

Ordinance No. 123485

Council Bill No. 117054

AN ORDINANCE relating to skybridge and other structure term permits; amending the current Seattle Department of Transportation Street Use Fee Schedule, Exhibit A to Ordinance 122295, by adopting a term permit schedule of fees, and establishing a term permit fee methodology.

CF No. _____

Date Introduced:	<u>Nov. 22, 2010</u>	
Date 1st Referred:	<u>Nov. 22, 2010</u>	
Date Re - Referred:	To: (committee) <u>Full Council</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>8-0</u>	
Date Presented to Mayor:	Date Approved: <u>Dec. 7, 2010</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: *Alan Rosman*

Councilmember

Committee Action:

11-29-10 Passed 8-0 Excused: MO

This file is complete and ready for presentation to Full Council. Committee: _____ (Initial/date)

Law Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

ORDINANCE 123485

1
2 AN ORDINANCE relating to skybridge and other structure term permits; amending the current
3 Seattle Department of Transportation Street Use Fee Schedule, Exhibit A to Ordinance
4 122295, by adopting a term permit schedule of fees, and establishing a term permit fee
5 methodology.

6 WHEREAS, Section 15.04.074 of the Seattle Municipal Code authorizes and directs the Seattle
7 Department of Transportation (SDOT) Director to prepare and recommend to the City
8 Council, for adoption by ordinance, a schedule of permit fees applicable to all permits for
9 the use of public places under the jurisdiction of the Seattle Department of
10 Transportation. The fees for using the city's rights-of-way are to be commensurate with
11 the cost of administration, review, inspection, and policing involved in issuing and
12 continuing the permits and may take into consideration the undesirability of the use or
13 occupation relative to the rights of the public such as the City policy of discouraging
14 encroachments inconsistent with the public's right of access to right-of-way; and

15 WHEREAS, Section 15.64.010 of the Seattle Municipal Code directs the Council to limit the
16 proliferation and adverse effects of skybridges; and

17 WHEREAS, by Ordinance 121855, the City authorized the SDOT Director to adjust the annual
18 term permit fee amount in accordance with a term permit fee schedule adopted by the
19 Council; and

20 WHEREAS, Ordinance 122295 amended the Street Use Permit Fee Schedule by adding term
21 permit use codes for long-term uses of the right-of-way and the subsequent fees were to
22 be determined by ordinance; NOW, THEREFORE,

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

24 Section 1. Street Use Permit Fee Schedule, Exhibit A to Ordinance No. 122295, is
25 amended as follows:

26 Exhibit A: Street Use Permit Fee Schedule
27



* * *

Long term uses of the Right-of-Way (Council approved term permits)

Use Code	Use Description		Base Permit Fee	Franchise and Utility Map Surcharge	Occupation Fee (Long Term)	Use Fee (Short Term)
((61))	((term uses for long-term street level occupations (structures in right-of-way)))		Fees determined by ordinance			
((61A))	((term uses for skybridges or bridges over right-of-way))					
((61B))	((Term uses for tunnels under right-of-way))					
61C	((Term uses for p)) Pipelines and steam mains ((in right-of-way))					
61D	Other ((term uses in right-of-way (including utility franchises))) miscellaneous long-term uses					
61E	Sub-surface:	Utility tunnels/structures	$\frac{(\text{Land value}) \times (\text{Use area}) \times (\text{Rate of return})}{\text{Degree of alienation}^*} = \text{Annual fee}$			
61F		Vehicle/pedestrian tunnels				
61G	At-grade:	Public plazas, artwork	* Refer to Table A: Degree of Alienation Factor			
61H		Structures, restricted access				
61I		Utility structures				
61J		Above grade:				
61K	Skybridges (private use)					
61L	Skybridges (public use)					
61M	Skybridges (semi-					



		public use)	
1	61N	Vehicle bridge	
2	61O	Vehicle ramp	

Other Fees and Charges

Hourly Charge for Street Use service \$150
 including but not limited to:

