



**Addendum to 2021 SEPA Determination of Non-Significance  
Pioneer Square Rooftop Features Cleanup Amendments**

**May 2023**

**Introduction**

The purpose of this Addendum is to fulfill SEPA review for Land Use Code cleanup legislation addressing Pioneer Square code provisions, with analysis that supplements a Determination of Non-Significance (DNS) for the Rooftop Feature Code Amendments that were adopted in Ordinance 126600.

SDCI issued a DNS on December 30, 2021 for Rooftop Feature Code Amendments that were approved in mid-2022. Those amendments helped accommodate a greater presence of mechanical equipment on roofs in future buildings, due to more stringent energy code requirements. The 2022 amendments also increased flexibility, coverage, and capability for new rooftop features in Pioneer Square zones including rooftop greenhouses and new kinds of roof penthouse uses on existing historic or new buildings in Pioneer Square, including lodging, eating and drinking establishments, and newly allowing retrofitting existing buildings 15 years or younger with rooftop recreational spaces.

The prior DNS included evaluation that is relevant to a new proposal described as the Pioneer Square Rooftop Features Cleanup amendments, spanning all elements of the environment but most pertinently relating to potential land use, visual impact, historic preservation, visual, and noise impacts. This addendum describes the new legislative proposal and analysis about its environmental impacts.

**Use of an existing DNS and Addendum**

SDCI is incorporating by reference the December 30, 2021 DNS and has prepared this addendum to meet its SEPA obligations for the 2023 Pioneer Square Rooftop Features Cleanup bill. SEPA encourages SDCI to use existing analysis of a prior proposal where relevant. RCW 43.21C.034; see WAC 197-11-030(2)(b).<sup>1</sup> The current and prior proposals “need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences.” RCW 43.21C.034; see WAC 197-11-600(2) (proposal under consideration may be “different than [the proposal] analyzed in the existing documents”).

The SEPA Code authorizes SDCI to use an existing DNS that had previously been prepared in order to evaluate proposed actions, alternatives, or environmental impacts, provided that the information in the existing document(s) is accurate and, reasonably up-to-date and where the addendum “adds analyses or information about a proposal but does not substantially change the analysis of significant impacts and alternatives” in the DNS. (SMC 25.05.600.D.3.)

---

<sup>1</sup> WAC 197-11-402(7) (“Agencies shall reduce paperwork and the accumulation of background data by adopting or incorporating by reference, existing, publicly available environmental documents, wherever possible.”); WAC 197-11-640 (“Any environmental document . . . may be combined with any other agency documents to reduce duplication and paperwork and improve decision making.”).

The following addendum contains additional information about the 2023 legislative proposal and its environmental impacts. The addendum analysis is appropriate because it does not substantially change the analysis of significant impacts from the 2021 DNS. The new proposal clarifies code details about the same rooftop features that were specifically addressed in the prior code amendments, and makes a limited number of adjustments in permissible uses and dimensions that are minor in degree.

### **Description of 2023 Pioneer Square rooftop features cleanup legislation**

The City is proposing limited updates to the rooftop provisions, summarized below. See also the 2023 Director's Report for additional description and discussion.

The current proposal would:

