



Legislation Details (With Text)

**File #:** CB 120592    **Version:** 1    **Name:** CB 120592  
**Type:** Ordinance (Ord)    **Status:** Passed  
**In control:** City Clerk

**On agenda:** 7/11/2023

**Final Action:**    **Ord. No.** Ord 126857

**Title:** AN ORDINANCE relating to land use and zoning; updating regulations for rooftop features in the Pioneer Square Preservation District; and amending Sections 23.49.008 and 23.66.140 of the Seattle Municipal Code.

**Sponsors:** Dan Strauss

**Indexes:**

**Attachments:** 1. Summary and Fiscal Note, 2. Summary Att 1 - Map of Eligible Pioneer Square Preservation District Sites, 3. Director's Report, 4. Central Staff Memo (6/28/23), 5. SDCI Presentation (6/28/23), 6. Signed Ordinance 126857, 7. Affidavit of Publication

Date	Ver.	Action By	Action	Result
7/14/2023	1	City Clerk	attested by City Clerk	
7/14/2023	1	Mayor	returned	
7/14/2023	1	Mayor	Signed	
7/11/2023	1	City Clerk	submitted for Mayor's signature	
7/11/2023	1	City Council	passed	Pass
7/6/2023	1	Land Use Committee	pass	Pass
6/28/2023	1	Land Use Committee	discussed	
6/6/2023	1	City Council	referred	
6/1/2023	1	Council President's Office	sent for review	
5/31/2023	1	City Clerk	sent for review	
5/31/2023	1	Mayor	Mayor's leg transmitted to Council	

**CITY OF SEATTLE**

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

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

AN ORDINANCE relating to land use and zoning; updating regulations for rooftop features in the Pioneer Square Preservation District; and amending Sections 23.49.008 and 23.66.140 of the Seattle Municipal Code.

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

Section 1. Section 23.49.008 of the Seattle Municipal Code, last amended by Ordinance 126600, is

amended as follows:

### **23.49.008 Structure height**

The following provisions regulating structure height apply to all property in Downtown zones except the DH1 zone. Structure height for PSM, IDM, and IDR zones is regulated by this Section 23.49.008, and by Sections 23.49.178, 23.49.208, and 23.49.236.

\* \* \*

#### **D. Rooftop features**

1. The following rooftop features are permitted with unlimited rooftop coverage up to the maximum heights indicated below:

a. Open railings, planters, clerestories, skylights, play equipment, parapets, and firewalls up to 4 feet above the applicable height limit;

b. Insulation material, rooftop decks and other similar features, or soil for landscaping located above the structural roof surface, may exceed the maximum height limit by up to 2 feet if enclosed by parapets or walls that comply with subsection 23.49.008.D.1.a;

c. Solar collectors up to 7 feet above the applicable height limit; and

d. The rooftop features listed below shall be located a minimum of 10 feet from all lot lines and may extend up to 50 feet above the roof of the structure on which they are located or 50 feet above the applicable height limit, whichever is less, except as regulated by Chapter 23.64:

1) Religious symbols for religious institutions;

2) Smokestacks; and

3) Flagpoles.

2. The following rooftop features are permitted up to the heights indicated below, as long as the combined coverage of all rooftop features listed in this subsection 23.49.008.D.2, does not exceed 75 percent of the roof area for structures that are subject to maximum floor area limits per story pursuant to Section

23.49.058; or 50 percent of the roof area for other structures, unless a different limit is specified by other provisions.

a. The following rooftop features are permitted to extend up to 15 feet above the applicable height limit:

- 1) Solar collectors that exceed the height listed in subsection 23.49.008.D.1.c;
- 2) Stair penthouses;
- 3) Play equipment and open-mesh fencing, as long as the fencing is at least 15 feet from the roof edge;
- 4) Covered or enclosed common recreation areas ~~((or))~~ and eating and drinking ~~(( establishment))~~ establishments;
- 5) Covered or enclosed rooftop recreational spaces within the PSM 100/100-120 zone and permitted uses within them, with coverage limits as described by subsection 23.66.140.C.4.j;
- ~~((5))~~ 6) Mechanical equipment; ~~((and))~~
- ~~((6))~~ 7) Greenhouses and solariums; and
- ~~((7))~~ 8) Wind-driven power generators.

