



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 118963

Record No.: CB 118963

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125319

In Control: City Clerk

File Created: 04/17/2017

Final Action: 06/01/2017

**Title:** AN ORDINANCE relating to land use and zoning; amending Section 23.76.006 of the Seattle Municipal Code to clarify that a land use decision to waive or modify structure width or setbacks for a youth service center, and integrated SEPA decisions, are Type II decisions that may be appealed to the City Hearing Examiner.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

### History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	04/18/2017	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	04/26/2017	sent for review	Sustainability and Transportation Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Sustainability and Transportation Committee						
	Notes:						
1	Full Council	05/01/2017	referred	Sustainability and Transportation Committee			
1	Sustainability and Transportation Committee	05/16/2017					
1	Full Council	05/22/2017	re-referred	Full Council			

Action Text: The Council Bill (CB) was re-referred. to the Full Council  
Notes:

1 Full Council 05/30/2017 passed

Pass

Action Text: The Motion carried, the Council Bill (CB) was passed by the following vote, and the President signed the Bill:

Notes: ACTION 1:

Motion was made and duly seconded to pass Council Bill 118963.

ACTION 2:

Motion was made by Councilmember Bagshaw and duly seconded, to amend Council Bill 118963, by deleting the second recital and Section 2, and by renumbering the remaining section accordingly, as shown in the underlined and strike through language below:

WHEREAS, this ordinance is necessary to ensure that courts and other decisions makers understand the Council intended and continues to intend that youth service center decisions are Type II land use decisions subject to an open record appeal to the Hearing Examiner; and NOW, THEREFORE,

~~WHEREAS, the Council intends that this curative ordinance shall apply retroactively to the effective date of Ordinance 124610, and in particular to any pending appeal of a youth service center decision filed after that effective date; NOW, THEREFORE,~~

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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~~Section 2. Retroactivity. This ordinance applies retroactively to April 1, 2015, the effective date of Ordinance 124610.~~

~~Section 3. 2. 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~~

The Motion failed by the following vote:

In favor: 2 - Bagshaw, Burgess

Opposed: 5 - Harrell, Herbold, Johnson, O'Brien, Sawant

ACTION 3:

The Motion in Action 1 was restated.

In Favor: 5 Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember O'Brien, Councilmember Sawant

Opposed: 2 Councilmember Bagshaw, Councilmember Burgess

1	City Clerk	05/31/2017	submitted for Mayor's signature	Mayor
1	Mayor	06/01/2017	Signed	
1	Mayor	06/01/2017	returned	City Clerk
1	City Clerk	06/01/2017	attested by City Clerk	

Action Text: The Ordinance (Ord) was attested by City Clerk.  
Notes:

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**Text of Legislative File CB 118963**

**CITY OF SEATTLE**

**ORDINANCE** 125319

**COUNCIL BILL** 118963

AN ORDINANCE relating to land use and zoning; amending Section 23.76.006 of the Seattle Municipal Code to clarify that a land use decision to waive or modify structure width or setbacks for a youth service center, and integrated SEPA decisions, are Type II decisions that may be appealed to the City Hearing Examiner.

WHEREAS, in 2014, the Seattle City Council adopted Ordinance 124610, adding subsection 23.51A.004.B.6 to the Seattle Municipal Code and permitting youth service centers under certain circumstances. That regulation identifies a decision to waive or modify structure width or setbacks for a youth service center (“youth service center decision”) as a Type II land use decision; and

WHEREAS, as part of Ordinance 124610, the Council intended that any youth service center decision be subject to an open record administrative appeal to the Hearing Examiner; and

WHEREAS, the fiscal note and supporting letter to Ordinance 124610 suggested that youth service center decisions would be subject to an administrative appeal to the Hearing Examiner; and

WHEREAS, in Seattle Hearing Examiner Cause No. MUP-17-001, the Hearing Examiner found that she lacked jurisdiction to hear an administrative appeal of a youth service center decision because SMC 23.76.006.C.2 does not identify youth service center decisions as a Type II land use decision; and

WHEREAS, to clarify the Council’s intent and to correct the oversight when the Council mistakenly failed to make a conforming amendment to SMC 23.76.006.C.2, the Council

1 wants to explicitly add youth service center decisions to the list of Type II decisions so  
2 they are clearly appealable to the Hearing Examiner; and

3 WHEREAS, there is a current controversy whether the Hearing Examiner has jurisdiction over  
4 an appeal of a youth service center decision; and

