

DIRECTOR'S REPORT
PROPOSED LAND USE CODE TEXT AMENDMENT
ADULT CABARETS
March 1989

SUMMARY

In response to Council Resolution #27905, the Department of Construction and Land Use (DCLU) is proposing an amendment to the Land Use Code which would define topless dance halls as "adult cabarets" and would authorize their location to specific zones. This report uses the term "adult cabaret" to refer to topless dance halls. The proposed changes balance the need of adult cabarets for adequate locational opportunities with the needs of residents for healthy, safe neighborhoods. The changes are also consistent with existing land use policies.

Adult cabarets are entertainment uses where nude and/or semi-nude dancers perform for members of the public. Food and/or beverage may or may not be served. Liquor is generally not sold on the premises of adult cabarets due to provisions required state law. Presently, these businesses are defined in the Land Use Code as performing arts theaters and are permitted in all commercial (except Neighborhood Commercial 1), downtown and industrial zones.

The proposal recognizes a growing concern for maintaining the neighborhood character of the City's commercial areas. It does not intend to regulate the activity within adult cabarets but rather concerns itself with the effects these businesses have on the surrounding community. While there are many perceptions about what these effects are, this report concludes that as a class of use, adult cabarets have adverse impacts on public safety, welfare and property values. Impacts such as these indicate that adult cabarets are not compatible near residential development. For that reason, DCLU proposes to permit the location of adult cabarets in the non-residentially oriented downtown zones where adult motion picture theaters and adult panorams are now permitted. These zones are: Downtown Office Core 1 (DOC1), Downtown Office Core 2/400' (DOC2/400'), and Downtown Retail Core (DRC).

BACKGROUND

Topless dance halls, bars, and/or nightclubs have been regulated as performing arts theaters since the adoption of the Neighborhood Commercial Code in 1986. Historically, they have been treated as restaurants, dance halls, theaters

or indoor places of public assembly, depending on the type of operation. They have been prohibited in residential zones and permitted in commercial, industrial and downtown zones, as they are today.

Of the eight known adult cabarets now in operation, one is located in the Downtown Mixed Commercial zone (DMC 125). Some form of adult entertainment use has existed at this location intermittently for many years. Another, located in a Neighborhood Commercial 2 (NC2) zone, has been at the same location for over 20 years. There is one located in a Downtown Office Core 2/400' (DOC2/400') zone. Three adult cabarets are located in Neighborhood Commercial 3 (NC3) zones, and two are in Commercial 1 (C1) zones. The latter six have been newly established within the last two years.

This recent increase in the establishment of adult cabarets in Seattle's neighborhood commercial areas brought about a considerable number of citizen complaints. The Public Safety Committee of the Seattle City Council received numerous phone calls and letters, including many from northend community councils and merchants associations and several petitions with hundered of signatures. These citizens expressed their concerns about the decline in property values, increases in insurance rates and fears about burglary, vandalism, rape, assaults, drugs, prostitution and the overall detrimental influence on their neighborhoods.

This citizen concern prompted the City Council to adopt legislation which requires both new and existing adult entertainment businesses to be licensed (Ordinance 114225) and places a moratorium on the establishment of any new business until the Land Use Code is amended (Ordinance 114254 and Resolution 27905). This report is part of that Land Use Code amendment process, examining how best to regulate the location of adult cabarets.

Regulation of adult entertainment uses is a constant challenge for communities. Regulating these uses is different from regulating other uses like grocery stores or restaurants because arts and entertainment uses involve protected forms of expression, such as dancing. Local governments must be cautious in regulating adult entertainment uses because of the constitutional issues involved. The First and Fourteenth Amendments to the United States Constitution are often cited in case law as the standards against which regulations affecting adult entertainment must be measured. The First Amendment protects the right of citizens to freedom of speech or expression, and this federal right extends to the states under the Fourteenth Amendment.

One traditional method used by local governments to regulate adult entertainment uses has been through licensing. This approach often requires owners, operators, and/or employees to provide detailed business information and specifies facility and operational standards. The City's recently adopted legislation which requires adult entertainment businesses to be licensed with the Department of Licenses and Consumer Affairs is an effective method for addressing performance-oriented standards. Standards which regulate the planning effects of different uses are best incorporated into zoning or land use legislation. As a general rule these are more effective at addressing locational issues.

In the 1976 landmark decision of Young v. American Mini Theaters, Inc.,¹ the U.S. Supreme Court declared that as a land use, adult entertainment uses are subject to carefully tailored regulation to minimize adverse land use impacts. In order for a land use regulation of such uses to be valid, several conditions must first be satisfied. One condition is that the local government must provide opportunities for this type of expression. In other words, zoning cannot be used directly or effectively to ban adult motion picture theaters, bookstores, or dancing. Another condition requires that limits not be placed on the number of establishments or on the accessibility of such facilities to those who wish to patronize them. The Court determined that zoning can legitimately be used to regulate such uses by establishing zones where adult entertainment uses are most compatible with other uses or the surrounding neighborhood, or by requiring minimum distances to be maintained between adult uses and other uses. Another more recent U.S. Supreme Court case, City of Renton v. Playtime Theaters, Inc.,² reaffirmed these concepts. It also verified that a city is entitled to rely on the experience of other cities in enacting legislation to regulate adult entertainment uses. Both of these decisions have been used in many cities to support local government zoning regulation of adult entertainment uses.

Seattle, like many other jurisdictions, relied on the Young decision to locate adult motion picture theaters only in the central business district. Citing Young again in 1979, the City limited the areas where adult panorams could be located. In 1985, reflecting a decisive policy in the newly adopted Downtown Plan to encourage downtown residential development, adult motion picture theaters and adult panorams were authorized only in the Downtown Office Core 1 (DOC1), Downtown Office Core 2 (DOC2) and the Downtown Retail Core (DRC) zones. To date, these are the only two forms of adult entertainment uses identified specifically in Seattle's land use regulations.

ANALYSIS AND RECOMMENDATION

Land use regulation is based on the concept of compatibility. Generally, the City's commercial and downtown policies encourage a variety of businesses which are compatible with each other and the residential areas they serve. However, some commercial uses have impacts which are not compatible with the nature of some business areas or create unavoidable impacts on surrounding residential areas. Animal shelters, towing services, and construction yards, to name a few, are examples of commercial uses which may have objectionable impacts near residential areas and are identified and regulated accordingly in the Land Use Code. In a study entitled "Zoning Controls for Adults-Only Theaters" prepared by the City in 1976, it was determined that adult motion picture theaters were not compatible near residential neighborhoods. (This study was cited by the City of Renton in their U.S. Supreme Court case with Playtime Theaters, Inc.) In order to determine in what zones adult cabarets should be permitted, it is necessary to survey their impacts and determine with what other uses they are compatible.

During the review of Seattle's licensing ordinance, the Public Safety Committee of the City Council held a public hearing. Many citizens spoke of their concerns and fears about these businesses in their neighborhoods. Problems with parking and traffic, deteriorating property values, attraction of undesirable transients, increases in crime, hazards for children and personal safety, once again were some of the impacts expressed about adult cabarets on the overall quality of neighborhoods. A recent rezoning application proposed by an adult entertainment business has generated many letters opposing this rezoning. Citizens have complained that this business interferes with their ability to raise their children in a healthy family environment.

A decision by the City in 1976, to allow adult motion picture theaters only in the downtown area was upheld by the Washington State Supreme Court based on findings that these same impacts, mentioned above, were indeed detrimental to residential areas.³ In another case, Village of Belle Terre v. Borass, the U.S. Supreme Court recognized that local governments have the right to use zoning based on impacts on family values to protect the public welfare.⁴ Studies undertaken in other communities have verified that these same impacts are associated with adult entertainment uses in those communities as well.

Of these impacts, this study found that impacts on public safety and property values had the most quantifiable documentation.

