

DECAISWATI  
Ordinance No. 122901

Council Bill No. 116385

An ordinance relating to land use and zoning; amending Sections 23.40.006 and 23.90.018 of the Seattle Municipal Code, and adding a new Section 23.40.007, to allow reuse and recycling of building materials as an exception to the regulations prohibiting demolition of a structure containing a dwelling unit, and to update certain related provisions.

Related Legislation File:

Date Introduced and Referred: <b>11-3-08</b>	To: (committee): Planning, Land Use & Neighborhoods (PLUNC)
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <b>1-20-09</b>	Date Presented to Mayor: <b>1-21-09</b>
Date Signed by Mayor: <b>1-26-09</b>	Date Returned to City Clerk: <b>1-27-09</b>
Published by Title Only	Date Vetoed by Mayor:
Published in Full Text <b>✓ 6</b>	
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

## The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: James Lamm

### Committee Action:

Date	Recommendation	Vote
<b>JANUARY 14, 2009</b>		<b>3-0</b>
	<b>APPROVE</b>	<b>SC, TR, TR</b>

This file is complete and ready for presentation to Full Council.

### Full Council Action:

Date	Decision	Vote
<b>1-20-09</b>	<b>Passed</b>	<b>5-0 (Excused: Drago, Burgess, Harrell, Rasmussen)</b>

*Law Department*

ORDINANCE 122901

AN ORDINANCE relating to land use and zoning; amending Sections 23.40.006 and 23.90.018 of the Seattle Municipal Code, and adding a new Section 23.40.007, to allow reuse and recycling of building materials as an exception to the regulations prohibiting demolition of a structure containing a dwelling unit, and to update certain related provisions.

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

Section 1. Section 23.40.006 of the Seattle Municipal Code, which Section was last amended by Ordinance 118414, is amended as follows:

**23.40.006 Demolition of housing.**

No demolition permit for a structure containing a ~~((housing unit))~~ dwelling unit shall be issued unless one of the following conditions is satisfied:

A. A permit or approval has been issued by the Director according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, to change the use of the structure or the premises; provided, that no ~~((housing))~~ demolition permit for a structure containing a dwelling unit may be issued if the new use is for nonrequired parking; or

B. A permit or approval has been issued by the Director to relocate the structure containing ~~((housing units))~~ a dwelling unit to another lot ~~((within the City))~~, whether within the City limits or outside the City limits, to be used, on the new lot, as ~~((housing))~~ a dwelling unit; or

C. A complete building permit application for construction of a new principal structure on the same lot as the structure to be demolished has been submitted to the Director, the demolition permit application and the building permit application are categorically exempt from review under Chapter 25.05, Environmental Policies and Procedures, the issuance of some other



1 approval is not required by Title 23 or Title 25 as a condition to issuing the demolition permit,  
2 and the Director has approved a waste diversion plan pursuant to Section 23.40.007; or

3 ((C.))D. Demolition of the structure is ordered by the Director for reasons of health and  
4 safety under Chapter 22.206 or 22.208 of the Housing and Building Maintenance Code, or under  
5 the provisions of the Seattle Building Code((;)).  
6

7 ((D. The housing unit(s) to be demolished have been continuously vacant since January 1,  
8 1974.))

9 Section 2. A new Section 23.40.007 of the Seattle Municipal Code is adopted to read as  
10 follows:

11 **23.40.007 Reuse and Recycling of Building Materials in a Structure Containing a Dwelling**  
12 **Unit.**

13  
14 A. Requirements of a Waste Diversion Plan. The Director shall promulgate rules that  
15 define the requirements of an acceptable waste diversion plan within the meaning of subsection  
16 23.40.006C. Among the requirements shall be minimum levels of building materials that must  
17 be diverted from landfills. The levels shall be established by the Director on the basis of a  
18 review of practices employed in the relevant industries in the region. The levels may vary by  
19 disposal method or type of material and shall reflect, in the Director's opinion, the degree of  
20 waste diversion reasonably attainable through the use of accepted industry practices. The  
21 Director may alter the levels as industry practices evolve.  
22

23  
24 B. Demonstration of Compliance. The applicant shall demonstrate compliance with the  
25 approved waste diversion plan by submitting a report to the Director documenting, at a  
26



1 minimum, the amount and manner in which building materials were diverted from landfills. The  
2 applicant must submit the report no later than 90 days after issuance of the demolition permit, or  
3 such later date as may be allowed by the Director for good cause.

