



Legislation Details (With Text)

**File #:** CB 119146    **Version:** 1    **Name:** CB 119146  
**Type:** Ordinance (Ord)    **Status:** Passed  
**In control:** City Clerk  
**Final action:** 1/22/2018

**Title:** AN ORDINANCE relating to land use and zoning; amending Sections 23.42.106 and 23.42.118 of the Seattle Municipal Code (SMC); to modify standards for the expansion of nonconforming uses and structures.

**Sponsors:** Debora Juarez

**Indexes:**

**Attachments:** 1. Mayor's Letter on Returning Bill Unsigned, 2. Summary and Fiscal Note, 3. Summary Att 1 - Map of Seattle Asian Art Museum, 4. Director's Report, 5. Presentation, 6. Central Staff Memo, 7. Signed Ordinance 125518, 8. Affidavit of Publication

Date	Ver.	Action By	Action	Result
1/22/2018	1	City Clerk	attested by City Clerk	
1/22/2018	1	Mayor	returned	
1/22/2018	1	Mayor	returned unsigned	
1/22/2018	1	City Clerk	submitted for Mayor's signature	
1/22/2018	1	City Council	passed	Pass
1/17/2018	1	Civic Development, Public Assets, and Native Communities Committee	pass	Pass
1/12/2018	1	Civic Development, Public Assets, and Native Communities Committee	discussed	
12/7/2017	1	Parks, Seattle Center, Libraries, and Waterfront Committee	discussed	
11/27/2017	1	City Council	referred	
8/4/2017	1	Council President's Office	sent for review	
7/25/2017	1	City Clerk	sent for review	
7/25/2017	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE \_\_\_\_\_

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

AN ORDINANCE relating to land use and zoning; amending Sections 23.42.106 and 23.42.118 of the Seattle Municipal Code (SMC); to modify standards for the expansion of nonconforming uses and structures.  
**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 23.42.106 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

**23.42.106 Expansion of nonconforming uses**

A. A structure occupied by a nonconforming residential use may be maintained, repaired, renovated, or structurally altered, but may not be expanded or extended, except:

1. As otherwise required by law or as necessary to improve access for the elderly or disabled; or
2. To construct or modify minor structural features on the principal structure including, but not limited to, exterior decks and balconies, bay windows, dormers, eaves, and solar collectors added to a principal structure, or a new or expanded accessory structure may be constructed; provided that the addition or new accessory structure conforms to the development standards of the zone.
3. To construct or expand an accessory structure, provided that the addition or new structure conforms to the development standards of the zone.

B. In addition to the standards in subsection 23.42.106.A, a structure in a single-family zone occupied by a nonconforming residential use may be allowed to expand subject to the following:

1. The number of dwelling units shall not be increased, except as may be allowed pursuant to Section 23.40.040 or Section 23.44.015.
2. For a nonconforming residential use that is not a multifamily use, except as may be allowed pursuant to Section 23.40.040 or Section 23.44.015, the number of residents may not be increased beyond the maximum number that was allowed by the standards of the zone at the time of approval; if originally permitted by conditional use, the number shall not be allowed to increase above the number permitted by the conditional use approval.
3. An expansion of no more than 500 square feet of gross floor area, meeting the development standards for single-family construction and not exceeding the average height of the closest principal structures on either side, is allowed.

4. An expansion greater than 500 square feet of gross floor area and/or exceeding the average height of the closest principal structures on either side may be approved by the Seattle Department of Construction and Inspections through a special exception, Type II Master Use Permit, if the proposed expansion meets the development standards for single-family construction and is compatible with surrounding development in terms of:

- a. Architectural character;
- b. Existing streetscape and pattern of yards; and
- c. Scale and proportion of principal structures.

5. If an addition proposed under ~~((subsections))~~ subsection 23.42.106.B.3 or 23.42.106.B.4 would require additional parking under the requirements of Section 23.54.015 for multifamily structures, that additional parking must be provided.