In the law and planning literature on adult entertainment uses, public safety hazards are the most often cited adverse impacts on surrounding communities. New York city police have found that serious crime complaints ran almost 70% higher on police posts that contained adult uses.⁵ The cities of Cleveland, Ohio;⁶ Indianapolis, Indiana;⁷ Los Angeles, California;⁸ and Austin, Texas;⁹ among others have documented that crime rates were any where from 15% to 77% higher in areas containing adult businesses than those areas containing no adult businesses. A study in Phoenix, Arizona¹⁰ concluded that not only was there a higher rate of sex-related crimes in areas where adult businesses were located, but that rate was significantly higher where there was a concentration of adult businesses. Boston is one of the few cities that has taken the concentrated zoning approach, limiting adult-only uses to one, seven-acre area in their downtown. Their "red light" district, commonly referred to as the "Combat Zone" also has a higher incidence of crimes than other business districts in the city.¹¹

To date, no analyses or comparative studies have been conducted in Seattle to verify correlation between adult cabarets and criminal activity. It is assumed that adult cabarets in Seattle are not unlike those in other cities. While not every adult business is predisposed to be involved with criminal activity there is enough documentation, as evidenced above, to demonstrate a direct link between the potential for increased criminal activity and adult cabarets.

Like adult motion picture theaters and panorams, adult cabarets are auto-oriented or destination-type uses attracting a regional clientele. Trade characteristics studies in Bothell, Washington¹² and Austin, Texas⁹ confirmed that at least one half of all customers frequenting adult businesses were located outside the city limits (one investigation in Bothell found that of 321 vehicles checked, only 8 were registered in their city). And in Austin, less than 5% were located within a one-mile radius of the establishment. While there are many businesses which may have regional attraction, the fact that adult cabarets also have an increased potential for crime make them more of a public safety risk on a neighborhood. People who patronize these establishments may have no sense of identity with or regard for the neighborhood in which these businesses may be located and therefore less inhibited in their personal behavior than if they were in their own community. Secondary effects of police calls to a business are also created. Noise from sirens and flashing lights and

traffic hazards from police and emergency vehicles are disturbances not conducive to healthy business or residential environments. The increased potential for crime, together with these secondary effects, result in impacts which are more substantial than those of other neighborhood commercial uses which are intended to serve the needs of surrounding residents.

Decline of property values is another impact that can have serious effects on residential, commercial and industrial areas. Many jurisdictions have indicated property values are likely to decline as a result of an adult cabaret locating in the vicinity. In 1984, an analysis of adult entertainment businesses in Indianapolis was conducted by that city's Department of Metropolitan Development.⁷ With the assistance of the Indiana University School of Business, they conducted a national survey of members from the Member Appraisers Institute and the American Institute of Real Estate Appraisers regarding the market effect of adult entertainment businesses on nearby land values. It was concluded that "adult entertainment businesses - even a relatively passive one such as an adult bookstore - have serious negative effects on their immediate environment." While respondent felt that both residential and commercial properties were affected, residential properties were more severely impacted. The cities of Kent, Washington;¹³ Los Angeles, California;⁸ and Oklahoma City, Oklahoma¹⁴ also conducted analyses with similar conclusions. Detroit, Michigan is well known for basing their dispersion requirement for adult uses on protecting property value. Their zoning ordinance was designed to protect business districts from the blighting influences and the "skid row" effect caused by the concentration of adult businesses.¹⁵ Rental rates and occupancy of office/retail space in Washington, D.C.'s Franklin Square have nearly doubled since adult-only businesses have relocated out of the area.¹⁶ Seattle has very little land devoted to neighborhood commercial use. Such zones represent only about 6% of the City's land area. The City's industrial lands are similarly scarce. Allowing the location of adult cabarets with the potential for negatively impacting property values would be detrimental to these areas and contrary to the adopted policy to promote healthy industrial and business climates.

Within the scope of adopted City policy, the following changes to the Land Use Code are proposed to provide compatible locations for adult cabarets with other commercial enterprises in the community. Major changes are discussed under the topics of Definitions, Nonconforming Uses, Commercial Zones, Downtown Zones and Industrial Zones.

DEFINITIONS

Currently, there is no terminology in the Land Use Code which specifically describes an establishment where live entertainment is almost exclusively provided by nude and/or semi-nude performers. With the adoption of the Neighborhood Commercial Code in 1986, these types of uses have fallen under the category of performing arts theaters. The major impacts associated with most performing arts theaters focus around parking and traffic. However, public safety and welfare is the major area of concern associated with adult cabarets. Since the impacts associated with adult cabarets are significantly different than those of other performing arts theaters, DCLU recommends that the use "adult cabaret" be specifically defined.

An adult cabaret is an entertainment use proposed to be defined as:

a place of public assembly, where licensing as an "adult entertainment premises" is required by SMC 6.270.

NONCONFORMING USES

There are eight known adult cabarets currently in operation in Seattle. Seven are located in zones, which as a result of this amendment, would make them nonconforming uses. They would be allowed to continue but would be subject to the provisions for nonconforming uses in the zones in which they are located.

COMMERCIAL ZONES

The commercial area use policies generally encourage business by promoting flexibility of business activity compatible with the neighborhood-serving character of business districts and with the residential character of the surrounding residential neighborhood.

The function of the Neighborhood Commercial 1, 2, and 3 zones (NC1, NC2, NC3) specifically emphasize pedestrian-oriented shopping, serving adjoining or surrounding residential neighborhoods. Single purpose residential structures are allowed through the conditional use process and residential uses mixed with commercial uses are permitted outright. These zones are typically nodal areas in residentially zoned neighborhoods or along arterials adjacent to residential areas.

The Commercial 1 (C1) zone begins to provide for more of a city-wide clientele, with auto-oriented retail sales and services. The C1 zone also allows residential development on the same basis as NC1, NC2 and NC3 zones. These zones are generally located along arterial streets abutting residentially zoned land.

The Commercial 2 (C2) zone is also auto-oriented providing land for city-wide business support and light manufacturing. Residential development is allowed on a case by case basis through conditional use review. This review is intended primarily to preserve scarce commercially zoned land for preferred commercial uses, prevent displacement of commercial uses, and to ensure the compatibility of commercial and residential uses in the zone. These zones are generally strips of land along major arterial streets which often abut residentially zoned or less intensively zoned land.

Because these commercial zones are oriented towards the needs of nearby residential users and either allow some residential development or are located very near residential zones, it is proposed that adult cabarets not be allowed to locate in the NC1, NC2, NC3, C1, and C2 zones. Adjacent residential neighborhoods and residents in business districts will then be protected from the adverse impacts often associated with adult cabarets. This will also assure that the business districts will be protected from declining property values and remain able to provide services to a residential clientele in a healthy and safe environment.

DOWNTOWN ZONES

Residential development is also encouraged in most downtown zones, the exceptions being the Downtown Office Core 1 (DOC1) zone, the Downtown Office Core 2 (DOC2) zone, and the Downtown Retail Core (DRC) zone. In order to promote residential neighborhoods in the downtown, adult motion picture theaters and adult panorams were prohibited in all but those three zones when the downtown chapter of the Land Use Code was adopted in 1985.

Having comparable impacts and being entertainment uses, adult cabarets are similar in use to adult motion picture theaters. And because downtown Seattle is a regional urban center where cultural diversity is more widely accepted, it is proposed that adult cabarets continue to be permitted in the same three zones as adult motion picture theaters: DOC1, DOC2, with the exception of DOC2/240', and DRC. These three zones total approximately 130 acres of land area.

The southern portion of the DOC2 zone, (the DOC2/240') zone, is proposed as an exception because of the highly sensitive public safety issues surrounding this area. The zone is located south of the DOC1 zone and north of the Pioneer Square area. There are several correctional facilities near or in this zone. The King County Jail (located in DOC1) borders this zone, and two large work-release facilities (with a total of approximately 300 residents) are located here. Individuals associated with these facilities are often serviced by the many programs provided by human service agencies located in the Pioneer Square area. These include programs for shelter, food, health, employment, substance abuse and sex therapy. Given the statistic that nearly 30% of the inmates in Washington's prison system are serving time for sex-related offenses, the siting of adult cabarets in this area poses a substantial threat to public safety. Adult cabarets are proposed to be prohibited from locating in the DOC2/240' zone.

Adult cabarets would also be prohibited from locating in the remaining downtown mixed commercial and residential zones and in the Special Review Districts (Pioneer Square and the International District), Pike Market and the Downtown Harborfront.

INDUSTRIAL ZONES

Industrial land in the City is a scarce resource. The intent of the Industrial Land Use Policies is to provide some measure of protection to viable industries from uses competing for this resource. With a limited supply of land in the City zoned for industrial use, care must be taken to protect it from the potential blighting influences which often accompany adult cabarets. While most entertainment uses are permitted in the Industrial zones, adult motion picture theaters and adult panorams are prohibited, based on a 1976 decision that they be concentrated downtown. Adult cabarets would similarly be prohibited in the industrial zones under this recommendation.