4 C. Violation. Failure to demonstrate compliance with the waste diversion plan is a  
5 violation of the Land Use Code.

6 Section 3. Section 23.90.018 of the Seattle Municipal Code, which Section was last  
7 amended by Ordinance 122611, is amended as follows:

8 **23.90.018 Civil enforcement proceedings and penalties.**

9 A. In addition to any other remedy authorized by law or equity, any person violating or  
10 failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty  
11 of up to ~~((One Hundred Fifty Dollars (\$150.00)))~~ \$150 per day for each violation from the date  
12 the violation begins for the first ten ~~((10))~~ days of noncompliance; and up to ~~((Five Hundred  
13 Dollars (\$500)))~~ \$500 per day for each violation for each day beyond ten ~~((10))~~ days of  
14 noncompliance until compliance is achieved, except as provided in subsection B of this section.

15 In cases where the Director has issued a notice of violation, the violation will be deemed to begin  
16 for purposes of determining the number of days of violation on the date compliance is required  
17 by the notice of violation.

18 B. Specific Violations.

19 1. Violations of Section 23.71.018 are subject to the penalty in the amount  
20 specified in Section 23.71.018 H.



1                   2. Violations of Section 23.44.041 C are subject to a civil penalty of ~~((Five~~  
2 ~~Thousand Dollars (\$5,000)))~~\$5,000, which shall be in addition to any penalty imposed under  
3 subsection A of this section.

4                   3. Violation of Section 23.49.011, 23.49.015 or 23.50.051 with respect to failure  
5 to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy alternative  
6 standards under any such Section are subject to penalty in amounts determined under Section  
7 23.49.020, and not to any other penalty.

8                   4. Violation of Section 23.40.007 B with respect to failure to demonstrate  
9 compliance with a waste diversion plan for a structure permitted to be demolished under  
10 subsection 23.40.006 C is subject to a penalty in an amount determined as follows:

11  
12  
13                    $P = SF \times .02 \times RDR,$

14                   where:

15                   P is the penalty;

16                   SF is the total square footage of the structure for which the demolition permit was  
17 issued; and

18                   RDR is the refuse disposal rate, which is the per ton rate established in SMC  
19 Chapter 21.40, and in effect on the date the penalty accrues, for the deposit of refuse at City  
20 recycling and disposal stations by the largest class of vehicles.

21                   C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal  
22 Court except as otherwise required by law or court rule. The Director shall request in writing that  
23 the City Attorney take enforcement action. The City Attorney shall, with the assistance of the  
24  
25  
26



1 Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this  
2 chapter, the City has the burden of proving by a preponderance of the evidence that a violation  
3 exists or existed. The issuance of the notice of violation or of an order following a review by the  
4 Director is not itself evidence that a violation exists.

5 D. Except in cases of violations of Section 23.49.011, 23.49.015, or 23.50.051 with  
6 respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings or  
7 satisfy alternative standards, the violator may show as full or partial mitigation of liability:  
8

9 1. That the violation giving rise to the action was caused by the willful act, or  
10 neglect, or abuse of another; or

11 2. That correction of the violation was commenced promptly, but that full  
12 compliance within the time specified was prevented by inability to obtain necessary materials or  
13 labor, inability to gain access to the subject structure, or other condition or circumstance beyond  
14 the control of the defendant.  
15


16 E. Use of Penalties. A subfund shall be established in the City's General Fund to receive  
17 revenue from penalties under subsection B of this section. Revenue from penalties under that  
18 subsection shall be allocated to activities or incentives to encourage and promote the  
19 development of sustainable buildings. The Director shall recommend to the Mayor and City  
20 Council how these funds should be allocated.  
21

22 Section 4. This ordinance shall take effect and be in force thirty (30) days from and after  
23 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
24 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.  
25