1. Increase height allowances for rooftop penthouse features in the Pioneer Square Preservation District from 12 feet to 15 feet, to increase consistency with similar provisions in other Downtown zones; this affects heights for penthouses with residential, office, lodging, and eating and drinking establishments.
2. Clarify that lodging uses' rooftop penthouse additions may include accessory uses such as dining areas, and eating and drinking establishments. This is meant to avoid confusion about the ability to allow the presence of a combination of such uses as part of a principal lodging use.
3. Allow for eating and drinking establishments to be a commercial use located within rooftop recreational spaces already accommodated by the Land Use Code on new buildings and buildings built since January 2008. This removes a prohibition against such commercial uses in the current code text, and it also allows placement of accessory mechanical equipment on top of these spaces if needed to support these uses.
4. Correct a discrepancy between rooftop features guidance in Section 23.49.008 pertaining to all Downtown zones and the subset of Downtown zones located in the Pioneer Square Preservation District. This clarifies that the relevant coverage limits for enclosed or covered rooftop recreational spaces are contained in Section 23.66.140 and not Section 23.49.008.
5. Clarify that rooftop recreational spaces already accommodated by the Land Use Code on new or existing buildings built since 2008 may have covered spaces as well as enclosed spaces, and that covered and enclosed spaces should both be counted and documented for permit reviews.
6. Clarify that height allowances for elevators serving rooftop recreational spaces, and other related coverage limits and setbacks also apply to eating and drinking establishment uses in such spaces. The proposal also increases the roof coverage limit for these spaces by 5 percent to be a maximum of 50 percent, which is the same roof coverage that is possible for other penthouse use types in Pioneer Square.

## **COMPARISON OF ENVIRONMENTAL ANALYSIS FROM PRIOR TO CURRENT PROPOSAL**

The 2021 DNS contained detailed environmental analyses relative to a broad range of environmental subjects related to rooftop features throughout Downtown. The DNS and its environmental analyses remain relevant to the current proposal, because they are recent in time and not outdated, and they thoroughly discussed the range, degree and potential cumulative impacts of the entire rooftop codes update that was approved in 2022. As discussed below, the proposal closely relates to the code topics and impact topics previously evaluated in 2021.

SDCI determined that the 2021 DNS was the appropriate document for the 2023 Rooftop Features Cleanup Legislation and concluded that additional discussion about the proposal and associated environmental analysis was needed, regarding land use, historic preservation, visual, and noise impacts.

### **1. Three foot increase in permissible height for certain rooftop penthouse uses in Pioneer Square**

The December 2021 legislation allowed certain rooftop penthouses to 12 feet in height above the rooftop and the 2021 SEPA DNS analyzed the impact of rooftop penthouses to a maximum height of 12 feet about the rooftop. This included specific considerations related to land use, historic preservation, visual, and noise impact considerations. The 2023 legislation proposes to allow the full variety of rooftop penthouses in Pioneer Square to be 15 feet in height above the rooftop.

This current bill would increase height allowances for rooftop penthouse features in the Pioneer Square Preservation District from 12 feet to 15 feet, to increase consistency with similar provisions in other Downtown zones; this affects heights for penthouses with residential use, office use, lodging, and eating and drinking establishments.

The 2021 DNS analyzed a range of land-use and visual-impact related impacts including disclosure of the types and extent of increased presence of rooftop features due to the 2021 legislation. The DNS disclosed the most typical height range citywide of 15 feet above roofs (and height limit) for affected rooftop features, and disclosed an overall “adverse” magnitude of potential height, bulk, and scale impacts due to expanded presence of rooftop features. These conclusions were expressed as also applying to Pioneer Square amendments, with additional discussion noting mitigating factors such as height and coverage limits, and Pioneer Square Preservation District Board review of future proposals that would assess and further limit and avoid the potential for significant visual impacts from a rooftop addition. These points all continue to be relevant to the current proposal to increase certain penthouse height limits by 3 feet to a maximum limit of 15 feet.

This addendum provides additional commentary about impacts related to the 3-foot height difference, adding to the prior SEPA DNS analysis but not changing the overall conclusions made about the findings of no significant adverse impacts.

- The continuing ability for the Board to conduct site-specific reviews, including assessment of site-specific visual analyses, ensures that due diligence with respect to visual impacts will occur under either the existing code or the proposed code. The Board has the ability to approve or seek modifications of proposals to prevent or limit visual effects of these roof features. This reasonably ensures no probable substantial difference

in future impacts of rooftop penthouse additions whether they would be 12 feet or 15 feet in height.