CONCLUSION

The most compelling argument for limiting adult cabarets is to reduce the potential public safety impacts. These impacts make adult cabarets incompatible in areas where residential development is promoted in combination with or adjacent to commercial development. Additionally, adult cabarets are

incompatible in the neighborhood commercial and industrial areas because there is a potential for a decrease in adjacent property values. In order to protect the health, safety and general welfare of the residential, commercial and industrial neighborhoods, adult cabarets are most compatible in areas where other adult entertainment uses are located and where their impacts on the surrounding area can be more closely monitored.

The Department of Construction and Land Use recommends the attached Land Use Code amendment be adopted for adult cabarets in the downtown, commercial and industrial zones. By adopting the proposed amendment, the City will be providing adequate locational opportunities for adult cabarets while assuring that the residential and business environment of the City's neighborhoods and industrial areas will be protected from the impacts of these establishments.

REFERENCES

- 1 Young v. American Mini Theaters, Inc., 427 U.S. 50, 49 L.Ed. 2d.310, 96 S.Ct.2440 (1976).
- 2 City of Renton v. Playtime Theaters, Inc., 475 U.S. 41, 89 L.Ed. 2d.29, 106 S.Ct.925 (1986).
- 3 Northend Cinema, Inc. v. City of Seattle, 90 Wn.2nd 709.585 P2nd 1153. (1978).
- 4 Village of Belle Terre v. Boraas, 416 U.S. 1, 39 L.Ed. 2d.797, 94 S.Ct.1536 (1974).
- 5 Toner, William. "U.S. Cities Face Combat in the Erogenous Zone," Planning, Vol.43. Chicago: American Society of Planning Officials, September 1977.
- 6 City of Cleveland, Ohio, Police Department. Special Investigation Unit Report, August 1977.
- 7 City of Indianapolis, Indiana, Department of Metropolitan Development, Division of Planning. "Adult Entertainment Businesses in Indianapolis: An Analysis." 1984.
- 8 City of Los Angeles, California, Department of City Planning. "Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles." June 1977.
- 9 City of Austin, Texas, Office of Land Development Services. "Report on Adult Oriented Businesses in Austin." May 1986.
- 10 City of Phoenix, Arizona, Planning Department. "Adult Business Study." May 1979.
- 11 Pratter, Jerome and Connie Hager, "Zoning Laws, Not Obscenity Laws, Offer the Way to Control Adult Entertainment," Nation's Cities Weekly, Vol.3, April 21, 1980.
- 12 City of Bothell, Police Department Investigations. 1984.
- 13 City of Kent, Planning Department. "Adult Use Zoning Study." November 1982.
- 14 City of Oklahoma City, Community Development, Planning Division. "Adult Entertainment Businesses in Oklahoma City: A Survey of Real Estate Appraisers." March 1986.
- 15 Toner, William. Regulating Sex Business. Planning Advisory Service, Report No.7. Chicago: American Society of Planning Officials, May 1977.

16 Schultz, Arthur J. III. "Franklin Square: Porn Free and Booming," Urban Land. Urban Land Institute, August 1977.

DRAFT.

PROPOSED AMENDMENT
SEATTLE MUNICIPAL CODE
CHAPTER 23 LAND USE

USES: CHART A
For Section 23.47.004 (Continued)

	ZONES				
	NC1	NC2	NC3	C1	C2
- Fast-food restaurant (over 750 square feet)	CU	CU	CU	CU	CU
- Tavern	CU	CU	P	P	P
- Brewpub	CU	CU	P	P	P
7. Lodging					
- Hotel	X	X	P	P	P
- Motel	X	X	P	P	P
- Bed and breakfast	P ²	P ²	P	P	P
8. Mortuary Services	X	P	P	P	P
9. Existing Cemeteries	P	P	P	P	P
B. Principal Use Parking	X	P	P	P	P
C. Non-Household Sales and Service					
1. Business support services	P	P	P	P	P
2. Business incubator	P	P	P	P	P
3. Sales, service and rental of office equipment	X	P	P	P	P
4. Sales, service and rental of commercial equipment and construction materials	X	X	P	P	P
5. Sale of heating fuel	X	X	P	P	P
6. Heavy commercial services	X	X	X	P	P
- Construction services	X	X	X	P	P
- Commercial laundries	X	X	X	P	P
D. Offices					
1. Customer service office	P	P	P	P	P
2. Administrative office	P	P	P	P	P
E. Entertainment					
1. Places of Public Assembly					
- Performing arts theater	X	P	P	P	P
- Spectator sports facility	X	P	P	P	P
- Lecture and meeting halls	X	P	P	P	P
- Motion picture theater	X	P	P	P	P
- Adult motion picture theater	X	X	X	X	X
- Adult panoramas	X	X	X	X	X
- <u>Adult Cabaret</u>	X	X	X	X	X

Elevation	Lots With Two or More Street Frontages		
	Lots With One Street Frontage	Lots 40,000 Sq. Ft. or Less in Size	Lots Greater Than 40,000 Sq. Ft. in Size
125' to 240'	60%	40%	20%
Above 240'	30%	40%	20%

4. To qualify as uncovered area, at least half the area required to be uncovered shall be contiguous and shall have a minimum depth of fifteen feet (15').

5. To meet the coverage limits, a lot may be combined with one or more abutting lots, whether occupied by existing structures or not, provided that:

a. The coverage of all structures on the lots meets the limits set in this subsection A; and

b. The fee owners of the abutting lot(s) shall execute a deed or other agreement, which shall be recorded with the title to the lots, which restricts future development so that in combination with the other lots, the coverage limits shall not be exceeded.

B. Maximum Facade Lengths. Maximum facade lengths shall be established for facades above an elevation of one hundred twenty-five feet (125') above the adjacent sidewalk. This maximum length shall be measured parallel to each street property line of streets designated on Map IID¹ as having a pedestrian classification and shall apply to any portion of a facade, including projections such as balconies, which is located within fifteen feet (15') of street property lines.

1. The maximum length of facades above an elevation of one hundred twenty-five feet (125') shall be as follows:

Elevation	Lots With Two or More Street Frontages		
	Lots With One Street Frontage	Lots 40,000 Sq. Ft. or Less in Size	Lots Greater Than 40,000 Sq. Ft. in Size
125' to 240'	120'	120'	120'
Above 240'	90'	120'	90'

¹ Above a height of two hundred forty feet (240'), for each half percent (1/2%) reduction of coverage in the coverage limit area from the requirements established in subsection A, the maximum facade length may be increased by one foot up to a maximum of 120 feet.

2. To be considered a separate facade for the purposes of determining the maximum facade length established in subsection B1, any portion of a facade above an elevation of one hundred twenty-five feet (125') which is less than fifteen feet (15') from a street property line, shall be separated from any similar portion of the facade by at least sixty feet (60') of facade which is set back at least fifteen feet (15') from a street property line. (See Exhibit 23.49.058 B.) (Ord. 112519 § 10, 1985; Ord. 112303 § 3(part), 1985.)

1. Editor's Note: Map IID is codified at the end of this chapter.

Subchapter III Downtown Office Core 2

Part 1 Use Provisions

23.49.060 Downtown Office Core 2, permitted uses.

A. All uses shall be permitted outright except those specifically prohibited by Section 23.49.062, those permitted only as conditional uses by Section 23.49.064, and parking, which shall be regulated by Section 23.49.063.

B. All uses not prohibited shall be permitted as either principal or accessory uses. (Ord. 112303 § 3(part), 1985.)

23.49.062 Downtown Office Core 2, prohibited uses.

The following uses shall be prohibited as both principal and accessory uses:

A. Drive-in businesses, except gas stations located in parking garages;

B. Outdoor storage;

C. All general and heavy manufacturing uses;

D. All salvage and recycling uses except recycling collection stations;

E. All high-impact uses.

F. Adult cabarets in DOC2/240'.

(Ord. 112777 § 27, 1986; Ord. 112303 § 3(part), 1985.)