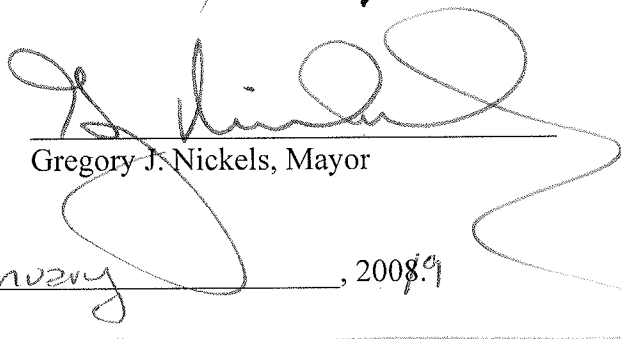


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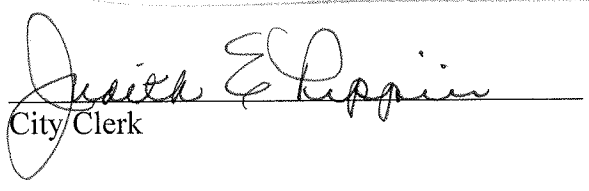
Passed by the City Council the 20<sup>th</sup> day of January, 2008<sup>9</sup>, and  
signed by me in open session in authentication of its passage this  
20<sup>th</sup> day of January, 2008<sup>9</sup>.

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

Approved by me this 26<sup>th</sup> day of January, 2008<sup>9</sup>.

  
\_\_\_\_\_  
Gregory J. Nickels, Mayor

Filed by me this 27 day of January, 2008<sup>9</sup>.

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

(Seal)



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Department of Planning & Development	Bill Mills/684-8738	Karen Grove/684-5805

**Legislation Title:**

AN ORDINANCE relating to land use and zoning; amending Sections 23.40.006 and 23.90.018 of the Seattle Municipal Code, and adding a new Section 23.40.007, to allow reuse and recycling of building materials as an exception to the regulations prohibiting demolition of a structure containing a dwelling unit, and to update certain related provisions.

**Summary of the Legislation:**

The proposed amendments would accomplish the following:

- Allow a demolition permit for a structure containing a dwelling unit to be issued if a complete building permit application for construction of a new principal structure has been submitted, as opposed to the current requirement that the permit for a new structure or use be issued;
- Require approval of a waste diversion plan with specific requirements for a percentage amount of waste building materials to be diverted from landfills (to be established by a rule promulgated by the Director);
- Require applicants to demonstrate compliance by submitting for approval a waste diversion report within 90 days of issuance of their demolition permit or be subject to a penalty; and
- Provide greater flexibility to relocate a structure containing dwelling units from one site to another, including to sites outside the city limits.

**Background:**

Deconstruction is the systematic disassembly of a building in order to maximize the salvage of reusable building materials first, and to recycle materials, second. Deconstruction and the salvage of building materials is more cost-effective if allowed to commence, in appropriate circumstances, while permit applications for a proposed new development is under review by DPD. Salvaging reusable building materials reduces the amount of construction waste sent to landfills and reduces the demand on virgin resources. The proposed amendments to the City's Land Use Code are intended to promote green building practices as well as City goals to reduce the amount of waste sent to landfills as expressed in Resolution 30990.

In 1990, the Seattle City Council adopted Ordinance No. 115058 amending the Land Use Code to add provisions (Section 23.40.006) requiring approval of a replacement use, other than non-required parking, prior to any demolition or change of use of housing units. The goal of this regulation is to help preserve housing stock while also preventing creation of vacant lots or lots





occupied only as parking. These provisions have had the unintended effect of hampering efforts to deconstruct existing structure(s) and maximize the salvage of reusable building materials. The amendments would not undermine the original intent of 23.40.006.

**X** **This legislation does not have any financial implications.** It is expected that the legislation will affect about 50 projects per year, and require about 15 minutes of review time per project. The change to project review requirements can be accommodated by existing City staff within existing work time allotted for project review.

Attachment A: Director's Report



# **DIRECTOR'S REPORT AND RECOMMENDATION**

## **Salvage Permitting (Amendments to Support Reuse and Recycling of Building Materials)**

**September 29, 2008**

### **Introduction**

The Department of Planning and Development (DPD) is proposing to amend the Land Use Code to promote the reuse and recycling of building materials. Current provisions have had the unintended consequence of hampering efforts to salvage building materials from existing structures when new development is contemplated. Waste from the demolition of buildings is a large component of the waste stream that is sent to landfills. The reuse of building materials from demolished structures and moving a house for use on another site reduces the demand on virgin resources.