b. Elevator penthouses as follows:

- 1) In the PMM zone, up to 15 feet above the applicable height limit;
- 2) Except in the PMM zone, up to 23 feet above the applicable height limit for a penthouse designed for an elevator cab up to 8 feet high;
- 3) Except in the PMM zone, up to 25 feet above the applicable height limit for a penthouse designed for an elevator cab more than 8 feet high;
- 4) Except in the PMM zone, if the elevator provides access to a rooftop designed to provide usable open space, an additional 10 feet above the amount permitted in subsections 23.49.008.D.2.b.2 and 23.49.008.D.2.b.3 shall be permitted.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

d. Greenhouses are permitted to extend up to 15 feet above the applicable height limit, as long as the combined total coverage of all features gaining additional height listed does not exceed 60 percent of the roof area.

e. Mechanical equipment, whether new or replacement, may be allowed up to 15 feet above the roof elevation of a structure existing prior to June 1, 1989.

### 3. Screening of rooftop features

a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Pike Place Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection 23.49.008.D.2.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ten percent of the applicable height limit, or 15 feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative conditional use for rooftop features. Except in the PMM zone, the rooftop features listed in subsection 23.49.008.D.1.d may exceed a height of 50 feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use under Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's Comprehensive Plan, and the following criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.

b. The feature shall not have a substantial adverse effect upon the light, air, solar, and visual access of properties within a 300 foot radius.

c. The feature, supporting structure, and structure below shall be compatible in design elements such as bulk, profile, color, and materials.

d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential penthouses above height limit in a DRC zone

a. A residential penthouse exceeding the applicable height limit shall be permitted in a DRC zone only on a mixed-use, City-designated Landmark structure for which a certificate of approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this Section 23.49.008 may cover a maximum of 50 percent of the total roof surface. Except as the Director may allow under subsection 23.49.008.D.5.b:

1) A residential penthouse allowed under this subsection 23.49.008.D.5 shall be set back a minimum of 15 feet from the street lot line.

2) A residential penthouse may extend up to 8 feet above the roof, or 12 feet above the roof if set back a minimum of 30 feet from the street lot line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible from public streets and parks within 300 feet from the structure, the Director may allow one or both of the following in a Type I decision:

1) An increase of the penthouse height limit under subsection 23.49.008.D.5.a by an amount up to the average height of the structure's street-facing parapet; or

2) A reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 23.49.008.D.5.b shall be consistent with the certificate of approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this subsection 23.49.008.D.5 shall not exceed the maximum structure height in the DRC zone under Section 23.49.008.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 23.49.008.D.5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

\* \* \*

Section 2. Section 23.66.140 of the Seattle Municipal Code, last amended by Ordinance 126600, is amended as follows:

**23.66.140 Height**

\* \* \*

C. Rooftop features and additions to structures

1. The height limits established for the rooftop features described in this Section 23.66.140 may be increased by the average height of the existing street parapet or a historically substantiated reconstructed parapet on the building on which the rooftop feature is proposed.

2. For development in the PSM 85-120 zone in the area shown on Map A for 23.49.180 and subject to the provisions of Section 23.49.180, the height limits for rooftop features are provided in subsection 23.49.008.D. The standards contained in subsections 23.66.140.C.1 and 23.66.140.C.4 do not apply to rooftop features on development subject to the provisions of Section 23.49.180.

3. The setbacks required for rooftop features may be modified by the Department of Neighborhoods Director, after a sight line review by the Preservation Board to ensure that the features are minimally visible from public streets and parks within 300 feet of the structure.