23.49.064 Downtown Office Core 2, principal and accessory parking.

A. Principal Use Parking.

1. Principal use parking garages for long-term parking in areas shown on Map IIIA¹ may be permitted as conditional uses, pursuant to Section 23.49.066. Principal use parking garages

Subchapter V Downtown Mixed Commercial

Part 1 Use Provisions

23.49.116 Downtown Mixed Commercial, permitted uses.

A. All uses shall be permitted outright except those specifically prohibited by Section 23.49.118, those which are permitted only as conditional uses by Section 23.49.122, and parking, which shall be regulated by Section 23.49.120.

B. All uses not prohibited shall be permitted as either principal or accessory uses. (Ord. 112303 § 3(part), 1985.)

23.49.118 Downtown Mixed Commercial, prohibited uses.

The following uses shall be prohibited as both principal and accessory uses:

A. Drive-in businesses, except gas stations located in parking garages;

B. Outdoor storage;

C. Adult cabarets, adult motion picture theaters and adult panorams;

D. All general and heavy manufacturing uses;

E. All salvage and recycling uses except recycling collection stations; and

F. All high-impact uses.

(Ord. 112777 § 29, 1986; Ord. 112303 § 3(part), 1985.)

23.49.120 Downtown Mixed Commercial, principal and accessory parking.

A. Principal Use Parking.

1. Principal use parking garages for long-term parking in areas shown on Map VA¹ may be permitted conditional uses, pursuant to Section 23.49.122. Principal use parking garages for long-term parking shall be prohibited in other locations.

2. Principal use parking garages for short-term parking shall either be:

a. Permitted outright when the garage contains short-term parking spaces for which additional floor area is granted pursuant to Section 23.49.126; or

b. Conditional uses in all other cases, pursuant to Section 23.49.122.

3. Principal use surface parking areas shall be conditional uses in areas shown on Map VA, and shall be prohibited in other locations, except that temporary principal use parking

areas may be permitted as conditional uses pursuant to Section 23.49.122.

B. Accessory Parking.

1. Accessory parking garages for both long-term and short-term parking shall be permitted outright, up to the maximum parking limit established by Section 23.49.016. Parking quantity requirements.

2. Accessory surface parking areas shall either be:

a. Permitted outright when located in areas shown on Map VA and containing twenty (20) or fewer parking spaces; or

b. Permitted as a conditional use when located in areas shown on Map VA and containing more than twenty (20) spaces; or

c. Prohibited in areas not shown on Map VA, except that temporary accessory surface parking areas may be permitted as a conditional use pursuant to Section 23.49.122.

(Ord. 112303 § 3(part), 1985.)

L. Editor's Note: Map VA is codified at the end of this chapter.

23.49.122 Downtown Mixed Commercial, conditional uses.

A. All conditional uses shall meet the following criteria:

1. The use shall be determined not to be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

2. In authorizing a conditional use, adverse negative impacts may be mitigated by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity and the public interest. The Director or Council shall deny the conditional use, if it is determined that the negative impacts cannot be mitigated satisfactorily.

B. Principal use parking garages for long-term parking in areas designated on Map VA,¹ and for short-term parking at any location, except those permitted outright by Section 23.49.116 B2, may be permitted as administrative conditional uses, if the Director finds that:

1. Traffic from the garage will not have substantial adverse effects on peak hour traffic flow to and from Interstate 5, or on traffic circulation in the area around the garage; and

2. The vehicular entrances to the garage

23.49.140 LAND USE CODE

Subchapter VI Downtown Mixed Residential

23.49.140 General provisions.

All property zoned Downtown Mixed Residential (DMR) shall be designated as either Downtown Mixed Residential/Residential (DMR/R) or Downtown Mixed Residential/Commercial (DMR/C) on the Official Land Use Map, Chapter 23.32. (Ord. 112303 § 3(part), 1985.)

Part 1 Use Provisions

23.49.142 Downtown Mixed Residential permitted uses.

A. All uses shall be permitted outright except those specifically prohibited by Section 23.49.144, and those permitted only as conditional uses by Section 23.49.148, and parking, which shall be regulated by Section 23.49.146.

B. All uses not prohibited shall be permitted as either principal or accessory uses. (Ord. 112303 § 3(part), 1985.)

23.49.144 Downtown Mixed Residential, prohibited uses.

The following uses shall be prohibited as both principal and accessory uses:

- A. Drive-in businesses, except gas stations located in parking garages;
- B. Outdoor storage;
- C. Helistops and heliports;
- D. Adult cabarets, adult motion picture theaters and adult panorams;
- E. Light manufacturing uses in DMR/R areas;
- F. All general and heavy manufacturing uses;
- G. All salvage and recycling uses, except recycling collection stations; and
- H. All high-impact uses.

(Ord. 113279 § 15, 1987; Ord. 112777 § 30, 1986; Ord. 112303 § 3(part), 1985.)

23.49.146 Downtown Mixed Residential, principal and accessory parking.

- A. Principal Use Parking.
 - 1. Principal use parking garages for long-term and short-term parking shall be prohibited.
 - 2. Principal use surface parking areas shall be prohibited, except that temporary principal use surface parking areas in DMR/C areas

may be permitted as conditional uses pursuant to Section 23.49.148.

B. Accessory Parking.

1. Accessory parking garages for both long-term and short-term parking shall be permitted outright, when located on the same lot as the use which they serve, up to the maximum parking limit established by Section 23.49.016, Parking quantity requirements. Parking garages providing accessory parking for residential uses located on another lot may be permitted as conditional uses pursuant to Section 23.49.148. Parking garages providing accessory parking for nonresidential uses located on another lot shall be prohibited.

2. Accessory surface parking areas shall be:

- a. Prohibited in DMR/R areas;
- b. Permitted outright in DMR/C areas when containing twenty (20) or fewer parking spaces; or
- c. Permitted as a conditional use in DMR/C areas when containing more than twenty (20) parking spaces, pursuant to Section 23.49.148. (Ord. 113279 § 16, 1987; Ord. 112519 § 23, 1985; Ord. 112303 § 3(part), 1985.)

23.49.148 Downtown Mixed Residential, conditional uses.

A. All conditional uses shall meet the following criteria:

- 1. The use shall be determined not to be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.
- 2. In authorizing a conditional use, adverse negative impacts may be mitigated by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity and the public interest. The Director or Council shall deny the conditional use, if it is determined that the negative impacts cannot be mitigated satisfactorily.

B. Parking garages providing accessory parking for residential uses located on another lot may be permitted as conditional uses, if the Director finds that:

- 1. Unserved parking demand associated with existing or forecast future residential development within one thousand feet (1,000) of the

Elevation of Portion of Structure (in feet)	Maximum Length by Lot Size	
	0—19,000 Square Feet	Greater Than 19,000 Square Feet
66—125	90' on avenues 120' on streets	120'
126—150	Not applicable	100'

(Ord. 113279 § 28, 1987; Ord. 112519 § 34, 1985; Ord. 112303 § 3(part), 1985.)

23.49.248 International District Residential, side setback and street park setback requirements.

A. Side Setbacks. Setbacks shall be required from side lot lines that are not street side lot lines. The setback shall occur above an elevation of sixty-five feet (65'). The amount of the setback shall be determined by the length of the frontage of the lot on avenues, as follows:

Frontage on Avenue	Required Setback at 65 Feet
120 feet or less	Not required
121 feet to 180 feet	20 feet
181 feet or more	40 feet

B. Street Park Setbacks. A setback from the street property line shall be required on street parks, Map IXA,¹ at an elevation of forty feet (40'). The setback shall be as follows:

Elevation of Portion of Structure	Required Setback
40' to 85'	10'
86' to 240'	$(H - 86') \times .2 + 10'$ where H = Total structure height in feet.

(Ord. 112519 § 35, 1985; Ord. 112303 § 3(part), 1985.)

1. Editor's Note: Map IXA is codified at the end of this chapter.

Subchapter X Downtown Harborfront 1

Part 1 Use Provisions

23.49.300 Downtown Harborfront 1, uses.

Uses that shall be permitted or prohibited in Downtown Harborfront 1 are determined by the Seattle Shoreline Master Program. (Ord. 112303 § 3(part), 1985.)

Part 2 Development Standards

23.49.302 Downtown Harborfront 1, general provisions.

All uses shall meet the development standards of the Seattle Shoreline Master Program. (Ord. 112303 § 3(part), 1985.)

23.49.304 Downtown Harborfront 1, transfer of development rights.

Development rights may not be transferred to or from lots in DH1 zones. (Ord. 112303 § 3(part), 1985.)