In summary the proposed amendments would accomplish the following:

- Allow a demolition permit to be issued if a complete building permit application for construction of a new principal structure has been submitted, as opposed to the current requirement that the permit for a new structure or use be issued;
- Require an approved waste diversion plan that meets standards for building materials to be diverted from landfills; and
- Provide greater flexibility to relocate a structure containing dwelling units from one site to another, including to sites outside the City limits.

The proposed amendments would help implement Resolution 30990 that establishes new recycling goals for the city and provides direction on waste-reduction programs. By making it easier to reuse and recycle building materials, the City can better achieve overall waste reduction and resource conservation goals to recycle or divert from disposal 60 percent of all municipal solid waste generated in Seattle by 2010.

### **Background**

Salvage or deconstruction is the systematic disassembly of a building in order to maximize the potential to reuse building materials first, and to recycle materials second. These activities have been regulated as demolition under a traditional demolition permit issued by DPD. Current regulations prevent DPD from issuing a demolition permit until DPD has issued a permit for a new use or structure on the lot when the existing structure contains a dwelling unit(s).

Because developers generally want to begin construction quickly after receiving their permit, many opt to demolish existing structures rather than incur the delay salvage and deconstruction will impose. Salvaging building materials is more labor and time intensive than standard demolition. Therefore, salvage and deconstruction of building materials would be more cost-effective if allowed to commence, in appropriate circumstances, while permit applications for proposed new development are under review.

The proposed amendments are intended to provide greater incentive for builders and developers to salvage reusable materials from structures. Promoting the deconstruction and salvage of



building materials from structures containing dwelling units would support the goals of Resolution 30990 and the City's overall environmental priorities, as would relocating a house for reuse elsewhere, even outside the city.

## **Analysis**

The proposal would make three basic changes to the Land Use Code.

**1. Add a deconstruction and salvage exception.** A new subsection 23.40.006.C would make deconstruction and salvage of structures containing dwelling units more viable by allowing the demolition permit to be issued before DPD issues a permit for the associated project if:

- A complete building permit application for construction of a new principal structure has been submitted (rather than issued);
- Both the application for the demolition permit and the application for the new structure are exempt from review under the State Environmental Policy Act (SEPA);
- No other permit is required under Seattle Municipal Code (SMC) Titles 23 (Land Use Code) or 25 (SEPA) as a condition to issuance of the demolition permit; and
- DPD has approved a waste diversion plan.

In 1990, the City Council adopted Ordinance 115058. The ordinance added provisions, SMC Section 23.40.006, requiring an approved replacement use prior to any demolition or change of use of housing units. Unless demolition is ordered for health and safety reasons the current regulations prohibit issuance of a demolition permit for any structure containing a dwelling unit or units unless: a permit or approval has been issued to change the use of the structure or premises to a use other than non-required parking; or a permit or approval has been issued to relocate the structure to another lot within the City limits or outside the City limits (where it will continue to be used as a dwelling unit or units). The goal of these provisions is to provide some level of protection for existing housing stock while also preventing creation of vacant lots or lots occupied only by surface parking. This Section 23.40.006 has had the unintended effect of hampering efforts to deconstruct existing structure(s) and maximize the salvage of reusable building materials. The amendments would allow for deconstruction without undermining the original intent of the provisions.

A new Section 23.40.007 is proposed. Subsection 23.40.007 A would authorize DPD to define by rule the specific requirements of an acceptable waste diversion plan. These requirements would set minimum levels of building materials that must be diverted from landfills. The proposed ordinance would set parameters for DPD to follow in issuing the rule. The parameters would stipulate that the levels set by the DPD rule:

- May vary by disposal method or type of material;
- Must be established on the basis of DPD's review of practices employed in the relevant industries in the region (these would likely include those involved in construction, demolition, and reuse and recycling);
- Must reflect DPD's opinion of the degree of waste diversion reasonably attainable through the use of accepted industry practices; and
- May be altered as industry practices evolve.