4. Height limits for rooftop features

a. Religious symbols for religious institutions, smokestacks, and flagpoles may extend up

to 50 feet above the roof of the structure or the maximum height limit, whichever is less, except as regulated in Chapter 23.64, provided that they are a minimum of 10 feet from all lot lines.

b. For existing structures, open railings, planters, clerestories, skylights, play equipment, parapets, and firewalls may extend up to 4 feet above the roof of the structure or the maximum height limit, whichever is less. For new structures, such features may extend up to 4 feet above the maximum height limit. No rooftop coverage limits apply to such features regardless of whether the structure is existing or new.

c. Solar collectors, excluding greenhouses, may extend up to 7 feet above the roof of the structure or the maximum height limit, whichever is less, with unlimited rooftop coverage, provided they are a minimum of 10 feet from all lot lines. For new structures, solar collectors may extend up to 7 feet above the maximum height limit, except as provided in subsection 23.66.140.C.4.j.1, and provided that they are a minimum of 10 feet from all lot lines.

d. The following rooftop features may extend up to 8 feet above the roof or maximum height limit, whichever is less, if they are set back a minimum of 15 feet from the street and 3 feet from an alley. They may extend up to 15 feet above the roof if set back a minimum of 30 feet from the street. A setback may not be required at common wall lines subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The combined coverage of the following listed rooftop features shall not exceed 25 percent of the roof area:

- 1) Solar collectors, excluding greenhouses;
- 2) Stair and elevator penthouses;
- 3) Mechanical equipment;
- 4) Minor communication utilities and accessory communication devices, except

that height is regulated according to the provisions of Section 23.57.014.

Additional combined coverage of the rooftop features listed in subsection 23.66.140.C.4.d.1 through 23.66.140.C.4.d.4, not to exceed 35 percent of the roof area, may be permitted

subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

e. On structures existing prior to June 1, 1989, and on additions to such structures permitted according to subsection 23.66.140.C.4.i or otherwise, new or replacement mechanical equipment and stair and elevator penthouses may extend up to 8 feet above the elevation of the existing roof or addition, as applicable, when they are set back a minimum of 15 feet from the street and 3 feet from an alley; or may extend up to 12 feet above the elevation of the existing roof or addition, as applicable, if they are set back a minimum of 30 feet from the street, subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. On structures where rooftop features are allowed under subsection 23.66.140.C.4.e, the combined coverage of these rooftop features and any other features listed in subsection 23.66.140.C.4.d shall not exceed the limits provided in subsection 23.66.140.C.4.d or the limits in subsection 23.66.140.C.4.k if they apply.

f. Rooftop penthouses. The following types of occupied rooftop penthouse uses are permitted as a rooftop feature of a new building, or as a rooftop addition on an existing structure if it is at least 40 feet in height. Measurement of height for purposes of this subsection 23.66.140.C.4.f may include the height of already-permitted and already-built rooftop penthouses regulated by this subsection 23.66.140.C.4.f.

1) Residential penthouses may cover a maximum of 50 percent of the total roof surface and may extend up to 8 feet above the roof if set back a minimum of 15 feet from the street property line, or ~~((12))~~ 15 feet above the roof if set back a minimum of 30 feet from the street property line.

2) When permitted, office penthouses may cover a maximum of 50 percent of the total roof surface, may extend up to ~~((12))~~ 15 feet above the roof of the structure, shall be functionally integrated into the existing structure, and shall be set back a minimum of 15 feet from all property lines. Accessory mechanical equipment may be placed on roofs of these penthouses if needed to support these uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in subsection 23.66.140.C.4.d.

3) Penthouses for lodging uses. When permitted, penthouses for lodging uses may cover a maximum of 50 percent of the total roof surface, may extend up to ~~((12))~~ 15 feet above the roof of the structure, shall be functionally integrated into the existing structure, and shall be set back a minimum of 15 feet from all property lines. For purposes of this subsection 23.66.140.C.4.f.3, lodging uses may include accessory uses such as dining areas, and eating and drinking establishments. Accessory mechanical equipment may be placed on roofs of these penthouses if needed to support lodging uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in subsection 23.66.140.C.4.d.

4) Penthouses for eating and drinking establishments. When permitted, penthouses for these uses may cover a maximum of 50 percent of the total roof surface, may extend up to ~~((12))~~ 15 feet above the roof of the structure, shall be functionally integrated into the existing structure, and shall be set back a minimum of 15 feet from all property lines. Accessory mechanical equipment may be placed on roofs of these penthouses if needed to support these uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in subsection 23.66.140.C.4.d.

5) The combined height of the structure and a penthouse, if permitted, shall not exceed the maximum height limit for that area of the District in which the structure is located.