23.49.306 Downtown Harborfront 1, parking.

Parking located at or above grade shall be screened according to the following requirements:

A. Parking where permitted on dry land at street level shall be screened according to the provisions of Section 23.49.020, Screening and landscaping of parking areas.

B. The perimeter of each floor of parking garages above street level shall have an opaque screen at least three and one-half feet (3 1/2) high. (Ord. 112303 § 3(part), 1985.)

Subchapter XI Downtown Harborfront 2

Part 1 Use Provisions

23.49.318 Downtown Harborfront 2, permitted uses.

A. All uses shall be permitted outright except those which are specifically prohibited in Section 23.49.320, those which are permitted only as conditional uses by Section 23.49.324, and parking, which shall be regulated by Section 23.49.322. Additionally, uses may be further restricted by the Seattle Shoreline Master Program.

B. All uses not specifically prohibited shall be permitted as either principal or accessory uses. (Ord. 112303 § 3(part), 1985.)

23.49.320 Downtown Harborfront 2, prohibited uses.

The following uses shall be prohibited as both principal and accessory uses:

A. Drive-in businesses, except gas stations located in parking garages;

23.49.320 LAND USE CODE

B. Outdoor storage, except when accessory to water-dependent or water-related uses located in Downtown Harborfront 1 or Downtown Harborfront 2;

C. Adult cabarets, adult motion picture theaters, adult panorams;

D. All general and heavy manufacturing uses;

E. All salvage and recycling uses except recycling collection stations; and

F. All high-impact uses.

(Ord. 112777 § 31, 1986; Ord. 112303 § 3(part), 1985.)

23.49.322 Downtown Harborfront 2,
principal and accessory parking.

A. Principal Use Parking.

1. Principal use parking garages for both long-term and short-term parking shall be conditional uses, according to Section 23.49.324.

2. Principal use surface parking areas shall be conditional uses in areas shown on Map XIA,¹ and shall be prohibited in other locations, except that temporary principal use surface parking areas may be permitted as conditional uses pursuant to Section 23.49.324.

B. Accessory Parking.

1. Accessory parking garages for both long-term and short-term parking shall be permitted outright.

2. Accessory surface parking areas shall either be:

a. Permitted outright when located in areas shown on Map XIA and containing twenty (20) or fewer parking spaces; or

b. Permitted as a conditional use when located in areas shown on Map XIA and containing more than twenty (20) spaces; or

c. Prohibited in areas not shown on Map XIA, except that temporary accessory surface parking areas may be permitted as a conditional use pursuant to Section 23.49.324.

(Ord. 112303 § 3(part), 1985.)

1. Editor's Note: Map XIA is codified at the end of this chapter.

23.49.324 Downtown Harborfront 2,
conditional uses.

A. All conditional uses shall meet the following criteria:

1. The use shall be determined not to be materially detrimental to the public welfare or

injurious to property in the zone or vicinity in which the property is located.

2. In authorizing a conditional use, adverse negative impacts may be mitigated by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity and the public interest. The Director or Council shall deny the conditional use, if it is determined that the negative impacts cannot be mitigated satisfactorily.

B. Principal use parking garages for long-term or short-term parking may be permitted as conditional uses, if the Director finds that:

1. Traffic from the garage will not have substantial adverse effects on traffic circulation in the area around the garage; and

2. The entrances to the garages are located so that they will not disrupt traffic or transit routes; and

3. The traffic generated by the garage will not have substantial adverse effects on pedestrian circulation.

C. Surface parking areas where permitted as a conditional use by Section 23.49.322, and temporary surface parking areas located on lots vacant on or before January 1, 1985, or on lots which become vacant as a result of a City-initiated abatement action, may be permitted as conditional uses according to the following standards:

1. The standards stated for garages in subsection B are met; and

2. The lot is screened and landscaped according to the provisions of Section 23.49.020. Screening and landscaping of surface parking areas; and

3. For temporary surface parking areas:

a. At least twenty percent (20%) of the long-term spaces shall be set aside for car-pools, according to the provisions of Section 23.49.016 B2; and

b. The permit may be issued for a maximum of two (2) years and shall not be renewed; and

c. The applicant shall post a bond in an amount adequate to cover the costs of removing the physical evidence of the parking area such as curb cuts, paving and parking space striping, when the permit expires. Landscaping need not be removed when the permit expires; and

d. Signs at each entrance to the parking area stating the ending date of the permit shall be required.

b. Any blank segments of the facade shall be separated by transparent areas at least two feet (2') wide.

c. The total of all blank facade segments, including garage doors, shall not exceed seventy percent (70%) of the street facade of the structure on each street frontage; or seventy-eight percent (78%) if the slope of the street frontage of the facade exceeds seven and one-half percent (7½%).

E. Screening of Parking.

1. Parking located at or above street level in a garage shall be screened according to the following requirements:

a. On Class II pedestrian streets, parking shall be permitted at street level when at least thirty percent (30%) of the street frontage of the parking area, excluding that portion of the frontage of the frontage occupied by garage doors, is separated from the street by other uses. The facade of the separating uses shall be subject to the transparency and blank wall standards for Class I pedestrian streets in subsections C and D. The remaining parking shall be screened from view at street level and the street facade shall be enhanced by architectural detailing, artwork, landscaping, or similar visual interest features.

b. On street parks, parking shall not be permitted at street level unless separated from the street by other uses, provided that garage doors need not be separated.

c. The perimeter of each floor of parking garages above street level shall have an opaque screen at least three and one-half feet (3½) high.

2. Surface parking areas shall be screened and landscaped pursuant to Section 23.49.020, Screening and landscaping of surface parking areas.

F. Street Tree Requirements. Street trees shall be required on all streets abutting a lot. When areaways are located beneath the sidewalk, the street trees shall be planted in below-grade containers with provisions for watering the trees. Street trees shall be planted according to The City of Seattle Board of Public Works Tree Planting Standards.

(Ord. 112519 § 37, 1985; Ord. 112303 § 3(part), 1985.)

1. Editor's Note: Map XIA is codified at the end of this chapter.
2. Editor's Note: The Energy Code is codified at Subtitle VII of Title 22 of this Code.

Subchapter XII Pike Market Mixed

Part 1 Use Provisions

23.49.336 Pike Market Mixed, permitted uses.

A. Permitted uses within the Pike Market Historic District, shown on Map XIIA,¹ shall be determined by the Pike Place Market Historical Commission pursuant to the Pike Market Historical District Ordinance, Chapter 25.14, Seattle Municipal Code.

B. In areas outside of the Pike Market Historic District in the Pike Market Mixed (PMM) zone, as shown on Map XIIA, all uses are permitted outright except those specifically prohibited by Section 23.49.338.

(Ord. 112303 § 3(part), 1985.)

1. Editor's Note: Map XIIA is codified at the end of this chapter.

23.49.338 Pike Market Mixed, prohibited uses.

A. The following uses are prohibited as both principal and accessory uses in areas outside of the Pike Place Market Historic District, Map XIIA:¹

1. Drive-in businesses, except gas stations located in parking garages;
2. Outdoor storage;
3. Adult cabarets, adult motion picture theaters and adult panoramas;
4. Transportation facilities;
5. Communication facilities;
6. All general manufacturing uses;
7. All salvage and recycling uses, except recycling collection stations; and
8. All industrial uses.

B. Within the Pike Place Market Historical District, Map XIIA, uses may be prohibited by the Pike Market Historical Commission pursuant to the Pike Market Historical District Ordinance.²

(Ord. 112303 § 3(part), 1985.)

1. Editor's Note: Map XIIA is codified at the end of this chapter.
2. Editor's Note: The Pike Market Historical District Ordinance is codified at Chapter 25.14 of this Code.