A draft of the Director's Rule is attached to this report as an appendix. The rule is based on a survey of programs in effect in other west coast municipalities and discussions with representatives of various associations involved in construction, demolition, or reuse and recycling. In addition to defining key terms, the proposed Director's Rule would stipulate that the property owner or authorized representative is to demonstrate to DPD that the existing structure is to be removed in a manner such that:

- 20 percent of the building materials, by weight, are reused (excluding asphalt, brick and concrete);
- 50 percent of the remainder, by weight, will be reused, recycled or beneficially used\* (excluding asphalt, brick and concrete); and
- 100 percent of asphalt, brick and concrete will be reused, recycled or beneficially used\*.

\* Beneficial use generally refers to the use of building materials as an ingredient in a manufacturing process, or as a substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. It can also include incinerating building materials for fuel.

The proposal would also add new subsections 23.40.007 B and C, as well as proposed amendments to Section 23.90.018, and would require applicants to demonstrate compliance with the approved waste diversion report within 90 days of issuance of their demolition permit or be subject to a penalty. The penalty for a failure to demonstrate compliance with a waste diversion plan would be calculated by converting the total square footage of a demolished structure to tons and then multiplying by the City Council's adopted rate for refuse disposal at City recycling and disposal stations, which is currently \$130.00 per ton. The amendments to Section 23.90.018 would make violation of Section 23.40.007 B, failure to demonstrate compliance with a waste diversion plan, an enforceable civil penalty similar to other violations of Land Use Code regulations.

These requirements will help the City achieve its waste reductions goals and are reasonably attainable through the use of accepted industry practices.



**2. Add flexibility to the exemption for structure relocation.** A proposed amendment to Section 23.40.006.B would provide greater flexibility to relocate a structure containing dwelling units from one site to another. The current provisions provide that a demolition permit may be issued if a permit or approval has been issued to relocate an existing structure containing dwelling units to another site within the City. The proposed amendment would expand the geographic reach of that exemption beyond the City limits. Adding this amendment will improve the ability to preserve existing housing stock. The recent interest in house moving has often helped save houses of architectural or cultural significance.

**3. Make clarifications.** Section 23.40.006 currently refers to “housing units,” a term not defined in Title 23. The proposal would substitute the defined term “dwelling units” throughout Section 23.40.006.

Section 23.40.006 D, allowing housing units to be demolished if they have been vacant since January 1, 1974, would be removed from the Code, as this exception is no longer needed to justify demolition. The department has found no record of this provision having been used. Also, at this point, it is not anticipated that structures that have been vacant for 34 years would still be standing.

	<h1 style="margin: 0;">DRAFT Director’s Rule</h1> <h2 style="margin: 0;">22-2008</h2>
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<b>Applicant:</b>  City of Seattle Department of Planning and Development	<b>Page</b>  1 of 2	<b>Supersedes:</b>				
	<b>Publication:</b>	<b>Effective:</b>				
<b>Subject:</b>  Demolition Permit with a Waste Diversion Plan	<b>Code and Section Reference:</b> SMC 23.40					
	<b>Type of Rule:</b> Code Interpretation					
	<b>Ordinance Authority:</b> SMC 3.06.040					
<b>Index:</b>  Demolition, Building Materials, Deconstruction, Salvage, Waste Diversion	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;"><b>Approved</b></td> <td style="width: 40%;"><b>Date</b></td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; padding-top: 5px;">                     Diane M. Sugimura, Director, DPD                 </td> </tr> </table>		<b>Approved</b>	<b>Date</b>	Diane M. Sugimura, Director, DPD	
<b>Approved</b>	<b>Date</b>					
Diane M. Sugimura, Director, DPD						

**PURPOSE**

Pursuant to Seattle Municipal Code (SMC) 23.40.006 C, DPD may issue a demolition permit for a structure containing a dwelling unit if:

1. a complete building permit application for construction of a new principal structure on the same lot as the structure to be demolished has been submitted to the Director;



2. the demolition permit application and the building permit application are categorically exempt from review under SMC Chapter 25.05 (the City's State Environmental Policy Act provisions);
3. the issuance of some other approval is not required by Title 23 or Title 25 as a condition to issuing the demolition permit; and
4. the Director has approved a waste diversion plan.

