

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE relating to land use and zoning; adopting interim provisions by amending Sections 23.76.004, 23.76.006, and 23.76.032 of, and adding a new Section 23.42.041 to, the Seattle Municipal Code to facilitate occupancy of street-level spaces downtown during the COVID-19 civil emergency; and adopting a work plan.

..body

WHEREAS, due to the COVID-19 outbreak, street-level businesses downtown have been

impacted and many have gone out of business due to the lack of customers, particularly office workers, tourists, and convention attendees; and

WHEREAS, the Seattle Comprehensive Plan has as a Goal (G1) to: Maintain Downtown Seattle

as the most important of the region’s urban centers—a compactly developed area supporting a diversity of uses meeting the employment, residential, shopping, culture, service, and entertainment needs of the broadest range of the region’s population; and

WHEREAS, the Seattle Comprehensive Plan has as a Policy (P11) to: Regulate uses at street-

level in certain areas in order to generate pedestrian interest and activity in conformance with policies for the pedestrian environment. Promote street-level uses to reinforce existing retail concentrations, enhance main pedestrian links between areas, and generate new pedestrian activity where appropriate to meet area objectives without diluting existing concentrations of retail activity. Promote active and accessible uses at the street-level of new development where it is important to maintain the continuity of retail activity. Consider measures to promote street-level space of adequate size and sufficient flexibility to accommodate a variety of retail and service activities. Encourage incorporation, as appropriate, of street-level uses as part of open space public amenity

1 features provided for a floor area bonus to promote activity and increase public use of  
2 these spaces. To encourage active and accessible street-level uses throughout Downtown,  
3 consider appropriate exemptions of these uses from floor area limits; and

4 WHEREAS, the Land Use Code amendments proposed in this ordinance would expand  
5 opportunities for new businesses to occupy vacant street-level spaces Downtown,  
6 consistent with and in furtherance of Comprehensive Plan goals and policies; NOW,  
7 THEREFORE,

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

9 Section 1. The City Council finds and declares that:

10 A. On February 29, 2020, Governor Inslee proclaimed a State of Emergency for all  
11 counties throughout the State of Washington as a result of the confirmed person-to-person spread  
12 of COVID-19 in Washington State.

13 B. The COVID-19 disease, caused by a coronavirus that spreads easily from person to  
14 person and which may cause serious injury and death, has spread throughout King County and  
15 the City of Seattle.

16 C. On March 3, 2020, Mayor Durkan issued a Proclamation of Civil Emergency  
17 declaring a civil emergency within the City of Seattle based on the confirmed spread of COVID-  
18 19 in King County and resulting deaths.

19 D. In recognition of the danger that hospitals may become overwhelmed with COVID-19  
20 patients unless the spread of the disease is slowed, on March 23, 2020, Governor Inslee imposed  
21 a stay-home order throughout Washington State prohibiting all people in the State from leaving  
22 their homes or participating in gatherings with only limited exceptions for participating in  
23 essential activities or essential business services. While the order initially was for a term of two

1 weeks, the Governor has issued numerous subsequent orders in 2020 and in 2021 limiting  
2 business and economic activity to prevent the further spread of the coronavirus and maintain  
3 hospital capacity for people with severe cases of COVID-19.

4 E. Pursuant to the Governor's Orders, all businesses except essential businesses were  
5 forced to close or operate virtually for much of the last 15 months.

6 F. While many citizens have obtained COVID-19 vaccinations in the first two quarters of  
7 2021, the City of Seattle is still in Phase 3 of the state's Healthy Washington pandemic reopening  
8 plan and the State's reopening plan still requires, as of May 2021, limited capacity of businesses  
9 including businesses downtown such as restaurants, retail, and offices.

10 G. Limitations on business and economic activity over the last 15 months have  
11 disproportionately impacted businesses at street-level in downtown, which are acutely impacted  
12 by the lack of office workers in these neighborhoods as well as the lack of tourists and  
13 conventions. This impact has and continues to deprive these businesses of the customers  
14 previously available to support them, and this extended period of closure and significantly  
15 reduced capacity has resulted in numerous street level businesses downtown unable financially to  
16 continue to operate at reduced levels and with such a reduced customer base. The Downtown  
17 Seattle Association conducted a count in 2021 and found 161 vacant storefronts downtown.