Review, investigation, inspection,
 drafting, design guidance, document
 preparation and other activities related
 to the administration of the permit

Penalty Fee (No Job Start Call, No
 Permit) \$300

Pre-Submittal Consultation Fee \$375

A Deposit may be required Amount determined based on services
 requested

Fee Methodology Factors and Descriptions

Factor

Description

Land value:

For Term permits, the value of the use area in the right-of-way shall be based on the abutting parcel's current land value as determined by the King County Assessor. If the use area extends beyond the centerline or abuts multiple parcels, the permit fee shall be calculated by averaging the abutting parcels' current land values.

Use area:

Square footage of the permitted encroachment in the right-of-way, as authorized by Seattle Department of Transportation.

Rate of return:

Annualized rate of return on market value of the right-of-way, as established by the City Appraiser or a State of Washington Certified General Real Estate Appraiser retained by the Director of Transportation.



Degree of alienation: For Term permits, the degree of impact on the public, utilities, right-of-way, and other potential uses of the right-of-way based on City policy, as established by Seattle Department of Transportation. Refer to Table A: Degree of Alienation Factor.

Table A: Degree of Alienation Factor

<u>Use code:</u>	<u>Use description:</u>		<u>Examples:</u>	<u>Factor rate:</u>
<u>61E</u>	<u>Sub-surface*:</u>	<u>Utility tunnels/structures</u>	<u>Privately-maintained utility tunnels connecting parcels</u>	<u>0.3</u>
<u>61F</u>		<u>Vehicle/pedestrian tunnels</u>	<u>Underground pedestrian concourses</u>	<u>0.25</u>
<u>61G</u>	<u>At-grade:</u>	<u>Public plazas, artwork</u>	<u>Privately-maintained public plazas</u>	<u>0.1</u>
<u>61H</u>		<u>Structures/restricted access</u>	<u>Building encroachments, skybridge columns</u>	<u>0.8</u>
<u>61I</u>		<u>Utility structures</u>	<u>Wastewater pump stations</u>	<u>0.5</u>
<u>61J</u>	<u>Above grade*:</u>	<u>Overhead building structures</u>	<u>Building roof projections</u>	<u>0.75</u>
<u>61K</u>		<u>Skybridges (private use)</u>	<u>Skybridges connecting office building or condominium garage access</u>	<u>2.0</u>
<u>61L</u>		<u>Skybridges (public use)</u>	<u>Skybridges connecting to the public transportation network</u>	<u>0.1</u>
<u>61M</u>		<u>Skybridges (semi-public use)</u>	<u>Skybridges connecting hospitals, department stores, hotels/convention centers</u>	<u>0.75</u>



61N		<u>Vehicle bridges</u>	<u>Overhead vehicle bridges connecting private structures</u>	<u>0.5</u>
61O		<u>Vehicle ramps</u>	<u>Privately-owned vehicle ramps connecting to a portion of the public transportation network (portion of ramp may be at-grade)</u>	<u>0.2</u>

* Portions of sub-surface or above-grade structures, such as columns or stairwells, may be located at grade. Except for vehicle ramps, the total value of the term permit annual fee shall be calculated by adding the value of the at-grade use area to the value of the sub-surface or above-grade use area.

Section 2. Term permit fee implementation schedule. Term permits existing on the effective date of this ordinance shall have new annual fees applied starting on January 1, 2011, as authorized in Section 3 of this ordinance. All new or renewed term permits that will be approved by Council after the effective date of this ordinance shall have the annual fees applied using the new methodology adopted in Section 1 of this ordinance.

Section 3. Term permit fee phase-in schedule. Annual term permit fees for existing permitted term permits shall be phased in over a two year period. Starting in January 2011, the annual term permit fee will increase by 50 percent of the difference between the 2010 annual term permit fee and the new annual term permit fee based on the term permit fee methodology.