- The prior impact analysis also covered the placement of supporting equipment on top of these additions such as exhaust equipment for dining facilities. This means additional potential height outcomes beyond 12 feet of height were already evaluated. This provided coverage of penthouse addition scenarios up to and beyond heights of 15 feet of total height.
- The current proposal does not change coverage limits or setback requirements for the affected kinds of rooftop uses, which means the range of possible implications only relates to 3 feet of additional height. This ensures that other kinds of more extensive presence of such uses would not be a possible impact outcome of the current proposal.
- The current proposal does not change future additions' relationship to zoned height limits. Such additions would still need to remain under applicable zoned height limits. This would ensure that such rooftop additions would not result in total building heights that are out of scale or incompatible with the expectations defined by City regulations.
- The broad land use-related impact discussion in the December, 2021 SEPA DNS continues to provide sufficient disclosure of potential visual impacts that might be possible from more distant locations. The discussion under the first bullet point above relates to visual changes that might be present primarily in the immediate vicinity of affected properties. But there could also be a potential for rooftop features to incrementally affect views from more distant locations, with what would be a slightly taller presence of a rooftop addition on an existing Pioneer Square building. This kind of impact is impractical to further interpret in detail for this SEPA analysis, but could occur. However, we interpret that the degree of potential difference in impact between a 12-foot and a 15-foot tall rooftop addition in Pioneer Square would be best interpreted as “slight” or “*de minimis*.” This relates to the increasing difficulty for more and more distant viewers to distinguish a 3-foot height difference, if they could even see the building and additions in question. Also, the discussion in other bullet points above supports a probable outcome of either no detectable difference or a minimally interpretable potential difference in visual-impact related outcomes for distant viewers.

## **2. Clarify range of accessory uses in lodging penthouse additions**

This is a minor code edit to inform City reviewers of future actions that the code intentionally accommodates eating-related uses that are often accessory uses provided within a hotel. The code does not draw artificial distinctions that would only allow stand-alone eating and drinking establishments or lodging uses. These combinations of potential uses and their range of potential adverse environmental impacts were jointly discussed in the 2021 DNS, and would continue to apply as a worst-case impact analysis. For either use, the range of impacts would relate to outdoor activities on roofs that could pertain to either recreational spaces or dining spaces for lodging uses, stand-alone restaurants or bars, or a combination of such uses.

## **3. Eating and drinking establishments in rooftop recreational spaces on newer buildings**

The proposal would newly extend a commercial use capability (eating and drinking establishments) to rooftop recreational spaces on buildings 15 years old or younger, or other

future newly built buildings. This additional use capability is the same as was contemplated for other kinds of new penthouse addition use possibilities that were evaluated by the DNS for Ordinance 126600. The analysis for that type of use included discussion of potential spillover noise and activity level impacts that could arise. The 2021 DNS also discussed the rationale for allowing such land uses in rooftop additions. It also discussed the ability to retrofit buildings 15 years or younger with such rooftop recreational spaces. The impact analyses provided for these subjects apply in essentially the same way with respect to this proposal and remain relevant to disclosing impacts relating to the new proposal to accommodate this use in a recreational space.

The proposal's actual effect would be to newly enable this type of use to occur on rooftops of a limited range of candidate buildings or sites, which include approximately five existing buildings, two vacant properties used as parking lots, and four other properties that are historically non-contributing buildings used as automobile garages (see attached figure) for a total of eleven sites. Four of the five existing candidate buildings are located on the western periphery of Pioneer Square near Alaskan Way, while another is located adjacent to Occidental Park in the center of the neighborhood. For other vacant or parking-used properties, their potential to host this use would only be possible if a new building is proposed to be built; all of these properties have remained in their current use patterns for decades. This information is relevant to identifying a relatively limited potential for this provision to be used in the near-term at properties currently vacant or in structured parking use.