6) View studies depicting views toward a proposed improvement, including from distances up to 300 feet, are required for all rooftop penthouses. Increasing setbacks, lowering roof heights, or other design adjustments may be required to ensure the penthouse is minimally visible.

g. Screening of rooftop features. Measures may be taken to screen rooftop features from public view subject to review by the Preservation Board and approval by the Department of Neighborhoods Director. The amount of rooftop area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of rooftop features listed in subsection 23.66.140.C.4.d. In no circumstances shall the

height of rooftop screening exceed 15 feet above the maximum height limit or height of an addition permitted according to subsection 23.66.140.C.4.i or otherwise, whichever is higher.

h. See Section 23.57.014 for regulation of communication utilities and accessory devices.

i. For a structure that has existed since before June 10, 1985, and is nonconforming as to structure height, an addition to the structure may extend to the height of the roof of the existing structure if:

1) The use of the addition above the limit on structure height applicable under Section 23.49.178 is limited to residential use; and

2) The addition occupies only all or a portion of the part of a lot that is bounded by an alley on one side and is bounded on at least two sides by walls of the existing structure that are not street-facing facades.

j. ~~((Enclosed))~~ Covered or enclosed rooftop recreational spaces for new structures and structures built later than January 19, 2008

1) If included on new structures or structures built later than January 19, 2008, covered or enclosed rooftop recreational spaces and solar collectors are authorized and may exceed the maximum height limit by up to 15 feet. A covered or enclosed rooftop recreational space may be used as a recreational space or as an eating and drinking establishment if the standards in this subsection 23.66.140.C.4.j are met. The applicant shall make a commitment that the proposed development will meet the green building standard and shall demonstrate compliance with that commitment, all in accordance with Chapter 23.58D, and meet a Green Factor requirement of .30 or greater according to the provisions of Section 23.86.019. Each covered or enclosed rooftop recreational space shall include interpretive signage explaining the sustainable features employed on or in the structure. ~~((Commercial, residential, or industrial uses shall not be established within enclosed rooftop recreational spaces that are allowed to exceed the maximum height limit under this subsection 23.66.140.C.4.j.))~~ Measurement for purposes of this subsection 23.66.140.C.4.j shall include the height and setbacks of any already-permitted and already-built enclosed rooftop recreational spaces regulated

by this subsection 23.66.140.C.4.j. Accessory mechanical equipment may be placed on roofs of these rooftop spaces if needed to support these uses. The height of this equipment is limited to the minimum needed to serve its function, and its coverage is subject to the coverage limits in this subsection 23.66.140.C.4.j.

2) Elevator penthouses serving a covered or an enclosed rooftop recreational space or eating and drinking establishment may exceed the maximum height limit by up to 20 feet.

3) (~~Enclosed~~) Covered or enclosed rooftop recreational spaces, eating and drinking establishments, mechanical equipment, and elevator and stair penthouses shall not exceed ((45)) 50 percent coverage of the roof area.

4) (~~Enclosed~~) Covered or enclosed rooftop recreational spaces, eating and drinking establishments, mechanical equipment, and elevator and stair penthouses on new structures shall be set back a minimum of 30 feet from all streets and 3 feet from all alleys. Solar collectors shall be set back as provided in subsections 23.66.140.C.4.c and 23.66.140.C.4.d.

5) Owners of structures with covered or enclosed rooftop recreational spaces permitted pursuant to this subsection 23.66.140.C.4.j shall submit to the Director, the Pioneer Square Preservation Board, and the Director of Neighborhoods a report documenting compliance with the commitment and Green Factor requirements set forth in subsection 23.66.140.C.4.j.1.

k. Greenhouses are permitted if they meet height and setback provisions in subsection 23.66.140.C.4.d and if the combined total coverage of greenhouses, solar collectors, stair and elevator penthouses, and mechanical equipment does not exceed 35 percent of the roof area. If the coverage includes greenhouses, a combined coverage of these rooftop features not to exceed 45 percent of the roof area may be permitted subject to review by the Preservation Board and approval by the Department of Neighborhoods Director.

\* \* \*

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 \_\_\_\_\_, 2023, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Bruce A. Harrell, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

(Seal)