Ordinance No. 124023

Council Bill No. 117577

AN ORDINANCE relating to shoreline land use regulations; amending the Seattle Shoreline Master Program; Chapter 23.60 of the Seattle Municipal Code to allow certain utility uses for treating and storing stormwater and/or combined sewage in a CR Environment area.

Related Legislation File: _____

Date Introduced and Referred:	To: (committee): Planning, Land Use, and Sustainability
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: 10.29.12	Date Presented to Mayor: 10.30.12
Date Signed by Mayor: Nov. 1, 2012	Date Returned to City Clerk: Nov. 2, 2012
Published by Title Only ✓ Published in Full Text _____	Date Vetoed by Mayor:
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: _____

Committee Action:

Date	Recommendation	Vote
10/20/12	Approve	3-0 RC, TB, MO

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

Full Council Action:

Date	Decision	Vote
10.29.12	Passed	9-0

Law Department

Bill Mills
DPD CSO Amendments ORD
August 13, 2012
Version #6

CITY OF SEATTLE

ORDINANCE 124023

COUNCIL BILL 117577

AN ORDINANCE relating to shoreline land use regulations; amending the Seattle Shoreline Master Program; Chapter 23.60 of the Seattle Municipal Code to allow certain utility uses for treating and storing stormwater and/or combined sewage in a CR Environment area.

WHEREAS, the City of Seattle (City) has a Shoreline Code that prohibits utility service uses, such as sewage and stormwater storage and treatment facilities, in the Conservancy Recreation (CR) Environment; and

WHEREAS, Seattle Public Utilities and King County's Department of Natural Resources and Parks Wastewater Treatment Division are required by federal and state water quality regulations to build sewage and stormwater storage and/or treatment facilities in the City; and

WHEREAS, the most practical and feasible locations for a sewage and stormwater storage and/or treatment facility in some areas of the City is within the CR environment due to hydraulic conditions; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 23.60.365 of the Seattle Municipal Code, which section was last amended by Ordinance 122310, is amended as follows:

23.60.365 Administrative conditional uses in the CR Environment((.))

The following uses may be authorized by the Director, with the concurrence of the Department of Ecology, as principal or accessory use, if the criteria for administrative conditional uses in WAC 173-27-160 are satisfied:

A. Single-family dwelling units constructed partially or wholly over water and meeting the following conditions:

1. If located on a residentially zoned and privately owned lot established in the public records of the County or City prior to March 1, 1977, by deed, contract of sale, mortgage, platting, property tax segregation or building permit; and

2. If the lot has less than ((~~thirty (~~))30((~~)~~)) feet but at least ((~~fifteen (~~))15((~~)~~)) feet of dry land calculated as provided for in measurements Section 23.60.956; and

3. If the development is limited to the dry-land portion of the site, to the greatest extent possible, and particularly to the most level and stable portions of the dry-land area.

B. Development standards of the underlying zone applicable to the single-family use in a CR environment may be waived or modified by the Director to minimize the amount of development over submerged lands.

C. The following uses may be authorized in the CR Environment either as principal or accessory uses:

1. The following uses when associated with a public park:

a. Small craft center,

b. Boat launching ramp for auto-trailered boats,

c. The following non-water-dependent commercial uses:

((~~(~~))1) Sale and rental of small boats, boat parts and accessories,

((~~(~~))2) General sales and services, and

((~~(~~))3) Major durables retail sales, and

((~~(~~))4) Eating and drinking establishments;

2. Community yacht, boat and beach clubs when:

a. No eating and drinking establishments are included in the use,

b. No more than one (((~~1~~))) pier or float is included in the use, and

c. Any accessory pier or float meets the standards of Section 23.60.204 for piers and floats accessory to residential development.

D. Utility service uses.

1.Utility service uses for treating and storing stormwater and/or combined sewage are allowed as a shoreline conditional use if:

a. They reasonably require a shoreline location to operate;

b. They are the minimum size necessary to meet the purpose; and

c. They mitigate adverse impacts to achieve no net loss of ecological functions.

2. All other utility service uses are prohibited.

Section 2. Section 23.60.368 of the Seattle Municipal Code, which section was last amended by Ordinance 122310, is amended as follows:

23.60.368 Prohibited uses in the CR Environment((.))

The following uses shall be prohibited as principal uses in the CR Environment:

A. Residential uses except those permitted by ((~~S~~))subsection 23.60.365.A;

B. Commercial uses except those specifically permitted by ((~~S~~))subsection 23.60.365.C;

C. Utility uses except utility lines and utility service uses for treating and storing stormwater and/or combined sewage permitted pursuant to Section 23.60.365;

D. Manufacturing uses;

E. High-impact uses;

F. Institutional uses except community clubs meeting the criteria of ((~~S~~))subsection 23.60.365.C;

G. Public facilities not authorized pursuant to Section 23.60.370;

H. Parks and open space uses except shoreline recreation uses permitted by ((~~S~~))subsection 23.60.360.A;

I. Agricultural uses except aquaculture;

J. The following shoreline protective structures:

1. Groins and similar structures that block the flow of sand to adjacent beaches, except drift sills or other structures that are part of a natural beach protection system, and

2. Bulkheads on Class I beaches; and

K. Landfill that creates dry land except as part of habitat mitigation or enhancement.

Section 3. This ordinance shall take effect and be in force on whichever is the later of: the effective date of approval and adoption by the Department of Ecology; or 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. If the amendments to Sections 23.60.365 and 23.60.368 as set out in the ordinance introduced as C.B. 117585 become effective before the effective date of this ordinance, this ordinance shall have no effect.

