * *

1 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2016,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2016.

7 _____
8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2016.

10 _____
11 Edward B. Murray, Mayor

12 Filed by me this _____ day of _____, 2016.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)