Chart A for Section 23.50.012 (Continued)

Uses	IB	Zones	
		IC	IG1 & IG2
E. Entertainment.			
1. Places of public assembly.			
a. Performing arts theater	P	P	P
b. Spectator sports facility.	P	P	P
c. Lecture and meeting halls	P	P	P
d. Motion picture theater	P	P	P
e. Motion picture theater, adult	X	X	X
f. Adult panorams	X	X	X
g. <u>Adult Cabaret</u>	<u>X</u>	<u>X</u>	<u>X</u>
2. Participant sports and recreation.			
a. Indoor	P	P	P
b. Outdoor	P	P	P
F. Wholesale showroom	P	P	P
G. Mini-warehouse	P	P	P
H. Warehouse	P	P	P
I. Outdoor storage	P	P	P
J. Transportation Facilities.			
1. Personal transportation services	P	P	P
2. Passenger terminal	P	P	P
3. Cargo terminal	P	P	P
4. Transit vehicle base	CU	CU	CU
5. Helistop	CCU	CU	CU
6. Heliport	X	CCU	CCU
7. Airport, land-based	X	CCU	CCU
8. Airport, water-based	X	CCU	CCU
9. Railroad switchyard	P	P	P
10. Railroad switchyard with mechanized hump	X	X	CU
K. Food processing and craft work	P	P	P
L. Research and development laboratory	P	P	P
IV. Salvage and Recycling.			
A. Recycling collection station	P	P	P
B. Recycling center	P	P	P
C. Salvage yard	X	X	P

standards of the Puget Sound Air Pollution Control Agency (PSAPCA), and shall be incorporated into the design and operation of the facility; and

d. Landscaping and screening, separation from less-intensive zones, noise, light and glare controls, and other measures to insure the compatibility of the use with the surrounding area and to mitigate adverse impacts shall be incorporated into the design and operation of the facility.

6. Helistops may be permitted as a Council conditional use in the Industrial Buffer (IB) zone according to the following criteria:

a. The helistop is located to minimize impacts, such as noise and dust impacts, on lots in residential zones;

b. The lot is of sufficient size that the operations of the helistop and the flight paths of the helicopter are buffered from the surrounding area;

c. Open areas and landing pads are hard-surfaced;

d. The helistop meets all federal requirements, including those for safety, glide angles and approach lanes; and

e. The helistop is an integral element of the service provided by the business establishment to which it is accessory.

(Ord. 113658 § 4(part), 1987.)

1. Editor's Note: Ordinance 113658 was adopted by the City Council on October 3, 1987.

Subchapter III Development Standards in All Zones

23.50.016 Landscaping, curbs and sidewalks—Standards on designated streets.

Uses located on streets which have been designated on the Industrial Streets Landscaping Maps, Exhibits 23.50.016 A and B, shall provide landscaping, curbs and sidewalks as outlined in subsections A, B and C below. (See Exhibits 23.50.016 A and 23.50.016 B.)

A. Street Trees. All uses shall provide street trees along the designated street frontage. Street trees shall be provided in the planting strip according to City of Seattle Board of Public Works Tree Planting Standards. If it is not feasible to plant street trees according to City standards, a five-foot (5') deep landscaped setback

area shall be required along the street property lines and street trees shall be planted there. If a landscaped area is already required, the street trees shall be planted there if they cannot be placed in the planting strip. Trees planted in this setback area shall be at least two feet (2') from the street lot line.

B. Curbs and Sidewalks. All uses shall provide curbs and sidewalks along the designated street frontage. This requirement may be waived by the Director in consultation with the Director of Engineering under the following conditions:

1. Full street improvement would not be practical due to topography and/or location in an environmentally sensitive area;

2. Street improvements would remove natural features such as trees or disrupt existing drainage patterns;

3. Full street improvement would adversely affect abutting property;

4. The street is not improved to standard, but is adequate for anticipated current and future needs.

C. Screening. All outdoor storage, including off-street parking for two (2) or more fleet vehicles, outdoor storage for recyclable materials and outdoor manufacturing, repairing, refuse compacting or recycling activities, shall provide view-obscuring screening along street lot lines unless the storage or activity is fifteen feet (15') above or below the street. If the specific zone requires more extensive landscaping or screening provisions, the more extensive provisions shall apply. (Ord. 113658 § 4(part), 1987.)

23.50.018 View corridors.

A. On lots which are partially within the Shoreline District, except those on the Duwamish Waterway, a view corridor shall be required for the non-shoreline portion, if the portion of the lot in the Shoreline District is required to provide a view corridor under the Seattle Shoreline Master Program.¹

B. The required width of the view corridor or corridors shall be not more than one-half (1/2) of the required width of the view corridor required in the adjacent Shoreline District.

C. Measurement, modification or waiving of the view corridor requirement shall be according to the Shoreline District measurement regulations, Chapter 23.60.

(Ord. 113658 § 4(part), 1987.)

a. Maintain views from upland public spaces and rights-of-way;

b. Ensure structure heights that provide a transition to the lower pier structures in the Historic Character Area;

c. Maintain a structure height along Alaskan Way frontage that is consistent with existing pier development, maximizes solar access to Alaskan Way and establishes a scale of development in keeping with the pedestrian character; and

d. Provide a transition in height and scale between the waterfront and abutting upland development.

5. Public Access. Public access shall be required according to the following guidelines to ensure access to the water and marine activity without conflicting with the operation of water dependent uses:

a. Public access shall be provided approximately equivalent to fifteen percent (15%) of the lot coverage or five thousand (5,000) square feet, whichever is greater, except as provided in subsection b3 below.

b. Area designated for public access shall be subject to the following conditions:

(1) Where the water-dependent use will benefit from or is compatible with public access, such as passenger terminals, ferry operations and tour boats, the access shall be provided in conjunction with the water-dependent use;

(2) Where public access would conflict with the operations of the water-dependent use, access requirements may be met on alternative portions of the lot;

(3) Where the entire lot is to be occupied by a water-dependent use, the Council may permit a partial waiver of the public access requirement;

(4) To qualify as public access, an area shall be directly accessible from Alaskan Way and clearly related to public open spaces. Efforts should also be made to physically and visually link public access areas over water with the east/west streets providing links to upland areas;

(5) The public access area shall provide the public with visual and physical access to the shoreline area. Preference shall be given to perimeter access on over-water structures providing maximum exposure to the bay and surrounding activity;

(6) Interpretive features such as

displays or special viewing equipment shall be incorporated in public access areas. Maritime museum space which is fully enclosed will not count as public access space;

(7) Up to fifty percent (50%) of the total public access area may be covered, provided that at least fifty percent (50%) of the perimeter of any covered area is open to views of the water;

(8) A portion of the required public access area, not to exceed fifty percent (50%), may be provided at an elevation exceeding two feet (2') above or below the grade of Alaskan Way. The area must be open to views of the water along at least fifty percent (50%) of the perimeter, be easily identifiable as public space and be fully accessible to the public.

6. View Corridors. View corridors shall be provided equivalent to thirty percent (30%) of the street frontage of the lot. The following conditions for view corridors shall be met:

a. View corridors shall allow views of the water from the street. View corridors shall maintain and enhance pedestrian views from Alaskan Way along traditional view corridors established by submerged street rights-of-way, as well as views from upland areas along east/west rights-of-way. View corridors shall provide views past pier development out into the open water of Elliott Bay and to the Olympic Mountains where possible;

b. View corridors shall maximize opportunities for views of the bay and waterfront activity along Alaskan Way to enhance public open space and public access areas;

c. View corridors through a development site shall be encouraged to assist in relieving the overall sense of bulk of development over water; and

d. Overhead weather protection, arcades or other architectural features may extend into the view corridor only if they do not obstruct views from pedestrian areas at Alaskan Way or on upland streets.

(Ord. 113466 § 2(part), 1987.)

23.60.668 Prohibited uses on waterfront lots in the UH Environment.

The following uses are prohibited as principal uses on waterfront lots in the UH Environment:

- A. Residential uses;
- B. The following commercial uses:
 1. Medical services,
 2. Animal services,

- 3. Automotive retail sales and service,
 - 4. Lodging, except existing hotels,
 - 5. Mortuary services,
 - 6. Offices at wharf/street level,
 - 7. Adult cabarets, adult motion picture theaters and adult panorams;
 - 8. Parking, principal use,
 - 9. Nonhousehold sales and services,
 - 10. Mini-warehouses,
 - 11. Personal transportation services,
 - 12. Cargo terminals, except breakbulk,
 - 13. Transit vehicle bases,
 - 14. Heliports, and
 - 15. Airports, land-based;
 - C. Salvage and recycling uses;
 - D. The following utilities:
 - 1. Solid waste transfer stations,
 - 2. Power plants, and
 - 3. Sewage treatment plants;
 - E. General and heavy manufacturing;
 - F. The following institutional uses:
 - 1. Schools, elementary or secondary,
 - 2. Hospitals,
 - 3. Religious facilities, and
 - 4. Private yacht, boat and beach clubs;
 - G. Public facilities or projects that are non-water-dependent except those that are part of public improvement plan for the harborfront adopted by the Council;
 - H. High-impact uses;
 - I. Agriculture uses except aquaculture;
 - J. Groins and similar structures which block the flow of sand to adjacent beaches, except drift sills or other structures which are part of a natural beach protection system; and
 - K. Landfill which creates dry land.
- (Ord. 113764 § 1(part), 1987; Ord. 113466 § 2(part), 1987.)