However, to the extent the new code content could be used at existing buildings, the result would be a type of rooftop use that was authorized in the neighborhood in 2022. The 2021 DNS concluded that these uses would not likely generate significant adverse land use-related impacts related to land use conflicts or incompatibilities; and that the rationale for such uses in part is to support positive economic neighborhood revitalization opportunities. It also noted that maintaining provisions related to setbacks and coverage limits (already set at 50 percent for most rooftop penthouse uses) would help ensure outcomes compatible with their surroundings.

For the current proposal, the coverage limit for the rooftop recreational space with possible eating and drinking establishment would be increased by 5%, from 45% to 50% total roof coverage. This would provide fully comparable height and coverage limits to all of the identified rooftop uses, which gives parity in the allowances, and does not exceed the maximum coverage previously evaluated for other penthouse uses in the 2021 DNS. This 5% increase in total coverage limit for these uses on newer buildings might or might not be detectable by any viewer of the building. They would also be subject to approval by the Pioneer Square Preservation District Board. Also, for the current proposal, the height limit provisions for the rooftop recreational spaces are not proposed to change, so no height-related impact would occur. The interpretations from the 2021 DNS continue to be relevant to this current proposal without a need for further clarification in this addendum.

The locations newly affected by the current proposal (as candidates to host an eating and drinking establishment) do not have high concentrations of residential uses around them, although some are likely present. In many cases, the nearby residential uses may be in buildings that are shorter in height than the candidate buildings. While this does not ensure no spillover impacts would occur, it may limit the magnitude of the worst-case impacts related to noise. It should be noted

that other rooftop addition capabilities also authorized in 2022 could occur on a broader range of candidate sites – existing historic-contributing buildings – in Pioneer Square. These would be reviewed on a case-by-case basis for their impacts and potential design responses to address visual impacts and other spillover impacts, as was noted in the prior SEPA DNS. The same would apply to the new candidate sites under this proposal.

The proposal would allow a recreational space to be converted to an eating and drinking establishment, but this may entail other adjustments to be made in a building doing this, most likely to provide other recreational facilities to meet the intent of recreational requirements. The new use and its building would also need to continue to meet other code requirements, including green building performance standards, and Green Factor landscaping features; doing this is mandatory to allow the recreational space to occur in locations up to 15 feet above the height limit. These should be feasible to meet (or are already being met), and therefore no other kinds of environmental or land use-related adverse impacts are identified as likely to occur.

Therefore, this analysis supports a conclusion that the findings of the prior SEPA DNS also apply to the current proposal, and no new kinds of probable significant adverse environmental impacts are likely to occur and therefore are not identified in this addendum.

**4. Correction to clarify roof coverage limit for recreational spaces on newer buildings**

This is a minor code edit in Section 23.49.008 to increase consistency of two related sections of the Land Use Code addressing rooftop coverage limits. It does not affect environmental impact outcomes previously discussed in the 2021 SEPA DNS, because in any case the limits expressed in Section 23.66.140 would take precedence in the review of future applications with relevant uses.

**5. Clarify that both enclosed and covered recreational spaces are counted toward coverage limits**

This set of minor edits provide more clarity in how City reviewers interpret rooftop recreational spaces to include both fully enclosed spaces and spaces that are open-air but covered by roof features. This will resolve an ambiguity previously noted by architects in their design of such proposals. This would effectively ensure these features are counted toward roof coverage limits. There is no net increase in adverse impact potential compared to the 2021 DNS, because under either the existing or proposed code, covered recreational spaces would be treated the same in future reviews by City staff and the Pioneer Square Preservation District Board.

**6. Clarify that height accommodations related to elevators and similar support features for recreational spaces also apply to eating and drinking establishments**

Edits to the code text include appropriate wording to ensure that height and coverage limits relating to complementary equipment such as elevators will apply to all types of uses that would be possible on these rooftops. There is no reason to draw any distinctions in these requirements for equipment supporting these uses. There would be no meaningful potential adverse impact difference these edits would make compared to the prior analysis of impacts in the 2021 SEPA DNS.