1 Starting in January 2012, the annual term permit fee will increase to the full new annual term
2 permit fee based on the term permit fee methodology. By the end of 2012, the phase-in period
3 will be complete and all existing permitted term permits will be determined using the term
4 permit fee methodology on an annual cycle. The new annual term permit fee will not be phased
5 in if the new annual term permit fee is less than the 2010 annual term permit fee for existing
6 permitted term permits, or an existing term permit is renewed by Council after the effective date
7 of this ordinance and before December 31, 2011.
8

9 Section 4. Severability. The provisions of this ordinance are declared to be separate and
10 severable. The invalidity of any portion of this ordinance, or the invalidity of its application to
11 any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the
12 validity of its application to other persons or circumstances.
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1 Section 5. This ordinance shall take effect and be in force 30 days from and after its
2 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
3 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020;
4 provided that if C.B. 117008 becomes an ordinance, then this ordinance shall take effect no
5 earlier than one day after the effective date of the ordinance introduced as C.B. 117008.
6

7
8 Passed by the City Council the 29th day of November, 2010, and
9 signed by me in open session in authentication of its passage this

10 29th day of November, 2010.

11
12
13 _____
14 President _____ of the City Council

15 Approved by me this 7th day of December, 2010.

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17
18 _____
19 Michael McGinn, Mayor

20 Filed by me this 7th day of December, 2010.

21
22
23 _____
24 City Clerk

25 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Department of Transportation	Angela Steel/684-5967	Stephen Barham/733-9084

Legislation Title:

AN ORDINANCE relating to skybridge and other structure term permits; amending the current Seattle Department of Transportation Street Use Fee Schedule, Exhibit A to Ordinance 122295, by adopting a term permit schedule of fees, and establishing a term permit fee methodology.

• **Summary of the Legislation:**

This legislation will allow the Street Use division of the Seattle Department of Transportation (SDOT) to administer a Term Permit Fee Methodology as part of the Street Use Fee Schedule. The modified fee methodology will provide transparency and equity, and simplify program administration.

As part of the fee methodology, the SDOT Street Use division will apply a land value for the use area based on the abutting parcel's King County tax assessed value. The fee methodology takes into consideration the City policy of discouraging encroachments inconsistent with the public's right of access to the right-of-way (SMC Section 15.004.074), and the City policy of discouraging the proliferation of skybridges (SMC Section 15.64.010).

Assessing a rate of return on land has been an industry standard practice for approximately 20 years. The rate may vary between 7% - 10%. Generally, the rate of return for commercial uses is higher, around 9%-10%, while residential uses are lower, around 7%-8%. The rate of return for 2010 is established at 8%, which is well within the industry standard range of rate of return. Instead of re-evaluating the rate of return for each site, setting it at 8% allows the department to easily implement and administer the new methodology. It also provides clarity to applicants.

Term Permit Fee Methodology:

The new Term Permit Fee Methodology will combine the factors of land value, use area, rate of return, and degree of alienation. The annual fee will be calculated as follows:

$$\text{Annual Fee} = (\text{Land Value}) \times (\text{Use Area}) \times (\text{Rate of Return}) \times (\text{Degree of Alienation})$$

There are 26 existing permitted term permits that will have their new annual permit fees phased-in over a two-year period. There are 12 existing term permits that will have their annual permit fees reduced. There are another 19 existing term permits with annual fees that



are pending term renewal or expiration in 2010 and 2011 that will have their annual fees assessed through the legislative process and will not be phased-in. Starting in 2011, the annual term permit fee will increase 50% of the difference between the 2010 annual term permit fee and the new 2011 annual term permit fee based on the term permit fee methodology. By the end of 2012, the phase-in period will be complete and all existing permitted term permits will be determined using the term permit fee methodology on an annual cycle.

- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Existing Term Permit Fee Methodology:

Ordinance 121855 authorizes the SDOT Director to adjust a term permit annual fee amount in accordance with a term permit fee schedule adopted by the Council. By Ordinance 122295, the Street Use Permit Fee Schedule was amended by adding term permit use codes for long-term uses of the right-of-way and with the annual fees to be determined by ordinance. The current SDOT policy is to have all term permit annual fees reassessed with current market values by the City Appraiser when the term permit is due for a 10-year renewal or a new term permit ordinance is approved. This process is time consuming and does not provide the transparency to permit applicants. Absent a Term permit fee schedule approved by ordinance, the SDOT Director can only adjust the annual fee by the Consumer Price Index (CPI) each year. This CPI increase does not reflect current market land values.

For existing skybridge term permits, the new term permit fee methodology will result in an estimated new annual total base fee of \$200,000 compared to the previous base of \$108,000, an increase of approximately 85%, which will be phased-in over the next two years.

For other existing term permits, the new methodology will result in an estimated new total annual base fee of \$61,000 compared to the previous base of \$89,000, a decrease of approximately 31%.

For term permits pending legislation in 2010 and 2011, the new methodology will result in an estimated total annual base fee of \$101,000.

- *Please check one of the following:*

This legislation does not have any financial implications. *(Stop here and delete the remainder of this document prior to saving and printing.)*

This legislation has financial implications. *(Please complete all relevant sections that follow.)*



Appropriations: *This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation, please provide details in the Notes section below.*

Fund Name and Number	Department	Budget Control Level*	2010 Appropriation	2011 Anticipated Appropriation
TOTAL				

*See budget book to obtain the appropriate Budget Control Level for your department.

Notes: N/A

Anticipated Revenue/Reimbursement: Resulting From This Legislation: *This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.*

Fund Name and Number	Department	Revenue Source	2010 Revenue	2011 Revenue
Transportation Operating Fund 10310	Seattle Department of Transportation	Term Permit Annual Fee	New term permit fees will be assessed for the remainder of 2010 pending application submittals	First year of two-year phase-in for existing term permits, plus additional revenue from new permit fees.
TOTAL			New permit fees for remainder of 2010	First year of term permit phase-in and new permits

Notes:

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: *This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.*

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2010 Positions	2010 FTE	2011 Positions*	2011 FTE*
TOTAL							



* 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.

Notes: N/A

- **Do positions sunset in the future?** No.

Spending/Cash Flow: This table should be completed only in those cases where part or all of the funds authorized by this legislation will be spent in a different year than when they were appropriated (e.g., as in the case of certain grants and capital projects). Details surrounding spending that will occur in future years should be provided in the Notes section below the table.

Fund Name & #	Department	Budget Control Level*	2010 Expenditures	2011 Anticipated Expenditures
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes: N/A

- **What is the financial cost of not implementing the legislation?**

The term permit program would not be able to determine the annual fees on an annual basis based on current King County tax assessed land values. SDOT would have to wait to have the annual fees assessed by the City Assessor at the 10-year renewal or when a new term permit ordinance was prepared.

- **Does this legislation affect any departments besides the originating department?** None
- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** None
- **Is the legislation subject to public hearing requirements:** No
- **Other Issues** N/A
- **List attachments to the fiscal note below:**



STATE OF WASHINGTON – KING COUNTY

--SS.

264600
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 12th 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:123484 & 123485 TITLE

was published on

12/17/10

The amount of the fee charged for the foregoing publication is the sum of \$ 40.95, which amount has been paid in full.



Affidavit of Publication

Subscribed and sworn to before me on

12/17/10

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on November 29, 2010, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 123484

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 123485

AN ORDINANCE relating to skybridge and other structure term permits, amending the current Seattle Department of Transportation Street Use Fee Schedule, Exhibit A to Ordinance 122295, by adopting a term permit schedule of fees, and establishing a term permit fee methodology.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily
Journal of Commerce, December 17, 2010.
12/17(264600)