23.60.670 Permitted uses on upland lots in the UH Environment.

- A. **Uses Permitted Outright.** The following uses shall be permitted outright on upland lots as principal or accessory uses in the UH Environment:
 - 1. Uses permitted outright on waterfront lots in the UH environment;
 - 2. Additional uses permitted outright on upland lots:
 - a. Residential uses,
 - b. The following commercial uses:
 - (1) Nonhousehold retail sales and services,

- (2) Warehouses,
- (3) Medical services,
- (4) Lodging,
- (5) Offices at street level,
- (6) Parking garges, principal use,
- (7) Surface parking areas, principal use,
- (8) Personal transportation services,
- c. Institutions, and
- d. Public facilities.

B. **Uses Permitted as Special Uses.** Uses permitted as special uses on waterfront in the UH Environment lots are permitted as special uses on upland lots.
(Ord. 113466 § 2(part), 1987.)

23.60.672 Prohibited uses on upland lots in the UH Environment.

Uses prohibited on waterfront lots in the UH environment are also prohibited on upland lots unless specifically permitted in Section 23.60.670.
(Ord. 113466 § 2(part), 1987.)

Part 2 Development Standards

23.60.690 Development standards for the UH Environment.

All developments in the Urban Harborfront Environment shall meet the requirements of Part 2, except when the Water-dependent Incentive Development Standards of Section 23.60.666 apply, as well as the development standards applicable to all environments contained in Subchapter III, General Provisions.
(Ord. 113466 § 2(part), 1987.)

23.60.692 Height in the UH Environment.

A. **Waterfront Lots.** The maximum height in the UH Environment shall be forty-five feet (45') except in the Historic Character Area where the maximum height shall be fifty feet (50') all as measured from Alaskan Way, except as modified by subsection C below.

B. **Upland Lots.** The maximum height shall be fifty-five feet (55'), sixty-five feet (65'), eighty-five feet (85'), one-hundred feet (100'), one hundred twenty-five feet (125'), or one hundred sixty feet (165'), as determined by location on the Official Land Use Map, Chapter 23.32, except as modified by this section.

C. **Height Exceptions.**

protect the public health, safety and welfare or when the purposes of this ordinance will be furthered by the demolition or removal, then the Director of Community Development, following review and recommendation by the Board, may authorize such demolition or removal whether the prerequisites of this section are satisfied or not.
(Ord. 112134 § 1(part), 1985.)

Part 2 Use and Development Standards

23.66.120 Permitted uses.

A. All uses are permitted outright except those that are specifically prohibited by Section 23.66.122 and those that are subject to special review as provided in Section 23.66.124.

B. All uses not specifically prohibited are permitted as both principal and accessory uses except:

1. Gas stations, which shall be permitted as accessory uses only in parking garages; and

2. Principal use parking garages, which shall be permitted only after special review by the Preservation Board pursuant to Section 23.66.124 of this chapter. Accessory parking garages shall be permitted outright.
(Ord. 112134 § 1(part), 1985.)

23.66.122 Prohibited uses.

A. 1. The following uses are prohibited in the entire District as both principal and accessory uses:

- Retail ice dispensaries
- Plant nurseries
- Frozen food lockers
- Animal services
- Automotive retail sales and service, except gas stations located in parking garages
- Marine retail sales and service
- Heavy commercial services
- Fuel sales
- Sales, service and rental of commercial equipment and construction materials
- Adult cabarets
- Adult motion picture theaters
- Adult panoramas
- Bowling alleys
- Skating rinks
- Communication utilities
- Advertising signs and off-premises directional signs
- Transportation facilities, except passenger terminals
- Outdoor storage.

2. Commercial uses which are vehicle-oriented shall be prohibited in the area of the District identified on Map B.¹ Such uses include, but are not limited to the following:

Drive-in businesses, except gas stations accessory to parking garages:

Principal and accessory surface parking areas not in existence prior to August 10, 1981:

Motels.

B. All general and heavy manufacturing uses, salvage and recycling uses except recycling collection stations, and all high-impact uses are prohibited both as principal and as accessory uses.

C. Discouraged Street-level uses.

1. The following uses are discouraged at street level in the area designated on Map D:²

a. Any use occupying more than fifty percent (50%) of any block frontage;

b. Retail sales and services over three thousand (3,000) square feet and all other uses over ten thousand (10,000) square feet;

c. Administrative offices and medical services which comprise more than twenty percent (20%) of any block frontage;

d. Parking garages which are not accessory to preferred uses.

2. Discouraged uses may be approved by the Community Development Director after review and recommendation by the Preservation Board if an applicant demonstrates that the proposed use is compatible with uses preferred at street level.

D. Approved street-level uses in the area designated on Map D² shall be subject to the following conditions:

1. No use may occupy more than fifty percent (50%) of the street-level frontage of a block that is twenty thousand (20,000) square feet or more in area;

2. Human service uses and personal service establishments, such as hair cutting and tanning salons, may not exceed twenty-five percent (25%) of the total street-level frontage of any block front.

E. The following uses shall be prohibited at street level in the area designated on Map D:²

- Wholesale showrooms:
- Vocational and fine arts schools:
- Radio and television studios:
- Taxidermy shops:
- Appliance repair shops:
- Upholstery establishments:

1. Gas stations, which are not permitted as principal uses and are permitted as accessory uses only in parking garages:

2. Surface parking areas, which are not permitted as principal uses but may be permitted as accessory uses pursuant to Section 23.66.342 of this Land Use Code; and

3. Principal use parking garages, which may be permitted only if approved after special review by the Board pursuant to Section 23.66.324 of this Land Use Code. Accessory parking garages shall be permitted outright. (Ord. 112134 § 1(part), 1985.)

23.66.322 Prohibited uses.

A. The following uses shall be prohibited as both principal and accessory uses in the entire International Special Review District:

- Adult cabarets
- Adult motion picture theaters
- Adult panorams
- All general and heavy manufacturing uses
- All high-impact uses
- All salvage and recycling uses, except recycling collection stations
- Automotive retail sales and service
- Bowling lanes
- Communication utilities
- Sales, service and rental of commercial equipment and construction materials
- Drive-in businesses
- Frozen food lockers
- Heavy commercial services
- Marine retail sales and services
- Medical testing laboratories
- Mortuary services
- Motels
- Outdoor storage
- Plant nurseries
- Retail ice dispensaries
- Shooting galleries
- Skating rinks
- Mobile home parks
- Transportation facilities except passenger terminals

B. In addition to the prohibited uses listed in subsection A, light manufacturing uses that occupy more than ten thousand (10,000) square feet are prohibited in that portion of the International Special Review District west of the Interstate 5 Freeway.

C. All light manufacturing uses are prohi

ited in that portion of the District in the IDR Zone.

(Ord. 112777 § 34, 1986; Ord. 112519 § 43, 1985; Ord. 112303 § 8, 1985; Ord. 112134 § 1(part), 1985.)

23.66.324 Uses subject to special review.

A. The following uses shall be subject to special review by the Board:

- Fast food restaurants:
- Hotels:
- Planned community developments:
- Principal use parking garages:
- Street-level uses subject to special review as provided in Section 23.66.326 C.

B. Nature of Review.

1. The evaluation of applications for uses subject to special review shall be based upon the proposal's impacts on the cultural, economic, social, historical and related characteristics of the International District, particularly those characteristics derived from its Asian heritage: existing and potential residential uses; the pedestrian environment; traffic and parking in the District; noise and light and glare.

2. In reviewing applications for principal-use parking garages, the Board shall consider the potential of the proposal to serve the particular parking needs of the International District. The Board shall encourage participation in an area-wide merchants' parking association.

C. The Board may recommend to the Director that an application for special review be approved, approved with conditions, or denied. (Ord. 112303 § 9, 1985; Ord. 112134 § 1(part), 1985.)

23.66.326 Street-level uses.

A. To retain and strengthen the King Street business core as a pedestrian-oriented retail shopping district, street-level uses shall be required on streets designated on Map B, the International District Retail Core. Required street-level uses shall satisfy the standards of this section.