Passed by the City Council the 29 day of October, 2012, and signed by me in open session in authentication of its passage this 29 day of October, 2012.

President _____ of the City Council

Approved by me this 5th day of November, 2012.

Michael McGinn, Mayor

Filed by me this 2nd day of November, 2012.

Monica Martinez Simmons, City Clerk

(Seal)

Form revised: December 6, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Planning and Development	Bill Mills/4-8738	Melissa Lawrie/4-5805

Legislation Title: An Ordinance relating to relating to shoreline land use regulations; amending the Seattle Shoreline Master Program; Chapter 23.60 of the Seattle Municipal Code to allow utility uses for treating and storing stormwater and/or combined sewage in a CR Environment area.

Summary of the Legislation: The proposal would amend the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal Code, to allow utility service uses for treating and storing sewage and stormwater in the Conservancy Recreation (CR) Shoreline Environment as a shoreline administrative conditional use. All other utility service uses would continue to be prohibited in the CR Environment.

The current Shoreline Master Program prohibits utility service uses, such as stormwater and/or combined sewage treatment or storage structures, from being constructed in the CR environment. This limits the City's ability to construct regulatory-driven water quality facilities in the most optimal and publicly acceptable locations. The proposed amendment would conditionally allow these facilities to be constructed in the CR environment, provided that they reasonably require a shoreline location to operate. The environmental impact of these facilities on the shoreline environment would be adequately managed, since the Department of Ecology must also approve the conditional use and would only grant it if the proposed facility meets the Conditional Use provisions in the Washington Administrative Code (WAC) 173-27-160.

Background: Pursuant to Washington's Shoreline Management Act, the City of Seattle manages a Shoreline Master Program (SMP), which regulates the use and development of the City's shorelines. The goal of the SMP is to achieve responsible shoreline use and development, environmental protection, and public access. Seattle's Shoreline District includes the Duwamish River, the Ship Canal, Lake Union, Lake Washington, Green Lake, Puget Sound, associated wetlands and floodplains, and all land within 200-ft of these water-bodies. The City is currently developing a comprehensive update to its SMP. This comprehensive SMP update is anticipated to be presented to Council in the summer of 2012 and should be approved by Ecology by 2013.

During the process of developing the comprehensive SMP update, it was identified that the City is required by State and Federal regulations to construct water quality facilities over the next several years, where the most practical and feasible site for those facilities is within the conservancy recreation (CR) shoreline environment. The types of facilities that will be constructed include underground wastewater and stormwater storage tanks and treatment facilities. Under the definitions in the current SMP, these facilities are categorized as "Utility Service Uses", and they are prohibited in the CR environment.

The City department implementing the projects, Seattle Public Utilities (SPU), has undergone a thorough public involvement process to site the facilities in the most optimal and publicly acceptable locations with consideration to environmental impacts. Some of the facilities require a shoreline location due to the gravitational nature of the wastewater and stormwater systems.

Consideration was given to including this small SMP update in the more comprehensive SMP update. However, the regulatory requirements that have been imposed on the City for implementing its water quality projects require that this small SMP update proceed in advance of the comprehensive SMP update.

Please check one of the following:

__X__ **This legislation does not have any financial implications.**

____ **This legislation has financial implications.**

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
No.

b) **What is the financial cost of not implementing the legislation?**
None.

c) **Does this legislation affect any departments besides the originating department?**
Seattle Public Utilities (SPU) and Seattle Department of Parks & Recreation.

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
No alternatives have been identified.

e) **Is a public hearing required for this legislation?**
Yes. The City Council must hold a public hearing, to be scheduled before the Planning, Land Use, and Sustainability Committee.

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
Yes. Publication of notice of the Council public hearing will be made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin. Environmental review under the State Environmental Policy Act (SEPA) is also required for this legislation, and publication of notice of the environmental determination was made in *The Daily Journal of Commerce* and in the City's Land Use Information Bulletin.

g) **Does this legislation affect a piece of property?**
Two sites under consideration are located in the CR environment: A parking lot at 49th Avenue South and Lake Washington Blvd South and within Seward Park at the tennis courts.

h) **Other Issues:** None.

List attachments to the fiscal note below: None.

City of Seattle
Office of the Mayor

August 21, 2012

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Clark:

I am pleased to transmit the attached proposed Council Bill that would amend the Seattle Shoreline Master Program, Chapter 23.60 of the Seattle Municipal Code, to allow utility service uses for treating and storing sewage and stormwater in the Conservancy Recreation (CR) Shoreline Environment as a shoreline administrative conditional use. All other utility service uses would continue to be prohibited in the CR Environment.

The current Shoreline Master Program prohibits utility service uses, such as stormwater and/or combined sewage treatment or storage structures, from being constructed in the CR environment. This limits the City's ability to construct regulatory-driven water quality facilities in the most optimal and publicly acceptable locations. The proposed amendment would conditionally allow these facilities to be constructed in the CR environment, provided that they reasonably require a shoreline location to operate. The environmental impact of these facilities on the shoreline environment would be adequately managed, since the Department of Ecology must also approve the conditional use and would only grant it if the proposed facility meets the Conditional Use provisions in the Washington Administrative Code (WAC) 173-27-160.

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,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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