Pursuant to SMC 23.40.007, DPD must promulgate rules that define the requirements of an acceptable waste diversion plan. The purpose of this rule is to provide that definition.

### **DEFINITIONS**

**"Beneficial use"** means the use of solid waste as an ingredient in a manufacturing process, or as an effective substitute for natural or commercial products, in a manner that does not pose a threat to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use.

**"Building materials"** means all components of the structure for which the demolition permit is sought, including (but not limited to) such material as concrete, drywall, asphalt, wood, masonry, roofing (including composition roofing), siding, metal, wire, and insulation. "Building materials" also include (but are not limited to) such discrete elements of structures as cabinets, fixtures, flooring, dimensional lumber, doors, siding, and windows.

**"Recycling" or "recycle"** means transforming or remanufacturing waste materials into usable or marketable materials for use other than incineration (including incineration for energy recovery) or other methods of disposal.

**"Reuse"** means the recovery of material for repeated use in the same form. "Reuse" includes materials that are reused at the same location as they are generated.

**"Structure"** means anything constructed or erected on the ground or any improvement built up or composed of parts joined together in some definite manner and affixed to the ground, including fences, walls and signs, but not including poles, flowerbed frames and such minor incidental improvements.

### **RULE**

DPD will approve a waste diversion plan if the applicant executes the plan and submits a form supplied by DPD representing that:

1. a minimum of 20% of the building materials, by weight and excluding asphalt, brick and concrete, will be reused;
2. a minimum of 50% of the building materials, by weight and excluding asphalt, brick and concrete, will be reused, recycled or beneficially used; and
3. 100% of asphalt, brick and concrete will be reused, recycled or beneficially used.

## DEMOLITION APPLICANT FORM FOR BUILDING DECONSTRUCTION

October 6, 2008

### PROJECT INFORMATION

Applicant Name and contact phone #:

Project #:

Project Address:

Description of Work:

Project square footage:

Number of dwelling units:

Owner:

Name, contact address and phone of contractor or individual to be conducting salvage operation:

### WASTE DIVERSION REQUIREMENTS

The structure is to be removed in a manner such that a minimum of 20% of the building materials, by weight, are salvaged for reuse and a minimum of 50% of the building materials, by weight, are reused, recycled and/or beneficially used. 100% of asphalt, brick and concrete must be diverted from the landfill and are not included in either the reuse or recycling percentages.

I understand that within 90 days of the issuance of the demolition permit I am required to submit a final waste diversion report, including all supporting receipts or other appropriate documentation, identifying the actual rates of re-used and recycled materials. \_\_\_\_\_ (initial)





**WASTE DIVERSION PLAN**

**October 8, 2008**

**ASPHALT, BRICK, CONCRETE**

Material	Hauler	Final Material Destination	Quantity (in tons)

**REUSE**

Material	Hauler	Final Material Destination	Quantity (in tons)
<b>Total Reused</b>			<b>A</b>

**RECYCLING & BENEFICIAL USE**

Material	Hauler	Recycling Facility / Processor	Quantity of Waste (in tons)	Facility Recycling Rate*	Quantity Recycled (Quantity x Recycling Rate)
<b>Total Recycled</b>					<b>B</b>

\*Materials recycled into new products or put to a beneficial use. Materials used for Alternative Daily Cover should not be included.

**WASTE**

Material	Hauler	Transfer Station / Disposal Site	Quantity of Waste (in tons)
<b>Total to Landfill</b>			<b>C</b>

Total - Building Materials = **A + B + C**

**TOTAL: REUSE % = A / D**

**TOTAL: RECYCLING & BENEFICIAL USE % = B / D**

**TOTAL: REUSE + RECYCLING & BENEFICIAL USE % = E + F**

	<b>D</b>
<b>TOTAL: REUSE % = A / D</b>	<b>E (MIN. 20%)</b>
<b>TOTAL: RECYCLING &amp; BENEFICIAL USE % = B / D</b>	<b>F</b>
<b>TOTAL: REUSE + RECYCLING &amp; BENEFICIAL USE % = E + F</b>	<b>(MIN. 50%)</b>

Applicants Signature:

Date:



# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

October 21, 2008

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that promotes reuse and recycling of building materials by allowing dwelling unit demolition permits to be issued when a developer submits a complete application to construct a new principal structure, as opposed to requiring demolition to wait until a new structure or use permit is issued. Additionally, this legislation amends the Land Use Code to require the submission of a building waste diversion plan as part of the demolition permit process, and to encourage the reuse of existing residential structures by providing greater flexibility to move them from one site to another, as opposed to demolishing them.