B. Preference shall be given to pedestrian-oriented retail shopping and service business uses that are highly visible or prominently display merchandise in a manner that contributes color and activity to the streetscape, including but not limited to:

- Apparel shops
- Bakeries

"Block face." See "Block front."

"Block front" means the frontage of property along one (1) side of a street bound on three (3) sides by the centerline of platted streets and on the fourth side by an alley or rear property lines (Exhibit 23.84.004 B).

"Boarder" means a person who rents a room or rooms for lodging purposes within a dwelling unit on not less than a monthly basis.

"Boarding house." See "Residential use."

"Brewpub." See "Eating and drinking establishment."

"Bridge, access." See "Access bridge."

"Building." See "Structure."

"Bus base." See "Transportation facility."

"Business district identification sign" means an off-premises sign which gives the name of a business district or industrial park and which may list the names of individual businesses within the district or park.

"Business establishment" means an economic or institutional unit organized for the purposes of conducting business and/or providing a service. In order to be considered a separate business establishment, a business shall be physically separated from other businesses. Businesses which share common facilities, such as reception areas, checkout stands, and similar features (except shared building lobbies and bathrooms) shall be considered one (1) business establishment, except when they are located in a business incubator. A business establishment may be located in more than one (1) structure provided that the uses in the structures are functionally related. The structures may be located on a single lot or on adjacent lots. A business establishment may be a commercial, manufacturing, institutional, or any other type of nonresidential use.

"Business incubator." See "Non-household sales and services."

"Business sign." See "Sign, business."

"Business support service." See "Non-household sales and services."

(Ord. 113263 § 31, 1986; Ord. 112777 § 37, 1986; Ord. 112830 § 12, 1986; Ord. 112303 § 12, 1985; Ord. 111926 § 6, 1984; Ord. 111390 § 42, 1983; Ord. 110570 § 13, 1982; Ord. 110381 § 1(part), 1982.)

1. Editor's Note: Ordinance 112777 was signed by the Mayor on April 10, 1986 and became effective on June 9, 1986. Ordinance 112830 was signed by the Mayor on May 9, 1986 and became

effective on June 8, 1986; thus Ordinance 112777 is the later ordinance.

23.84.006 "C."

"Cabaret, adult." See "Places of Public Assembly."

"Canopy" means a nonrigid, retractable or nonretractable, protective covering located at the entrance to a structure.

"Caretaker's quarters." See "Residential use."

"Cargo terminals." See "Transportation facility."

stores include but are not limited to grocery, hardware, drug, and variety stores.

4. "Specialty food store" means a personal and household retail sales and service use in which food such as salads, deli meats, desserts, baked goods, whole pizzas, and other ready-to-eat foods are prepared and sold, generally for consumption on other premises. Specialty packaged foods, and/or bulk items such as cheese, may also be sold, and the square footage of any area used for seating for the immediate consumption of food shall be no more than three hundred (300) square feet. If more than three hundred (300) square feet are devoted to seating space, the entire use shall be considered an eating and drinking establishment rather than a specialty food store.

"Personal transportation services." See "Transportation facilities."

"Pitched roof" means any non-horizontal roof.

"Placard" means a highly visible notice at least eleven (11) by fourteen inches (14") in size with headings which can be read from a distance of seventy-five feet (75') by persons of normal visual acuity.

"Places of public assembly" means an entertainment use in which cultural, entertainment, athletic, or other events are provided for spectators either in or out of doors. Examples include but are not limited to motion picture and performing arts theaters, spectator sports facilities, and lecture and meeting halls. Places of public assembly accessory to institutions or to public parks or playgrounds shall not be considered commercial uses.

1. "Cabaret, adult means a place of public assembly, where licensing as an "adult entertainment premises" is required by SMC 6.270.

2. "Motion picture theater" means a place of public assembly intended and expressly designed for the presentation of motion pictures, other than an adult motion picture theater.

3. "Motion picture theater, adult" means a place of public assembly in which, in an enclosed building, motion picture films are presented which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas," as defined in this subsection, for observation by patrons therein:

a. "Specified sexual activities":

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy;

(3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

b. "Specified anatomical areas":

(1) Less than completely and opaquely covered:

(a) Human genitals, pubic region,

(b) Buttock, or

(c) Female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

3.4. "Panoram, adult" means a device which exhibits or displays for observation by a patron a picture or view from film or videotape or similar means which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined in subsection 2: 3.

4.5. "Participant sports and recreation" means an entertainment use in which facilities for engaging in sports and recreation are provided. Any spectators are incidental and are not charged admission. There are two (2) types of participant sports and recreation uses — indoor and outdoor. Participant sports and recreation uses accessory to institutions or to public parks or playgrounds shall not be considered commercial uses.

a. "Participant sports and recreation, indoor" means a participant sports and recreation use in which the sport or recreation is conducted within an enclosed structure. Examples include but are not limited to bowling alleys, roller and ice skating rinks, dance halls, racquetball courts, physical fitness centers and gyms, and videogame parlors.

b. "Participant sports and recreation, outdoor" means a participant sports and recreation use in which the sport or recreation is conducted outside of an enclosed structure. Examples include tennis courts, water slides, and driving ranges.

5.6. "Performing arts theater" means a place of public assembly intended and expressly designed for the presentation of live performances of drama, dance and music.

6.7. "Spectator sports facility" means a place of public assembly intended and expressly

designed for the presentation of sports events, such as a stadium or arena.

"Planned community development (PCD)" means a zoning process which authorizes exceptions from certain development standards for structures on large tracts of land in certain downtown zones. A PCD is developed as a single entity through a public process, and requires Council approval.

"Planned residential development (PRD)" means a zoning mechanism which allows for flexibility in the grouping, placement, size and use of structures on a fairly large tract of land. A PRD is developed as a single entity, using a public process which incorporates design review.

"Planting strip" means that part of a dedicated street right-of-way between the sidewalk and the street.

"Plat" means a map or representation of a subdivision showing the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

"Plaza, urban" means a public benefit feature consisting of a public open space in the most intensely developed areas of downtown which is located to create a focus for surrounding development, increase light and air at street level, and ensure adequate space at transit stations and major transfer points to increase the convenience and comfort of transit riders.

"Porch" means an elevated platform extending from a wall of a principal structure, with steps or ramps to the ground providing access by means of a usable doorway to the structure. A porch may be connected to a deck. (See also "Deck.")

"Power plant." See "Utility."

"Preliminary plat" means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.

"Preliminary plat approval of a subdivision, fully complete application." See "Application."

"Principal structure" means the structure housing one (1) or more principal uses as distinguished from any separate structures housing accessory uses.

"Principal use" means the main use conducted on a lot, dominant in area, extent or purpose to other uses which may also be on the lot.

"Private club." See "Institution."

"Private garage" means an accessory structure or an accessory portion of the principal structure, designed or used for the shelter or storage of vehicles owned or operated by the occupants of the principal structure. (See "Carport.")

"Private usable open space." See "Open space, usable, private."

"Processing and craft work" means one of the following commercial uses:

1. Processing of food for human consumption;

2. Custom and craft work.

"Public atrium" means a public benefit feature consisting of an indoor public open space which provides opportunities for passive recreational activities and events, and for public gatherings, in an area protected from the weather, and including such amenities as seating, landscaping and artwork.

"Public benefit feature" means amenities, uses, and other features of benefit to the public in Downtown zones, which are provided by a developer and which can qualify for an increase in floor area. Examples include public open space, pedestrian improvements, housing, and provision of human services.

"Public boat moorage" means a pier or system of float or fixed access ways to which boats may be secured and which is owned, operated or franchised by a governmental agency for use by the general public.

"Public convention center" means a public facility of three hundred thousand (300,000) square feet or more, the primary purpose of which is to provide facilities for regional, national and international conventions and which is owned, operated or franchised by a unit of general- or special-purpose government. A public convention center may include uses such as shops, personal services and restaurants which may be owned, operated or franchised by either a unit of general- or special-purpose government or by a private entity.

"Public display space." See "Museum."

"Public facility" means a public project or city facility.

"Public project" means a facility owned, operated or franchised by a unit of general or special-purpose government except The City of Seattle.

"Public school site, existing" means any property acquired and developed for use by or for the proposed public school before the effective date of the ordinance codified in this paragraph. A