C. In multifamily zones, except in Lowrise 1 (LR1) zones, dwelling units may be added to a structure containing one or more nonconforming uses, even if in a structure nonconforming to development standards; provided that limitations on density shall apply. The structure may be expanded or extended, provided that the expansion or extension shall be for residential use, shall conform to the development standards of the zone, and shall not cause an already nonconforming structure to become more nonconforming to development standards.

D. A nonconforming nonresidential use shall not be expanded or extended, except as follows:

1. A structure occupied by a nonconforming nonresidential use may be maintained, repaired, renovated, or structurally altered but shall not be expanded or extended except as otherwise required by law, as necessary to improve access for the elderly or disabled or as specifically permitted elsewhere in this Code.

2. In the Seattle Mixed zone, general manufacturing uses exceeding ~~((twenty-five thousand (25,000)))~~ 25,000 square feet of gross floor area and heavy manufacturing uses may be expanded or extended by an amount of gross floor area not to exceed ~~((twenty (20)))~~ 20 percent of the existing gross floor area of the use, provided that this exception may be applied only once to any individual business establishment.

3. The Seattle Asian Art Museum building and use located in Volunteer Park, as it exists on January 1, 2017, may be expanded subject to the following development standards:

a. Except as provided in this subsection 23.42.106.D.3, the development standards of Chapter 23.44 do not apply.

b. The building may be expanded one or more times but the gross floor area of all expansions combined and occurring after January 1, 2017, may not exceed 15,000 square feet.

c. No expansion may be located in a freestanding building that lacks a common wall with the building either as it existed on January 1, 2017, or as subsequently expanded.

d. No expansion may exceed the elevation of the highest point of the building as it existed on January 1, 2017.

e. Parking and loading for the proposed expansion is required as provided in Sections 23.54.015 and 23.54.035. As a Type I decision, the Director may reduce parking and loading requirements to an amount not less than the amount needed to provide adequate parking and loading facilities, as demonstrated to the satisfaction of the Director by a parking and loading study prepared by a licensed professional engineer and submitted to the Director by the applicant.

f. Bicycle parking for the proposed expansion shall be provided in accordance with subsection 23.54.015.K.

g. The street and sidewalk requirements of Chapter 23.53 do not apply.

h. Exterior lighting shall be shielded or directed away from adjacent residentially zoned lots.

i. Nothing in this Section 23.42.106 alters the authority of the Landmarks Preservation Board pursuant to the City's Landmarks Preservation Ordinance.

E. For purposes of this ~~(section)~~ Section 23.42.106, live-work units shall be deemed a nonresidential use.

F. Structures meeting applicable development standards for institutions in the applicable zone may be added to existing cemeteries, but existing cemeteries shall not be expanded in size. For purposes of this ((section)) Section 23.42.106, a change in a cemetery boundary is not considered an expansion in size and is permitted provided that:

1. ((the)) The change does not result in a net increase in the land area occupied by the cemetery;
2. ((the)) The land being added to the cemetery is contiguous to the existing cemetery and is not separated from the existing cemetery by a public street or alley, whether or not improved; and
3. ((the)) The use of the land being added as a cemetery will not result in the loss of housing.

Section 2. Section 23.42.118 of the Seattle Municipal Code, last amended by Ordinance 120293, is amended as follows:

**23.42.118 Landmark structures ((-))**

A. Except as provided in subsection 23.42.118.C, ((Landmark)) landmark structures may be expanded even if the expansion increases the extent of nonconformity, when the Landmarks Board determines that there is no feasible alternative that meets the development standards of the zone while preserving the integrity of the landmark structure.

B. The Director may permit the proposed expansion if it is approved by the Landmarks Board and if:

1. The expansion does not have a significant adverse effect on the light, air, solar, and visual access of properties within a ((three hundred (300))) 300-foot radius; and
2. The expansion does not adversely affect the pedestrian environment in the vicinity.

C. The Seattle Asian Art Museum building located in Volunteer Park may be expanded as provided in subsection 23.42.106.D.3.

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

Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2018, and signed by  
me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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

(Seal)