18 H. The changes in this ordinance are designed to allow more types of businesses to be  
19 located at street-level downtown, thereby increasing the opportunities to fill those spaces and  
20 generate income and activity downtown. This is especially important given the length of time  
21 that the State shutdown order has been in place because much in-person business activity  
22 continues to be limited.

1 I. Providing regulatory flexibility for street-level businesses will keep more businesses  
2 operating and speed the economic recovery once COVID-19 restrictions are lifted.

3 J. The City Council determines that the foregoing creates a basis for adopting interim  
4 regulations under RCW 36.70A.390 which authorizes adoption of the ordinance without a  
5 required pre-adoption public hearing and a SEPA threshold determination. Following the  
6 standard process would delay the proposed changes for several months. During that period, for  
7 the reasons discussed above, more businesses may fail leading to increased unemployment and  
8 continued lack of potential customers, workers, and visitors downtown. Both continued closure  
9 of businesses and continued lack of customers, workers and visitors downtown will delay the  
10 City's and region's recovery from the COVID-19 emergency.

11 K. The City has legal authority to establish interim measures pursuant to the authority  
12 granted by Article 11, Section 11 of the Washington Constitution, the Growth Management Act,  
13 RCW 36.70A.390, and *Matson v. Clark County*, 79 Wn. App. 641 (1995).

14 Section 2. A new Section 23.42.041 is added to the Seattle Municipal Code as follows:

15 **23.42.041 Additional interim street-level uses**

16 Where street-level uses are required in any downtown zone, except in the International Special  
17 Review District, the interim uses set forth in this Section 23.42.041 are allowed in addition to  
18 uses allowed by the zone for an interim period according to the provisions of this Section  
19 23.42.041.

20 A. Eligibility. In order to qualify for an interim street-level use, an applicant must  
21 demonstrate the following:

22 1. The Department had issued a certificate of occupancy for the structure prior to  
23 the effective date of this ordinance.

1                   2. The applicant submits a complete application for interim street-level use within  
2 12 months after the effective date of this ordinance.

3                   3. Structures with existing permit conditions, or development standard limitations  
4 related to street-level uses for floor area ratio pursuant to Section 23.49.011 or bonus floor area  
5 achieved for general sales and service uses pursuant to Sections 23.49.012 and 23.49.013 may  
6 use interim street level use(s) pursuant to this Section 23.42.041 and will not require additional  
7 developer contributions.

8                   4. The space may return to the previously established use at the property owner's  
9 or applicant's option, consistent with Section 23.42.108.

10                  5. Notwithstanding the expiration of the interim regulations, an approval for  
11 interim street-level uses or a permit that is issued or approved for issuance prior to the expiration  
12 of the interim regulations can continue as a non-conforming use consistent with Sections  
13 23.42.100 through 23.42.110.

14                  6. Except for uses that are prohibited pursuant to Section 23.66.122 and  
15 subsection 23.66.130.E, interim street-level uses permitted pursuant to this Section 23.42.041 in  
16 the Pioneer Square Preservation District shall be approved pursuant to Subchapter II of Chapter  
17 23.66 and the following:

18                         a. Street-level for the purposes of application of this subsection  
19 23.42.041.A.6 means a story or stories located within 8 feet measured horizontally above or  
20 below street-level.

21                         b. The Pioneer Square Preservation Board ("Board") may, following a  
22 special review of potential impacts, including, but not limited to, traffic, parking, noise, and the  
23 scale and character of the pedestrian environment, recommend to the Director of Neighborhoods

1 that the uses at street-level be approved if the impacts of such uses are not significantly adverse.

2 The Board may recommend, and the Director of Neighborhoods may impose, conditions to  
3 mitigate the impacts of approved uses.

4 c. The Director of Neighborhoods shall make the decision about allowing  
5 similar uses set forth at subsection 23.42.041.B.1.1.

6 B. Permitted uses

7 1. In addition to the street-level uses permitted by the applicable zone, the  
8 following uses are permitted:

9 a. Arts facilities, including art installations, that do not conflict with  
10 Chapter 23.55;

11 b. Shower facilities for bicycle commuters accessory to office uses;

12 c. Food processing and craft work;

13 d. Horticultural uses;

14 e. Institutions, except hospitals or major institutions;

15 f. Lobbies, gyms, meeting rooms, shared working spaces, and other

16 similarly active uses accessory to residential or lodging uses limited to a street frontage of 30  
17 feet;

18 g. Medical services;

19 h. Museums;

20 i. Public parks;

21 j. Public restrooms;

22 k. Sales and services, non-household and heavy commercial, except heavy  
23 commercial sales; and

1 1. Any similar use or activity that is determined by the Director to have the  
 2 likelihood of attracting and increasing pedestrian activity in the area such as extending the  
 3 duration of activity beyond 8 A.M. to 5 P.M. Monday to Friday or increasing the variety of  
 4 goods and services available.