Building demolition waste is a large component of the material that ends up in landfills. Reuse of building materials and entire structures reduces demand on virgin resources. Current provisions in the Code have had the unintended consequence of hampering efforts to salvage building materials from existing structures when new development is contemplated. The actions proposed in this Bill will make deconstruction of existing structures and salvaging their materials more attractive and cost-effective by allowing developers to do this type of work while they are waiting for permits to be issued.

The attached proposed Bill supports the implementation of Resolution 30990, which establishes new recycling goals for the City of Seattle and provides direction on waste-reduction programs. By making it easier to reuse and recycle building materials, we can make important strides to achieve our overall waste reduction and resource conservation goals to recycle or divert from disposal 60 percent of all municipal solid waste generated in Seattle by 2010. Thank you for your consideration of this legislation. Should you have questions, please contact Bill Mills in the Department of Planning and Development at 684-8738.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a circular stamp that partially overlaps the signature.

GREG NICKELS  
Mayor of Seattle

cc: ~~Honorable Members of the Seattle City Council~~

600 Fourth Avenue, 7<sup>th</sup> Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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234061  
CITY OF SEATTLE, CLERKS OFFICE

No.

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

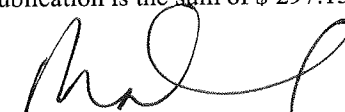
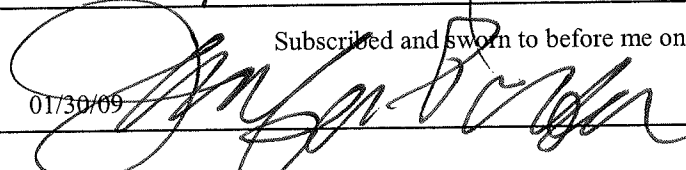
CT:122901 ORDINANCE

was published on

01/30/09

The amount of the fee charged for the foregoing publication is the sum of \$ 297.15, which amount has been paid in full.



  
\_\_\_\_\_  
Subscribed and sworn to before me on  
01/30/09   
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

Affidavit of Publication

# City of Seattle

## ORDINANCE 122901

AN ORDINANCE relating to land use and zoning; amending Sections 23.40.006 and 23.90.018 of the Seattle Municipal Code, and adding a new Section 23.40.007, to allow reuse and recycling of building materials as an exception to the regulations prohibiting demolition of a structure containing a dwelling unit, and to update certain related provisions.

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

Section 1. Section 23.40.006 of the Seattle Municipal Code, which Section was last amended by Ordinance 118414, is amended as follows:

#### 23.40.006 Demolition of housing.

No demolition permit for a structure containing a (housing-unit) dwelling unit shall be issued unless one of the following conditions is satisfied:

A. A permit or approval has been issued by the Director according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, to change the use of the structure or the premises; provided, that no (housing) demolition permit for a structure containing a dwelling unit may be issued if the new use is for nonrequired parking; or

B. A permit or approval has been issued by the Director to relocate the structure containing ((housing-units)) a dwelling unit to another lot (within the City), whether within the City limits or outside the City limits, to be used, on the new lot, as ((housing)) a dwelling unit; or

C. A complete building permit application for construction of a new principal structure on the same lot as the structure to be demolished has been submitted to the Director, the demolition permit application and the building permit application are categorically exempt from review under Chapter 25.05, Environmental Policies and Procedures, the issuance of some other approval is not required by Title 23 or Title 25 as a condition to issuing the demolition permit, and the Director has approved a waste diversion plan pursuant to Section 23.40.007; or

((E-))D. Demolition of the structure is ordered by the Director for reasons of health and safety under Chapter 22.206 or 22.208 of the Housing and Building Maintenance Code, or under the provisions of the Seattle Building Code((;)).