5 WHEREAS, this ordinance is necessary to ensure that courts and other decision-makers  
6 understand the Council intended and continues to intend that youth service center  
7 decisions are Type II land use decisions subject to an open record appeal to the Hearing  
8 Examiner; and

9 WHEREAS, the Council intends that this curative ordinance shall apply retroactively to the  
10 effective date of Ordinance 124610, and in particular to any pending appeal of a youth  
11 service center decision filed after that effective date; NOW, THEREFORE,

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

13 Section 1. Subsection 23.76.006.C of the Seattle Municipal Code, which was last  
14 amended by the ordinance introduced as Council Bill 118940, is amended as follows:

15 **23.76.006 Master Use Permits required**

16 \* \* \*

17 C. The following are Type II decisions:

18 1. The following procedural environmental decisions for Master Use Permits  
19 and for building, demolition, grading, and other construction permits are subject to appeal to  
20 the Hearing Examiner and are not subject to further appeal to the City Council  
21 (supplemental procedures for environmental review are established in Chapter 25.05,  
22 Environmental Policies and Procedures):

1 a. Determination of Non-significance (DNS), including mitigated  
2 DNS;

3 b. Determination that a final Environmental Impact Statement (EIS) is  
4 adequate; and

5 c. Determination of Significance based solely on historic and cultural  
6 preservation.

7 2. The following decisions are subject to appeal to the Hearing Examiner  
8 (except shoreline decisions and related environmental determinations that are appealable to  
9 the Shorelines Hearings Board):

10 a. Establishment or change of use for temporary uses more than four  
11 weeks not otherwise permitted in the zone or not meeting development standards, including  
12 the establishment of temporary uses and facilities to construct a light rail transit system for  
13 so long as is necessary to construct the system as provided in subsection 23.42.040.F, but  
14 excepting temporary relocation of police and fire stations for 24 months or less;

15 b. Short subdivisions;

16 c. Variances, provided that the decision on variances sought as part of  
17 a Council land use decision shall be made by the Council pursuant to Section 23.76.036;

18 d. Special exceptions, provided that the decision on special exceptions  
19 sought as part of a Council land use decision shall be made by the Council pursuant to  
20 Section 23.76.036;

21 e. Design review decisions, except for streamlined design review  
22 decisions pursuant to Section 23.41.018 if no development standard departures are requested  
23 pursuant to Section 23.41.012, and except for design review decisions in a MPC zone

1 pursuant to Section 23.41.020 if no development standard departures are requested pursuant  
2 to Section 23.41.012;

3 f. Administrative conditional uses, provided that the decision on  
4 administrative conditional uses sought as part of a Council land use decision shall be made  
5 by the Council pursuant to Section 23.76.036;

6 g. The following shoreline decisions, provided that these decisions  
7 shall be made by the Council pursuant to Section 23.76.036 when they are sought as part of  
8 a Council land use decision (supplemental procedures for shoreline decisions are established  
9 in Chapter 23.60A):

10 1) Shoreline substantial development permits;

11 2) Shoreline variances; and

12 3) Shoreline conditional uses;

13 h. Major Phased Developments;

14 i. Determination of project consistency with a planned action  
15 ordinance, only if the project requires another Type II decision;

16 j. Establishment of light rail transit facilities necessary to operate and  
17 maintain a light rail transit system, in accordance with the provisions of Section 23.80.004;

18 k. Downtown planned community developments;

19 l. Establishment of temporary uses for transitional encampments,  
20 except transitional encampment interim uses provided for in subsection 23.76.006.B.2;

21 m. Decision to waive or modify development standards relating to  
22 structure width or setbacks for a youth service center pursuant to subsection 23.51A.004.B.6;





1 Section 3. 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 30<sup>th</sup> day of MAY, 2017,  
5 and signed by me in open session in authentication of its passage this 30<sup>th</sup> day of  
6 MAY, 2017.

7 

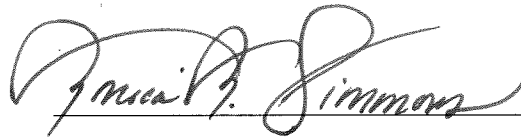
8 President \_\_\_\_\_ of the City Council

9 Approved by me this 1<sup>st</sup> day of June, 2017.

10 

11 Edward B. Murray, Mayor

12 Filed by me this 1<sup>st</sup> day of June, 2017.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)