5 2. The Director shall require the most active portions of uses allowed by  
 6 subsection 23.42.041.B, such as lobbies, waiting areas, and retail sales, to abut the street-facing  
 7 facade along street frontages where street-level uses are required by the zone.

8 Section 3. Table A for Section 23.76.004 of the Seattle Municipal Code, which section  
 9 was last amended by Ordinance 126042, is amended as follows:

10 **23.76.004 Land use decision framework**

11 \* \* \*

<b>Table A for 23.76.004</b>	
<b>LAND USE DECISION FRAMEWORK<sup>1</sup></b>	
<b>Director's and Hearing Examiner's Decisions Requiring Master Use Permits</b>	
<b>TYPE I</b>	
<b>Director's Decision</b>	
(Administrative review through land use interpretation as allowed by Section 23.88.020 <sup>2</sup> )	
*	Application of development standards for decisions not otherwise designated Type II, III, IV, or V
*	Uses permitted outright
*	Temporary uses, four weeks or less
*	Renewals of temporary uses, except for temporary uses and facilities for light rail transit facility construction
*	Intermittent uses
*	Additional interim street-level uses pursuant to Section 23.42.041
*	Uses on vacant or underused lots pursuant to Section 23.42.038
*	Transitional encampment interim use
*	Certain street uses
*	Lot boundary adjustments
*	Modifications of features bonused under Title 24
*	Determinations of significance (EIS required) except for determinations of significance based solely on historic and cultural preservation
*	Temporary uses for relocation of police and fire stations

*	Exemptions from right-of-way improvement requirements
*	Special accommodation
*	Reasonable accommodation
*	Minor amendment to a Major Phased Development permit
*	Determination of whether an amendment to a property use and development agreement is major or minor
*	Streamlined design review decisions pursuant to Section 23.41.018; if no development standard departures are requested, and design review decisions in an MPC zone pursuant to Section 23.41.020 if no development standard departures are requested
*	Shoreline special use approvals that are not part of a shoreline substantial development permit
*	Adjustments to major institution boundaries pursuant to subsection 23.69.023.B
*	Determination that a project is consistent with a planned action ordinance
*	Decision to approve, condition, or deny, based on SEPA policies, a permit for a project determined to be consistent with a planned action ordinance
*	Decision to increase the maximum height for residential uses in the DOC2 zone according to subsection 23.49.008.H
*	Decision to increase the maximum allowable FAR in the DOC2 zone according to subsection 23.49.011.A.2.n
*	Minor revisions to an issued and unexpired MUP that was subject to design review
*	Building height increase for minor communication utilities in downtown zones
*	Other Type I decisions that are identified as such in the Land Use Code
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Section 4. Section 23.76.006 the Seattle Municipal Code, last amended by Ordinance 126042, is amended as follows:

**23.76.006 Master Use Permits required**

A. Type I, II, and III decisions are components of Master Use Permits. Master Use Permits are required for all projects requiring one or more of these decisions.

B. The following decisions are Type I:

1. Determination that a proposal complies with development standards;
2. Establishment or change of use for uses permitted outright, uses allowed under Section 23.42.038, temporary relocation of police and fire stations for 24 months or less, transitional encampment interim use, temporary uses for four weeks or less not otherwise



1 permitted in the zone, and renewals of temporary uses for up to six months, except temporary  
2 uses and facilities for light rail transit facility construction;

3 3. The following street use approvals:

4 a. Curb cut for access to parking, whether associated with a development  
5 proposal or not;

6 b. Concept approval of street improvements associated with a  
7 development proposal, such as additional on-street parking, street landscaping, curbs and  
8 gutters, street drainage, sidewalks, and paving;

9 c. Structural building overhangs associated with a development proposal;

10 d. Areaways associated with a development proposal;

11 4. Lot boundary adjustments;

12 5. Modification of the following features bonused under Title 24:

13 a. Plazas;