((D-The housing unit(s) to be demolished have been continuously vacant since January 1, 1974-))

Section 2. A new Section 23.40.007 of the Seattle Municipal Code is adopted to read as follows:

#### 23.40.007 Reuse and Recycling of Building Materials in a Structure Containing a Dwelling Unit.

A. Requirements of a Waste Diversion Plan. The Director shall promulgate rules that define the requirements of an acceptable waste diversion plan within the meaning of subsection 23.40.006C. Among the requirements shall be minimum levels of building materials that must be diverted from landfills. The levels shall be established by the Director on the basis of a review of practices employed in the relevant industries in the region. The levels may vary by disposal method or type of material and shall reflect, in the Director's opinion, the degree of waste diversion reasonably attainable through the use of accepted industry practices. The Director may alter the levels as industry practices evolve.

B. Demonstration of Compliance. The applicant shall demonstrate compliance with the approved waste diversion plan by submitting a report to the Director documenting, at a minimum, the amount and manner in which building materials were diverted from landfills. The applicant must submit the report no later than 90 days after issuance of the demolition permit, or such later date as may be allowed by the Director for good cause.

C. Violation. Failure to demonstrate compliance with the waste diversion plan is a violation of the Land Use Code.

Section 3. Section 23.90.018 of the Seattle Municipal Code, which Section was last amended by Ordinance 122611, is amended as follows:

#### 23.90.018 Civil enforcement proceedings and penalties.

A. In addition to any other remedy authorized by law or equity, any person violating or failing to comply with any of the provisions of Title 23 shall be subject to a cumulative penalty of up to ((One Hundred Fifty Dollars (\$150.00)))\$150 per day for each violation from the date the violation begins for the first ten ((10))days of noncompliance; and up to ((Five Hundred Dollars (\$500)))\$500 per day for each violation for each day beyond ten ((10))days of noncompliance until compliance is achieved, except as provided in subsection B of this section. In cases where the Director has issued a notice of violation, the violation will be deemed to begin for purposes of determining the number of days of violation on the date compliance is required by the notice of violation.

#### B. Specific Violations.

1. Violations of Section 23.71.018 are subject to the penalty in the amount specified in Section 23.71.018 H.

2. Violations of Section 23.44.041 C are subject to a civil penalty of ((Five Thousand Dollars (\$5,000)))\$5,000, which shall be in addition to any penalty imposed under subsection A of this section.

3. Violation of Section 23.49.011, 23.49.015 or 23.50.051 with respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy alternative standards under any such Section are subject to penalty in amounts determined under Section 23.49.020, and not to any other penalty.

4. Violation of Section 23.40.007 B with respect to failure to demonstrate compliance with a waste diversion plan for a structure permitted to be demolished under subsection 23.40.006 C is subject to a penalty in an amount determined as follows:

$$P = SF \times .02 \times RDR$$

where:

P is the penalty;

SF is the total square footage of the structure for which the demolition permit was issued; and

RDR is the refuse disposal rate, which is the per ton rate established in SMC Chapter 21.40, and in effect on the date the penalty accrues, for the deposit of refuse at City recycling and disposal stations by the largest class of vehicles.

C. Civil actions to enforce Title 23 shall be brought exclusively in Seattle Municipal Court except as otherwise required by law or court rule. The Director shall request in writing that the City Attorney take enforcement action. The City Attorney shall, with the assistance of the Director, take appropriate action to enforce Title 23. In any civil action filed pursuant to this chapter, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed. The issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.

D. Except in cases of violations of Section 23.49.011, 23.49.015, or 23.50.051 with respect to failure to demonstrate compliance with commitments to earn LEED Silver ratings or satisfy alternative standards, the violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of authority.

2. That correction of the violation was commenced promptly, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

E. Use of Penalties. A subfund shall be established in the City's General Fund to receive revenue from penalties under subsection B of this section. Revenue from penalties under that subsection shall be allocated to activities or incentives to encourage and promote the development of sustainable buildings. The Director shall recommend to the Mayor and City Council how these funds should be allocated.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 20th day of January, 2009, and signed by me in open session in authentication of its passage this 20th day of January, 2009.

Richard Conlin

President of the City Council

Approved by me this 26th day of January, 2009.

Gregory J. Nickels, Mayor

Filed by me this 27th day of January, 2009.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, January 30, 2009.

1/30(234061)