14 b. Shopping plazas;

15 c. Arcades;

16 d. Shopping arcades; and

17 e. Voluntary building setbacks;

18 6. Determinations of Significance (determination that an Environmental Impact  
19 Statement is required) for Master Use Permits and for building, demolition, grading, and other  
20 construction permits (supplemental procedures for environmental review are established in  
21 Chapter 25.05, Environmental Policies and Procedures), except for Determinations of  
22 Significance based solely on historic and cultural preservation;

- 1                   7. Discretionary exceptions for certain business signs authorized by subsection  
2 23.55.042.D;
- 3                   8. Waiver or modification of required right-of-way improvements;
- 4                   9. Special accommodation pursuant to Section 23.44.015;
- 5                   10. Reasonable accommodation;
- 6                   11. Minor amendment to Major Phased Development Permit;
- 7                   12. Streamlined design review decisions pursuant to Section 23.41.018 if no  
8 development standard departures are requested pursuant to Section 23.41.012, and design  
9 review decisions in an MPC zone if no development standard departures are requested  
10 pursuant to Section 23.41.012;
- 11                  13. Shoreline special use approvals that are not part of a shoreline substantial  
12 development permit;
- 13                  14. Determination that a project is consistent with a planned action ordinance,  
14 except as provided in subsection 23.76.006.C;
- 15                  15. Decision to approve, condition, or deny, based on SEPA policies, a permit  
16 for a project determined to be consistent with a planned action ordinance;
- 17                  16. Determination of requirements according to subsections 23.58B.025.A.3.a,  
18 23.58B.025.A.3.b, 23.58B.025.A.3.c, 23.58C.030.A.2.a, 23.58C.030.A.2.b, and  
19 23.58C.030.A.2.c;
- 20                  17. Decision to increase the maximum height of a structure in the DOC2  
21 500/300-550 zone according to subsection 23.49.008.F;
- 22                  18. Decision to increase the maximum FAR of a structure in the DOC2 500/300-  
23 550 zone according to subsection 23.49.011.A.2.n;

1                    19. Minor revisions to an issued and unexpired MUP that was subject to design  
2 review, pursuant to subsection 23.41.008.G;

3                    20. Building height departures for minor communication facilities in downtown  
4 zones, pursuant to Section 23.57.013; (~~and~~))

5                    21. Additional interim street-level uses pursuant to Section 23.42.041; and

6                    22. Other Type I decisions.

7                    \* \* \*

8                    Section 5. Pursuant to RCW 36.70A.390, the Council will hold a public hearing within 60  
9 days of adoption of this ordinance to take public testimony and consider adopting further  
10 findings.

11                    Section 6. Under RCW 36.70A.390, the Council approves the following work plan for  
12 the development of permanent regulations to address the issues in this ordinance and directs the  
13 Seattle Department of Construction and Inspections, in consultation with the Office of Planning  
14 and Community Development, and the Department of Neighborhoods, to transmit proposed  
15 legislation to the Council by March 2022. Interim regulations can be authorized up to one year if  
16 accompanied by a work plan. The work plan is set forth below:

17                    **WORK PLAN:**

Prepare State Environmental Policy Act (SEPA) Review on Interim Regulations	July - September 2021
Publish SEPA Threshold Determination	September 2021
Conduct analysis, Draft permanent legislation, Conduct public outreach, and Prepare SEPA review on Permanent Regulations	October - December 2021
Mayor Transmits Permanent Legislation to Council	March 2022
Council Deliberations and Public Hearing on Proposed Permanent Legislation	April - May 2022

Permanent Legislation Effective	June 2022
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1           Section 7. This ordinance shall automatically expire 12 months after its effective date  
2 unless the Council takes action to either extend it as provided by statute or terminate it sooner.

3           Section 8. The provisions of this ordinance are declared to be separate and severable. The  
4 invalidity of any clause, sentence, paragraph, subdivision, section, subsection, or portion of this  
5 ordinance, or the invalidity of its application to any person or circumstance, does not affect the  
6 validity of the remainder of this ordinance, or the validity of its application to other persons or  
7 circumstances.

1           Section 9. 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 \_\_\_\_\_, 2021,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2021.

7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9           Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

10 \_\_\_\_\_  
11 Jenny A. Durkan, Mayor

12           Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

13 \_\_\_\_\_  
14 Monica Martinez Simmons, City Clerk

15 (Seal)